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COURT OF APPEAL,
FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

Estate of DOROTHY JEAN JENNINGS, Deceased	
PETER ALLEN QUINT Petitioner and Respondent, v. MILES JENNINGS KING, Objector and Appellant.	D070239 (Super. Ct. No. P190541)

APPEAL from an order of the Superior Court of San Diego County, Jeffrey S. Bostwick, Judge. Affirmed.

Peter Allen Quint, in pro. per., for Petitioner and Respondent.

Miles Jennings King, in pro. per., for Objector and Appellant.

Dorothy Jean Jennings (Mother) died in February 2006, leaving two adult sons Edward King (Edward) and Miles King (Miles). During the next eight years, Edward and Miles engaged in high-conflict probate litigation. Edward served as one of two executors until he resigned in 2010. In February 2014, the probate court issued an order approving the final estate accounting. Miles appealed, and this court affirmed the order in an unpublished opinion. (*Estate of Jennings* (Apr. 24, 2015, D065745) (*Jennings II*).)[1]

Peter Allen Quint, the executors' former attorney, then petitioned for attorney fees, seeking $273,010 in extraordinary attorney fees and about $3,600 in advanced costs. Miles strenuously opposed the petition. After the court reviewed the parties' papers and held three hearings, it issued an order awarding Quint $109,697 in extraordinary fees plus $947 in costs. (See Prob. Code,[2] § 10811, subd. (a).)

Representing himself, Miles challenges the court's extraordinary attorney fees award, contending the court erred in numerous ways. We determine the court did not abuse its discretion and affirm the order.

SUMMARY OF RELEVANT FACTS AND PROCEDURE

Although the sole issue before us is the propriety of the attorney fees order, it is important to understand the history of the probate litigation to properly evaluate Miles's challenges to this order. We thus first summarize the relevant aspects of the prior probate

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[1] In an earlier appeal, this court affirmed an order in Miles's favor relating to a safe harbor petition. (*Estate of Jennings* (Oct. 16, 2009, D053928) (*Jennings I*).)

[2] All statutory references are to the Probate Code, unless otherwise specified.

proceedings.[3] We next describe the grounds and reasoning for the court's attorney fees rulings, and then set forth the court's final conclusions contained in its order.

A. *Background*

Mother's will (Will) named her son Edward and her longtime friend Brigitte Feucht as coexecutors (Coexecutors). Mother designated specific personal property gifts to various individuals, and stated the remaining personal property items were to be given to Edward and "NO ITEM OF PERSONAL PROPERTY . . . is to go to my son, MILES J. KING." The Will provided that Mother's interest in real property located in Texas (including property known as the "Conley Farm") would be distributed one-half to Edward, one-quarter to Miles, and the remaining to two named granddaughters.

Two months after Mother's death, in April 2006, the court issued letters testamentary to the Coexecutors, with a September 2007 expiration date. Soon after, the Coexecutors (represented by attorney Quint) submitted an inventory and appraisal, valuing the estate at $779,311.50. In July 2007, the Coexecutors added to the inventory certain shares of common stock for Conley Production, Inc. (CPI), a Texas corporation that oversees mining operations on Conley Farm. In August 2007, the Coexecutors (represented by Quint)

[3] A more comprehensive description is contained in the *Jennings II* opinion.

submitted the "First and Final Account" (First Accounting).

Miles objected to the First Accounting, and in 2008, Miles served the Coexecutors with a document production request, seeking numerous categories of documents related to the CPI stock and Conley Farm, including information regarding mineral and oil/gas leases on the property. During the next two years, the parties litigated various aspects of this request and other matters.

In 2010, Miles filed a lengthy (79-page) motion seeking to remove the Coexecutors. In May 2010, Edward resigned as coexecutor. The next month, the court ordered Edward to produce all requested documents, but he did not comply. On September 20, 2010, the other coexecutor (Feucht) died. The parties did not take immediate actions to obtain a successor executor.

In March 2011, the court entered an order finding Edward was in willful violation of the court's discovery order, and imposed "terminating sanctions against Edward[ ] by striking" the First Accounting.

Two months later, in May 2011, Edward (represented by Quint) filed a report seeking the appointment of a successor executor, and attached a final accounting of all estate assets and executor actions from February 2006 until September 2010 (Final Accounting). Edward requested the court to ratify and approve the accounting and all prior executor acts. Shortly after, the court appointed an experienced professional successor administrator, Marilyn Kriebel

(Administrator), and ordered that she conduct a forensic accounting of the prior estate transactions.

In April 2012, the Administrator filed her report concluding the estate transactions had been handled appropriately with two potential exceptions. First, the Administrator noted the court had not yet ruled on the issue whether the CPI stock was "personal property" within the meaning of the Will and therefore whether it was to be distributed solely to Edward or divided among the beneficiaries. Second, the Administrator reported that the Coexecutors had not paid estate income taxes, but stated the Administrator would handle this matter. The Administrator found no merit in Miles's additional challenges to the Coexecutors' actions. The Administrator said the complaints concerned "real property interests in Texas which are outside the jurisdiction of this court. . . ."

One week later, Miles filed a discovery motion seeking the production of numerous categories of documents pertaining to the Administrator's report.

The next month, in May 2012, the court (Judge Julia Kelety) held a hearing on the proper disposition of the Texas property and the CPI stock. Quint (as Edward's attorney), and Miles appeared at the hearing. After a hearing, the court ruled (1) it had no jurisdiction over the Texas property because it was the subject of an ancillary Texas proceeding; and (2) the CPI stock was "personal property" and therefore was to be distributed solely to Edward. Miles did not appeal from this order.

The next month, the court (Judge Jeffrey Bostwick) held a hearing on the estate accounting issues. Quint appeared on Edward's behalf and Miles appeared on his own behalf. An attorney also appeared for the successor Administrator. At the hearing, Miles said that although he continues to believe the case "has been a travesty," he no longer objected to the Final Accounting and was prepared to accept it. At the end of the hearing, the court approved the Final Accounting based on the parties' representations they had no objections.

However, within several weeks, Miles changed his position, and refused to approve the Final Accounting. Quint (on Edward's behalf) then requested the court approve the Final Accounting as an oral settlement agreement. In response, Miles objected and asserted many new issues, including that Edward and his attorney had unlawfully discriminated against him (a military veteran) by referring to him (in a brief filed with the court) as " 'delusional' " and an " 'admitted schizophrenic.' "

The court denied Edward's motion to enforce Miles's prior approval of the Final Accounting, and ordered the Administrator to fully investigate Miles's objections to the Final Accounting, and to report back to the court. Five months later, in December 2013, the Administrator filed a detailed report. As set forth in *Jennings II*, after an extensive factual investigation, the Administrator found Miles's objections were unsupported. The Administrator concluded: "Miles . . . has no valid complaints or objections to the accounting. He is fixated on issues that are not before this court or relevant to this probate proceeding. Edward . . . has done an adequate job of administering the estate under difficult circumstances. Administrator believes the accounting should be approved with the surcharge of $520.00 previously ordered by the Court [for the delinquent taxes]. Administrator further believes that the expense of this investigation should be allocated all toward Miles Kings' share of the estate since the investigation was done on his behalf in an effort to find misfeasance by the prior [A]dministrator. . . ."

In February 2014, the court issued an order approving the Final Accounting and rejecting Miles's objections. The court found the Coexecutors had properly performed their statutory duties, except for their failure to pay estate income taxes. The court imposed a $520 surcharge for this failure, but otherwise approved and ratified the Coexecutors' actions. Miles appealed from this February 2014 order, and we affirmed the order in April 2015. (*Jennings II*, *supra*, D065745.)

B. *Current Proceedings*

About seven months later, in November 2015, Quint petitioned for extraordinary fees and reimbursement of costs advanced.[4] Regarding the extraordinary

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[4] Quint previously brought similar petitions, but because of various procedural issues (not directly relevant here) it was necessary for Quint to file a second amended petition in November 2015 that incorporated his prior declarations. This petition is the subject of the court's challenged order.

fees, Quint sought $271,635, which he said reflected attorney time responding to Miles's claims from about 2007 through 2015 at an hourly rate of $350. Quint requested that the court charge this amount against Miles's interest, claiming Miles's litigation actions were in bad faith. Quint also requested $1,375 for extraordinary services related to a property sale and other administrative actions.

In support of these requests, Quint submitted his declarations attaching lengthy lists of his services and the time spent on each service. Quint said that all of his services were on behalf of the former Coexecutors, and that he did not "enter[] into a fee agreement with Edward . . . or with Conley Productions." Quint also sought approximately $3,600 for reimbursement of advanced costs.

Miles objected to these requests on numerous grounds. He argued Quint was not entitled to fees for work performed after the Coexecutors' testamentary letters expired in September 2007. He alternatively argued Quint was not entitled to be compensated for work after September 20, 2010 (the date of Coexecutor Feucht's death) because Quint did not represent an executor after that time. Miles also raised many of the same arguments he had unsuccessfully raised during the prior probate proceedings, including that Quint and Edward had committed perjury and had conspired to destroy Miles and his family. Miles claimed that Quint's motion reflected his continuing effort to harass him, his wife, and his four minor children. Miles sought numerous forms of relief, including that the court order

Edward to personally pay all of Quint's legal fees; that Quint and Edward be sanctioned; and that Quint pay Miles's legal fees in the amount of $94,720.59 "as a sanction for civil harassment." (Bold font omitted.)

The court held an initial hearing on January 14, 2016. Quint and Miles appeared at the hearing (Miles appeared telephonically). At the outset, the court said it had "devoted a considerable amount of time to reviewing [the] pleadings and the lodgments [in the case]," but it had not finished reviewing the billing statements. The parties stipulated that the court could conduct the hearing and the court would complete its review of the records after the hearing. Both parties then explained (and expanded on) the arguments set forth in their written papers. The court took the matter under submission.

At the next hearing held two weeks later, the court noted it had spent "an inordinate amount of time" reviewing the pleadings and attorney fees records. The court said the main problem was that Quint's time records were not categorized by subject matter, and instead were line item costs for each of the services provided during an approximate eight-year period. The court said that to properly rule on the parties' contentions, it reorganized and recategorized the billing items, which took "many, many, many hours, both during regular business hours and after business hours, . . . [and] on weekend[s]. . . ."

Based on this review, the court determined that Quint was entitled to some, but not all, of his requested fees. To explain its findings, the court first identified each category of tasks for which Quint was seeking reimbursement: (1) work related to discovery (134.5 hours); (2) work related to substantive petitions or motions, which included about 14 different motions/petitions (451.1 hours); (3) work related to two appeals (*Jennings I* and *Jennings II*) and research on a potential writ petition relating to discovery orders (185.7 hours); and (4) work related to correspondence (5.1 hours).[5]

The court then explained the grounds for striking a portion of these hours.

First, the court stated it agreed generally with Miles that Quint was not entitled to be compensated for work performed after Feucht's death (September 20, 2010) because after that time Quint did not "represent any executor in this case." But the court determined it would grant fees for Quint's "post-death" work if the work fell within one of two exceptions. First, the court stated Quint was entitled to recover fees for work relating to the filing and defense of the Final Accounting, citing the statute permitting a court to order an attorney for a deceased personal representative to file an accounting. (See § 10953, subd. (c).) Second, the court stated it would grant fees for the work related to Quint's preparation and defense of his extraordinary fees petition. The court found the total "unauthorized

[5] The court recognized that these total hours were not precisely equivalent to the hours identified by Quint, but found the difference to be de minimis.

post-death work" to be 94.5 hours (the work that did not fall within either exception), and stated it would reduce the compensable hours by this amount.

In the second category of reductions, the court struck Quint's claimed fees for his work related to the Coexecutors' prior discovery violations, which the court found encompassed 50.2 hours, and for the preparation of the First Accounting (which was struck as a sanction for the discovery violations), which the court found encompassed 35.4 hours.

In the third category of reductions, the court found Quint's billing was excessive in several different areas and reduced the fees as follows: (1) reduction of 23 hours for work on the earlier *Jennings I* appeal; (2) reduction of 35.1 hours for work on the opposition to Miles's 2010 petition to remove the Coexecutors; (3) reduction of 30 hours for the preparation of the original attorney fees request; (4) reduction of seven hours for the preparation of the supplemental fee statement; (5) reduction of 23.8 hours for work on *Jennings II*; and (6) reduction of 19.4 hours for work seeking to enforce Miles's initial agreement to the Final Accounting.

The court found the total of these reductions was 318.4 hours, and after subtracting this amount from the total amount of claimed hours (776.1 hours), the court concluded Quint was entitled to be compensated for 458 hours of work. The court then stated that it found Quint's claimed $350 hourly rate to be excessive under the circumstances of the case, and instead the reasonable fee was $275, which the court said was "more reflective of the nature of the work, the quality of the work that was done in this case."

Based on this analysis, the court concluded Quint was entitled to (1) $125,950 for extraordinary fees pertaining to litigation matters; (2) $1,375 for extraordinary fees pertaining to administrative-related matters; and (3) $2,034.77 for net allowable costs. The court also stated that $25,410 of the extraordinary fees would be charged to Miles's distributed estate share, reflecting Miles's unreasonable conduct in the litigation, citing section 11003.

After the court issued a tentative order reflecting these determinations, Miles filed numerous objections. The court then held a hearing, and found several of Miles's objections were meritorious and revised its prior order. Two of those findings are of relevance to this appeal.

First, the court deleted its prior finding that Miles would be charged for a portion of the extraordinary attorney fees. The court said that "on reflection and further research," the court's prior conclusion was not "legally sustainable" under section 11003. The court explained it found both Miles and Edward were at fault for acting unreasonably, and that Miles did not act with malicious intent or without probable cause. The court also noted there was "unreasonable conflict" between Quint and Miles, and that both brothers and "to some extent" Quint "caused the litigation to escalate and become more protracted." Based on these factual findings, the court declined to surcharge Miles's interest in the estate, and instead found all beneficiaries would share in the attorney fees.

Second, the court found the fees should be further reduced based on the court's finding that Quint should not recover for work (57.5 hours) on the *Jennings I* appeal (Edward did not prevail on that matter), and work (6.6 hours) related to the proposed discovery writ and Edward's resignation as executor.

C. *Final Order*

On April 4, 2016, the court signed the final order reflecting these conclusions. In the order, the court ruled: (1) Quint is entitled to $108,322 as compensation for extraordinary services in connection with Miles's litigation activities; (2) Quint is entitled to $1,375 for extraordinary services associated with the sale of estate real property and other nonlitigation activities; (3) Quint is entitled to the unpaid sum of $947 as a charge against the estate for reimbursement of unpaid costs advanced; (4) costs related to the *Jennings I* appeal ($801.07) shall be awarded and charged against Miles's share of the estate; (5) Miles's own request for extraordinary fees is denied without prejudice because it is not properly before the probate court (as no petition was filed); and (6) Miles is entitled to reimbursement for $435 reflecting his fee for filing his amended objections.

Miles appeals from this order.

DISCUSSION

I. *Legal Principles*

Generally, an executor's attorney is compensated for his or her "ordinary" services according to a statutory schedule based on the estate's value. (§ 10810, subd. (a); *Estate of Gilkison* (1998) 65 Cal.App.4th 1443, 1446, fn. 1 (*Gilkison*).) This form of compensation is not at issue in this appeal.

In addition to "ordinary" compensation, a probate attorney may also be entitled to compensation for "extraordinary services." (§ 10811, subd. (a).) The executor (and/or the executor's attorney[6]) has the burden to show the need for the extraordinary services and the extent and value of those services. (*Estate of Fulcher* (1965) 234 Cal.App.2d 710, 718.) The court may award any amount of extraordinary fees that the court determines "is 'just and reasonable.'" (*Estate of Trynin* (1989) 49 Cal.3d 868, 873 (*Trynin*).)

A probate court has broad discretion to consider all relevant factors and determine whether an award of extraordinary fees is appropriate in the particular case. (*Gilkison*, *supra*, 65 Cal.App.4th at p. 1448.) When the court's determination is challenged on appeal, a reviewing court must affirm unless the probate court "exceed[ed] the bounds of reason." (*Estate of Lanza* (1964) 229 Cal.App.2d 720, 727; accord, *Gilkison*, at pp. 1448-1449; *Estate of Downing* (1982) 134 Cal.App.3d

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[6] An executor's attorney may be a party to an extraordinary fees petition. (*Hutchinson v. Gertsch* (1979) 97 Cal.App.3d 605, 614.)

256, 266-267.) An appellate court may not substitute its judgment for the trial court's discretionary conclusions. (*Estate of Merritt* (1950) 98 Cal.App.2d 70, 76.) "The award[ ] must be upheld unless [it] appear[s] so clearly out of proportion to the services performed as to be an abuse of discretion." (*Estate of Beach* (1975) 15 Cal.3d 623, 645.)

II. *Analysis*

On our examination of the entire appellate record, we determine the court acted within its discretion in its attorney fees award. The court presided over this probate matter for an extended period, and conducted a detailed review of Quint's billing statements and Miles's challenges. Based on its familiarity with the litigation and its consideration of the facts and claims, the court awarded Quint $108,322 in litigation-related fees after substantially reducing his claimed hours and lowering his hourly rate from $350 to $275. The court detailed the grounds for its determination that Quint was entitled to about 40 percent of his claimed fees. The court's conclusions were reasonable, appropriate, and supported by the evidence in the record.

Miles raises a myriad of challenges to the court's extraordinary fees order in his appellate briefs. In doing so, he violates many appellate court rules, including by failing to provide a coherent summary of the applicable facts, identify each contention under a separate subheading, develop his legal arguments, and support each of his contentions with an appropriate citation. (See Cal. Rules of Court,[7] rules 8.204(a)(1)(B), (C), 8.204(a)(2)(C); see *Jumaane v. City of Los Angeles* (2015) 241 Cal.App.4th 1390, 1406; *Multani v. Witkin & Neal* (2013) 215 Cal.App.4th 1428, 1457.) Quint's respondent's brief is also unhelpful. Quint did not clearly set forth the applicable facts or law, and included much information irrelevant to the appellate issues.

In the interests of justice, we have devoted substantial time to understand and decipher Miles's numerous arguments and to evaluate the applicable portions of the record. Based on this review, we find Miles's contentions to be without merit. We highlight the reasons for our conclusions below.

A. *Post-Executor-Death Work*

As his primary appellate challenge, Miles contends the court erred in awarding fees for work performed when Quint was not representing an executor. In May 2010, Edward resigned as executor, and in September 2010, his coexecutor Feucht died. After this time, Quint continued to work on estate matters and wanted to be paid for this work. Miles objected to compensation for these services. The court *agreed* with Miles and did not award fees for work after Feucht's death with two exceptions: (1) work related to the filing

[7] All further rule references are to the California Rules of Court.

of, and defending, the Final Accounting; and (2) work related to the extraordinary attorney fees petition.

In his appellate briefs, Miles does not specifically challenge the applicability of the two exceptions. He therefore forfeited his right to assert error on appeal. (*Jones v. Jacobson* (2011) 195 Cal.App.4th 1, 19, fn. 12.) Further, on the merits, we conclude the court did not abuse its discretion in finding these exceptions applicable under the circumstances of the case.

As to the first exception, California law provides that when an executor dies, the court may order the executor's former counsel to present an estate accounting, and that the attorney may be compensated for this work as an extraordinary service. (See § 10953, subd. (c); rule 7.703(c)(11).) Although the court did not expressly order Quint to submit the Final Accounting, the court later stated it would have done so had the issue been presented to it. Under these circumstances, the court acted within its discretion in awarding Quint attorney fees for services related to the Final Accounting and successfully defending the accounting against Miles's numerous claims, including in the *Jennings II* appeal.

We recognize that the court had appointed the successor Administrator by the time of the *Jennings II* appeal. However, Edward (represented by Quint) was the sole respondent who appeared in the appeal. Because the appeal was from the order approving the Final Accounting that had been filed by Quint (on behalf of the former Coexecutors) it was within the court's discretion to find that Quint was entitled to be compensated for his work defending the court's ruling in this appeal. There was no double compensation because the successor Administrator (who was appointed primarily to review the work of the prior Coexecutors) did not appear in the *Jennings II* appeal and expressly approved Edward's participation as a respondent.[8]

With respect to the second exception, a court has the discretion to award extraordinary attorney fees for "[l]itigation in support of [the] attorney's request for extraordinary compensation. . . ." (Rule 7.703, subd. (c)(9); see *Trynin*, *supra*, 49 Cal.3d at p. 871; see also *Estate of Gump* (1991) 1 Cal.App.4th 582, 604-605.) This rule ensures attorneys will be fairly compensated for their services despite the need to defend against unjustified objections to their fee claims. (*Trynin*, *supra*, 49 Cal.3d at p. 871.) The court did not abuse its discretion in awarding fees for Quint's work preparing and defending the extraordinary fees petition.

B. *Expiration of Letters Testamentary*

Miles next contends the court erred in awarding attorney fees for work after September 18, 2007, when

[8] In a related argument, Miles argues Quint abused his authority in speaking with Feucht's trustee after Feucht's death and obtaining Mother's records that were in Feucht's control. The record does not support that Quint's actions were inappropriate or unauthorized.

the Coexecutors' testamentary letters expired. Miles forfeited this argument because he did not timely object to the Coexecutors' authority based on this expiration date. Additionally, the Coexecutors were under the probate court's supervision at all relevant times, and thus the record supports that the court in substance extended the expiration date and reissued the letters, even if there was no technical filing to this effect. After Miles petitioned to remove the Coexecutors, Edward resigned and Feucht died. On this record, the court did not abuse its discretion in awarding Quint fees for work that benefited the estate, even if the Coexecutors had not obtained a formal extension of the letters. (See *Estate of Siberell* (1955) 132 Cal.App.2d 332, 333-334 [party cannot collaterally attack letters of administration].)

C. *Allegations of Perjury and Conspiracy to Defraud and Deceive*

Throughout his briefs, Miles argues that Edward and Quint committed perjury on numerous occasions; conspired to defraud and deceive him; and refused to cooperate in the probate proceedings. Most of these assertions are not properly before us because they pertain to alleged actions that happened long ago and were decided adversely to Miles in prior appeals or appealable orders. Our appellate jurisdiction is limited to reviewing the court's rulings in the order currently being appealed – the April 4, 2016 attorney fees and costs order. (See Code Civ. Proc., § 906; *Morton v. Wagner*

(2007) 156 Cal.App.4th 963, 967; *In re Marriage of Lloyd* (1997) 55 Cal.App.4th 216, 219.)

To the extent Miles's assertions are relevant to the April 2016 attorney fees order and were not the subject of prior orders, they constitute a challenge to the court's credibility determinations, and thus do not show reversible error. In the probate court, Miles argued the court should not award Quint attorney fees because Quint and/or Edward engaged in bad faith conduct and had made numerous misrepresentations. The court rejected these arguments as a ground for denying Quint any attorney fees. The court recognized that both Miles and Edward were responsible for the escalation of disputes, and that Quint also bore some responsibility for the protracted litigation. But the court did not credit Miles's assertions that Quint and/or Edward acted in bad faith or that they misrepresented material facts. The evidence in the record – including Quint's declaration – supports the court's factual conclusion.

Once a probate court has made factual determinations, we are required to accept those determinations if supported by the evidence. "It is not our function as a reviewing court to reweigh the evidence, resolve conflicting evidence and inferences, or to judge the credibility of the witnesses." (*Grimshaw v. Ford Motor Co.* (1981) 119 Cal.App.3d 757, 806.) Miles argues he presented evidence showing that Quint and Edward took advantage of him, particularly because he is disabled and is supporting a large family. The court was not required to agree with this assertion. "When two or more inferences can reasonably be deduced from the facts, we do not substitute our deductions for those of the finder of fact. [Citation.] We must affirm if substantial evidence supports the trier of fact's determination, even if other substantial evidence would have supported a different result." (*Canister v. Emergency Ambulance Service, Inc.* (2008) 160 Cal.App.4th 388, 394.) This rule applies if the trial court makes a credibility determination based on declarations as well as oral testimony. (See *United Health Centers of San Joaquin Valley, Inc. v. Superior Court* (2014) 229 Cal.App.4th 63, 74; *Fininen v. Barlow* (2006) 142 Cal.App.4th 185, 189-190.)

D. *Texas Property*

Miles devotes various portions of his brief to discussing the Texas assets that were part of Mother's estate, and claims he was not treated fairly with respect to the distribution of those assets. These contentions were resolved adversely to Miles in *Jennings II* and/or they involve matters outside the probate court's jurisdiction. Thus, the arguments are not properly before us in this appeal.

E. *Discovery Orders and Sanctions*

Miles contends the court erred in awarding Quint fees for work on discovery motions that resulted in orders favorable to Miles. However, in ruling on Quint's attorney fees motion, the court stated it was striking the fees request for work on the discovery motions based on the court's earlier order sanctioning Edward for failing to produce the ordered documents. Miles also repeatedly argues the court's discovery sanctions were insufficient to remedy Edward's discovery violations. However, the discovery sanctions were the subject of a prior appealable order, and are thus not a proper matter to challenge in this appeal.

In a related argument, Miles argues the court erred in awarding fees for work on an unsuccessful protective order motion. Miles did not meet his appellate burden to show the court's award included fees for this motion. Additionally, "an attorney may be entitled to compensation even though the extraordinary services rendered 'turn out to be entirely valueless'. . . . Services that do not directly benefit the estate in the sense of increasing, protecting, or preserving it are nonetheless compensable if the estate's attorneys or representatives in performing the services were 'acting in consonance with the fiduciary duties imposed upon them'. . . ." (*Trynin*, *supra*, 49 Cal.3d at p. 874.) There is no showing that Quint's work on this motion was inconsistent with his fiduciary duties.

F. *Claimed Surcharge for Extraordinary Fees Request*

In his appellate briefs, Miles discusses the court's initial order that a portion of the ordered attorney fees be charged to Miles's distributed share of the estate. Miles suggests this ruling was unfair and unsupported. However, the court modified the order to delete this requirement. Because Miles is not a legally aggrieved party on this issue, we need not discuss it further.

G. *Claimed Unfair and Discriminatory Treatment*

Miles contends he was a victim of disability discrimination and defamation in the probate court proceedings based on Quint's statements made in probate briefs and pleadings. He argues that Quint repeatedly called him "'delusional'"; "'schizophrenic'"; and "'a documented liar,'" and that these assertions are false because the "correct diagnosis is Post Traumatic Stress Disorder, secondary to child abuse."

Miles made similar arguments in the *Jennings II* appeal and we rejected them as a basis for showing reversible error in the probate court. We reach the same conclusion here. There is no showing the court considered or accepted the truth of the assertions, or that they had any impact on the court's decisionmaking.

Miles contends the court treated him unfairly and denied him his constitutional due process rights because it spent substantial time reorganizing Quint's billing statements to understand the basis for his fee requests, whereas the court routinely refused to accept Miles's documents that did not satisfy procedural requirements. However, there is nothing in the record showing the court unfairly enforced procedural rules against Miles. Moreover, the time spent on Quint's billing statements benefited Miles, as the court's detailed review revealed that about 60 percent of Quint's claimed fees were not justified by the record and/or were excessive. The court did not accept Quint's fee request at face value, and instead sought to ensure his claims were justified and the beneficiaries' rights were protected. The court's efforts to understand Quint's attorney fees claim did not violate Miles's due process rights or show unfair treatment.

The probate court expressed awareness that Quint bore some responsibility for the escalation of disputes. These actions were likely one factor in the court's decision to reduce the amount of time and hourly rate recoverable in this matter. In ruling on the attorney fees motion, the court conducted a comprehensive review of all relevant evidence; expressly considered the parties' numerous contentions; acted in a patient and impartial manner; applied applicable law; and appropriately exercised its discretion on the facts before it.

H. *Remaining Contentions*

Miles's remaining contentions have no arguable merit as they are unsupported by factual citations and legal argument, and/or they pertain to matters outside the probate court's jurisdiction. We thus need not discuss these contentions further. (See *Linhart v. Nelson* (1976) 18 Cal.3d 641, 645 ["Having examined [appellants'] other contentions, we find them of insufficient merit to warrant discussion."].)

At the conclusion of his brief, Miles asks this court for 25 separate remedies. The only one of those "remedies" that is properly before us is Miles's request that we reverse the court's April 2016 order granting Quint attorney fees and costs. Based on our review of the record, we determine Miles has not met his burden to show reversible error.

I. *Motions for Judicial Notice*

The parties filed several motions for judicial notice seeking to augment the record with materials from the probate court files. We granted those motions while the appeal was pending. We additionally grant Miles's unopposed motion for judicial notice filed on February 9, 2017 pertaining to additional materials from the probate court's files.

DISPOSITION

Order affirmed. The parties to bear their own costs on appeal.

HALLER, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO

Estate of: DOROTHY JEAN JENNINGS, Deceased	CASE NO.: P 190541
	ORDER RE: SECOND AMENDED PETITION FOR ALLOWANCE OF ATTORNEY'S COMPENSATION FOR EXTRAORDINARY SERVICES AND FOR REIMBURSEMENT FOR COSTS ADVANCED
	(Filed Apr. 4, 2016)
	[Prob. Code §§10811, 10831]

The Second Amended Petition For Allowance Of Attorney's Compensation For Extraordinary Services And For Reimbursement For Costs Advanced filed 11/25/2015 by petitioner P. A. Quint, as attorney for former Co-Executors Edward G. King, III and Brigitte Feucht, came on for a hearing on January 14, 2016 in Department PC-1, the Honorable Jeffrey S. Bostwick, Judge presiding. Petitioner P. A. Quint appeared in propria persona. Objector Miles Jennings King, an estate beneficiary, appeared telephonically in propria persona. Following the arguments of attorney P. A. Quint and objector Miles Jennings King, the Court took the matter under submission. On February 1, 2016, the court announced its decision as reflected in its MINUTE ORDER of that date. On February 10, 2016, in another MINUTE ORDER, the Court issued a modification to its 02/01/2016 MINUTE ORDER vacating the provision of its order surcharging Miles J. King's interest in the estate in the sum of $25,410, ruling that Probate Code Section 11003 did not apply.

The Court conducted a detailed review of activities of attorney P. A. Quint in responding to the litigation initiated by the attorneys for Miles Jennings King with his objections filed on January 31, 2008 to the Co-executors' First and Final Account filed on August 27, 2007. The attorneys for Miles Jennings King continued their litigious activities until July 14, 2010 when the Court granted their motion to be relieved as attorneys of record for Miles Jennings King. Miles Jennings King, in propria persona, continued the litigation that was commenced with his objections to the accounting of the former co-executors. On February 13, 2014, the Court issued a written Order approving the former co-executors' final accounting and rejecting Miles' objections. Miles timely filed an appeal of the Court's February 13, 2014 order that was affirmed on April 24, 2015 by the Court of Appeal, Fourth Appellate District, Division One, Case No. D065745.

Based on a detailed review of the documentation filed in support of the petition and the objections thereto filed by Miles Jennings King, and the arguments of the parties, now:

THEREFOR, IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. That successor Administrator Marilyn Kriebel is authorized and directed to forthwith pay to Petitioner P. A. Quint, attorney fees as a charge against the estate, in the sum of $~~125,950~~ [108,322 /s/ JSB] as compensation for extraordinary fees [; ~~for 458 hours of litigation related services at $ 275 per hour;~~ /s/ JSB]

2. That successor Administrator Marilyn Kriebel is authorized and directed to forthwith pay to Petitioner P. A. Quint, attorney fees as a charge against the estate, in the sum of $ 1,375 for extraordinary services performed associated with the sale of estate real property and for coordination of the ancillary probate proceeding in Wise County, Texas;

3. That successor Administrator Marilyn Kriebel is authorized and directed to pay forthwith to Petitioner P. A. Quint the [unpaid /s/ JSB] sum of $ ~~2,034~~ [947 /s/ JSB] as a charge against the estate for reimbursement of unpaid costs advanced;

[4. Appeal costs: $801.07 shall be awarded & charged against Miles Jennings King's share of the estate. /s/ JSB].

~~4.~~ [5. /s/ JSB] Miles Jennings King's request for extraordinary fees is not properly before the Court so that request is denied without prejudice.

[6. Miles Jennings King's request for reimbursement of $435 filing fee for his amended objections is granted. /s/ JSB]

Approved as to form and content:

Dated: __________ ____________________________
Miles Jennings King

IT IS SO ORDERED

Dated: 4/4/16 /s/ Jeff Bostwick
Judge of the Superior Court

[Certificate Of Service Omitted]

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 03/28/2016 TIME: 01:30:00 PM DEPT: PC-1

JUDICIAL OFFICER PRESIDING: Jeffrey Bostwick
CLERK: Judith Morrison
REPORTER/ERM: Adriana Angulo CSR#13824
BAILIFF/COURT ATTENDANT:

CASE NO: **P190541** CASE INIT.DATE: 02/24/2006
CASE TITLE:
ESTATE OF DOROTHY JEAN JENNINGS
CASE CATEGORY: Probate CASE TYPE: Probate of will – Letters Testamentary

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EVENT TYPE: Review Hearing (Estates)

APPEARANCES
P A QUINT, counsel, present for Respondent on Appeal,Petitioner(s).
Miles Jennings King, self represented Appellant, present telephonically.

The Review hearing was set by the court as to the Objections filed February 29, 2016 by Miles Jennings King and all parties are present as noted above.

1:30 pm Miles Jennings King Petitioner/Objector, presents argument.

1:40 pm P.A. Quint, Respondent, presents argument.

1:50 pm Rebuttal argument is heard by Miles Jennings King.

Court inquires of the parties as to time spent for Safe Harbor and Writ matters referred to in the Objections filed February 29, 2016.

2:10 pm Miles Jennings King presents closing argument.

2:12 pm P.A. Quint, presents closing argument.

THE COURT ORDERS as follows:

1. Extraordinary Fees re: Litigation: The sustains [sic] Miles Jennings King's objections regarding extraordinary fees for the appeal of the safe harbor petition (57.5 hours allowed) and the work related to the proposed writ and Edward King's resignation (6.6 hours allowed). The court finds that Edward King did not prevail in that appeal and Edward King's resignation was an effort to avoid the court's discovery orders. Accordingly, the court deems the request for these extraordinary fees unreasonable. At the allowed rate of $275 per hour, this ruling represents a reduction in the extraordinary fee award regarding the litigation of $17,627.50 or $17,628 rounded. After said reduction, the court awards total extraordinary fees associated with the litigation in this case in the sum of **$108,322**. Said fees are to be paid from the estate.

2. Extraordinary Fees re: Sale of Estate Real Property and Ancillary Probate: The court awards extraordinary fees for the sale of estate real property and the ancillary probate proceeding in Texas in the sum of

$1375. Said extraordinary fees are to be paid from the estate.

3. Costs: The court examined the costs counsel seeks in this matter. On further review, the court denies the request of all costs pertaining to the appeal for which the court denied the extraordinary fees hereinabove, excessive copy and postage costs and, except for the final accounting and the appeal thereof (ROA 387), costs after the resignation of Edward King and the death of Bridgett [sic] Feucht. After deducting payments from the estate for costs, the court awards counsel **unpaid** costs in the sum of $946.99 or **$947** rounded. These costs shall be paid from the estate. The court did not add back the January 24, 2009 rebate from the appellate court in the sum of $560.25. While the court disallowed the costs for the appeal for which the rebate was received, the estate nonetheless incurred those costs. Therefore, it is unreasonable to further reduce the costs allowed by a rebate that did not pertain to the costs allowed.

4. Appellate Order Re: Costs: On June 25, 2015, the Court of Appeal ordered Miles Jennings King to pay appellant's costs for the appeal of ROA 378. On June 29, 2015, counsel filed a memorandum of costs for said appeal showing the total costs incurred are $801.07. Miles Jennings King has not provided any evidence that said appeal costs were not incurred. Pursuant to the appellate court ruling, the sum of **$801.07 shall be charged against Miles Jennings King's distributive share of the estate**.

5. The court overrules Miles Jennings King's objection to work pertaining to the post death and post resignation accounting (ROA 387). Had counsel not prepared said final accounting, the court would have been empowered to order counsel to prepare said accounting pursuant to Probate Code (PC) 10950-10954. More importantly, the court must allow as a charge against the estate "reasonable compensation" to the "legal representative" or attorney for preparing the account. (PC § 10953(d)) The commentary to PC § 10953 states that "[p]resumably the services performed by the attorney under paragraph (d) are 'extraordinary' within the meaning of Section 10811." PC§ 10811 states that "the court may allow additional compensation for extraordinary services by the attorney for the personal representative in an amount the court determines is just and reasonable."

Therefore, the work pertaining to the contest of said accounting (ROA 387) and defending Miles Jennings King's appeal of the court's decision regarding the approval of said accounting is reasonable. Additionally, the request for such extraordinary fees is legally well founded.

6. Reimbursement of Filing Fee: Miles Jennings King's request for reimbursement of **$435** for filing fees pertaining to the amended objections to the present petition is granted.

This minute order is the court's order and no additional formal order is needed.

IT IS SO ORDERED:

/s/ Jeffrey S. Bostwick
J. Bostwick
Judge Jeffrey Bostwick

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 02/10/2016 TIME: 11:08:00 AM DEPT: PC-1

JUDICIAL OFFICER PRESIDING: Jeffrey Bostwick
CLERK: Judith Morrison
REPORTER/ERM: Not Reported
BAILIFF/COURT ATTENDANT:

CASE NO: **P190541** CASE INIT.DATE: 02/24/2006
CASE TITLE:
ESTATE OF DOROTHY JEAN JENNINGS
CASE CATEGORY: Probate CASE TYPE: Probate of will – Letters Testamentary

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EVENT TYPE: Ex Parte

APPEARANCES

On February 1, 2016, the court heard former co-executors' Second Amended Petition For Allowance OfAttorney's Compensation For Extraordinary Services And For Reimbursement For Costs Advanced (Petition).

Pursuant to Probate Code section 11003, the court ruled in part that $25,410 of the total extraordinary fees and costs awarded should be charged to the interest in the estate of contestant of the account, Miles J. King.

Section 11003(a) empowers the court to charge the extraordinary attorney fees and costs against the interest in the estate of the contestant of an account where the contest was "without reasonable cause **and** in bad faith." (PC 11003(a); emphasis added) Similarly, where the court finds the opposition to the contest is "without reasonable cause **and** in bad faith," the court may charge the opponent's interest in the estate the contestant's attorney fees and other costs of the litigation. (PC 11003(b); emphasis added)

Regarding the prosecution of a claim, "reasonable cause" means probable cause in the malicious prosecution context. (Uzyel v. Kadisha (2010) 188 Cal. App. 4th 866, 926) "In contrast, 'bad faith' in this context concerns the trustee's subjective state of mind and cannot be inferred from the absence of probable cause alone. (Cf. Downey Venture v. LMI Ins. Co. (1998) 66 Cal.App.4th 478, 498-499, discussing the 'malice' element of malicious prosecution].)" (Uzyel v. Kadisha, supra at fn. 47)

Black's Dictionary defines bad faith as "The opposite of 'good faith,' generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, of a neglect or refusal to fulfill some duty or contractual obligation, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive . . . The term 'bad faith' is not simply bad judgment or negligence, but rather it implies the conscience [sic] doing of a wrong because of dishonest purpose or mora [sic]; obliquity; it is different from the negative idea of negligence in that it contemplates a state of mind affirmatively operating with furtive design or ill will." (Black's Law Dictionary, Fifth Ed., 1979)

In the present case, the court found that the actions of Miles J. King and former co-executor Edward G. King, III, who are brothers, were unreasonable. It did not find that Miles J. King's prosecution of the appeal of the account (ROA 387) nor the contest of such account, which served as the basis for the court's application of the PC 11003 surcharge, to be without probable cause. Nor did the court find his actions were malicious.

Moreover, petitioner has not demonstrated that, while unreasonable, Miles J. King had the subjective intent to pursue a fraudulent, intentionally misleading, deceptive or sinister attempt to neglect or refuse to fulfill some duty. Additionally, the evidence does not show that Miles J. King's actions were dishonest or furtive. Any ill will between Miles J. King and Edward G. King, III was mutual and offsetting.

In short, this matter involved longstanding high conflict between Miles J. King and Edward G. King, III. There was also unreasonable conflict between Miles J. King and Attorney P.A. Quint, the attorney for the former executors, Edward G. King, III and Brigitte Feucht. The parties, and to some extent counsel, caused the litigation to escalate and become more protracted. As Miles J. King encountered unreasonable positions taken by Edward G. King, III, he responded with petitions, objections to petitions and an appeal. This ever increasing litigation, fueled primarily by the parties' mutual high conflict, in turn, drove the extraordinary fees. However, the evidence fails to show Miles J. King acted without reasonable cause and in bad faith. Therefore, PC 11003 does not apply.

Accordingly, the court forthwith vacates the provision of its order surcharging Miles J. King's interest in the estate in the sum of $25,410. Instead, the entire extraordinary fees and costs of $129,360 shall be charged against the estate.

IT IS SO ORDERED:

/s/ Jeffrey S. Bostwick
J. Bostwick
Judge Jeffrey Bostwick

[Certificate Of Service Omitted]

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 02/01/2016 TIME: 01:30:00 PM DEPT: PC-1

JUDICIAL OFFICER PRESIDING: Jeffrey Bostwick
CLERK: Judith Morrison
REPORTER/ERM: Mandy Lisa Kersh CSR#10674
BAILIFF/COURT ATTENDANT:

CASE NO: **P190541** CASE INIT.DATE: 02/24/2006
CASE TITLE:
ESTATE OF DOROTHY JEAN JENNINGS
CASE CATEGORY: Probate CASE TYPE: Probate of will – Letters Testamentary

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EVENT TYPE: Petition for Fees
MOVING PARTY: Edward G. King, III, Brigitte Feucht
CAUSAL DOCUMENT/DATE FILED: Amended Petition Second Amended Petition for Allowance of Attorney's Compensation for Extraordinary Services . . . , 11/25/2015

APPEARANCES

Attorney P.A. Quint, Petitioner, appearing in pro per.
Miles Jennings King, Objector, appearing telephonically in pro per.

The matter is before the court for its ruling on the petition.

ROA#641 Second Amended Petition for Allowance of Attorney's Compensation for Extraordinary Services and for Reimbursement of Costs filed 11/25/2015 by P.A. Quint is granted.

The Court orders as follows:

1. An order of the court as previously requested in the Second Amended Petition for Allowance of Attorney's Compensation etc., filed on November 25, 2015;

2. That successor Administrator Marilyn Kriebel be authorized and directed to forthwith pay to Petitioner P.A. Quint, attorney fees, in the sum of $125,950 as compensation for extraordinary fees for litigation related fees;

3. That successor administrator Marilyn Kriebel be authorized and directed to forthwith pay to Petitioner P.A.Quint, attorney fees, in the sum of $1,375 for extraordinary fees services performed associated with the sale of the estate real property, and for coordination of the ancillary probate proceeding in Wise County, Texas;

4. That successor Administrator Marilyn Kriebel be authorized and directed to pay forthwith to Petitioner P.A. Quint the sum of $2,034.00 for reimbursement of unpaid costs advanced;

5. Of the total extraordinary fees and costs awarded herein, Administrator shall charge Miles J. King the sum of twenty-five thousand, four hundred ten dollars ($25,410.00) against his distributive share of the estate. Pursuant to Probate Code Section 11003, this

charge is for bad faith and unreasonable conduct resulting in unnecessarily high attorney fees and costs.

6. Miles Jennings King [sic] request for extraordinary fees is not properly before the court so that request is denied without prejudice.

7. Formal order to be submitted to the court.

IT IS SO ORDERED:

/s/ Jeffrey S. Bostwick
J. Bostwick
Judge Jeffrey Bostwick

Court of Appeal, Fourth Appellate District,
Division One – No. D070239

S243365

IN THE SUPREME COURT OF CALIFORNIA

En Banc

Estate of DOROTHY JEAN JENNINGS, Deceased.

PETER ALLEN QUINT, Petitioner and Respondent,

v.

MILES JENNINGS KING, Objector and Appellant.

(Filed Aug. 30, 2017)

The petition for review is denied.

CANTIL-SAKAUYE
Chief Justice

Subject: Estate of Dorothy Jennings – Texas oil lease signed 1 May 2006 – Mom died 2-10-2006
From: MJ King <mj@mjking.net>
Date: Fri, 04 Apr 2008 13:02:42 -0700
To: joshua Herndon <jherndon@melroselawcenter.com>, Lewis Wolensky <lwolensky@melroselawcenter.com>, Boris Siegel <bsiegel@melrose lawcenter.com>, Siegel & Wolensky <siegelnwolensky@melroselawcenter.com>

Gentlemen:

The Texas leases signed since Mom's death on 2-10-2006 arrived today.

While Edward was claiming on court documents that ownership of the property had been transfered [sic] in Texas to myself, Edward King III & Brigitte Feucht was signing leases filed in Texas as co-executor f [sic] the Estate. Three leases total – 1 May 2006 with the entire family. The second two leases are only signed by Edward King co executor [sic] and Brigitte Feucht co executor [sic], one dated in 2007, the other dated in 2008.

Is this the "smoking gun"? Edward & Feucht signing leases in conflict with the documents Edward and Feucht signed and filed in California Probate?

We want a bit [sic] win in court April 08.

I would like to see:

1. Dismissal of Quint and the coexecutors
2. Sanctions against Quint

3. Sanctions against the coexecutors
4. Sanctions against Conley Production, Inc.,
5. Sanctions against the Board Members and Officers of Conley Production, Inc., as a group and individually.

I will mail copies of the leases, hopefully in today's mail.

MJ King
909.585.8683

060501 Leases_Signed_ Co-Executors-07-08.pdf	**Content-Type:** application/pdf **Content-Encoding:** base64

AMENDMENT OF OIL AND GAS LEASE

THIS AMENDMENT OF OIL AND GAS LEASE made and executed as of May 1, 2006, by and between, Marvin L. Lackey, Jr The Estate of Dorothy J. Jennings, Maurice E. Fremont, Angela I. Jennings, Bess Jane Jones, Gary Dee Conley Halvorson, Robert Abney Conley, Jeremy Jay Conley and Lee Conley, lessor (whether one or more), and Conley Production, Inc., lessee,

WITNESSETH:

WHEREAS, lessor leased, let and demised the property described below to Conley Production, Inc. by lease dated as of and effective June 1, 2004, recorded in the Official Records of Wise County, Texas on July 27, 2004, Volume 1450, Page 372; and

WHEREAS, lessor and lessee under said lease wish to amend said lease to provide for pooling of the land with other acreage;

NOW THEREFORE:

1. Lessor, in consideration of the sum of Ten Dollars ($ 10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby AMEND said lease and lease unto lessee the land covered hereby. The land covered hereby, herein called "said land", is located in the County of Wise, State of Texas and is described as follows:

* * *

(Execution page of that certain Amendment of Oil and Gas Lease dated effective May 1, 2006)

IN WITNESS WHEREOF, this instrument is executed and effective as of the date first above written.

LESSOR

____
Marvin L. Lackey, Jr.

ESTATE OF DOROTHY JENNINGS

/s/ Edward G. King III
Edward G. King, III co-executor

/s/ Brigitte Feucht
Brigitte Feucht, co-executor

____
Maurice E. Fremont, Trustee of the Fremont Trust

____
Angela I. Jennings

____
Gary Dee Conley Halvorson

____
Robert Abney Conley

____
Jeremy Jay Conley

____
Lee Conley

LESSEE

CONLEY PRODUCTION, INC.

By: /s/ Edward G. King, III
Edward G. King, III
President

INDIVIDUAL ACKNOWLEDGMENT

STATE OF California)
) SS.
COUNTY OF San Diego)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Brigitte Feucht, to me personally known, and known to me to be the same person she described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged to me that she ___ executed and delivered the same as free and voluntary act and deed, for the uses, purposes and consideration therein expressed, including the relinquishment of dower and homestead.

Given under my hand and official seal this 25th day of April, 2006

My Commission Expires: 8/29/2008

[SEAL] [Illegible]
Notary Public for said County and State, residing at San Diego

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS)
) SS.
COUNTY OF HARRIS)

BEFORE ME, the undersigned Notary Public, on this day personally appeared Edward G. King III, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he, being fully authorized to do so, executed and delivered the same as President of Conley Production, Inc., a Texas corporation, on the day and year therein mentioned and as the act and deed of said corporation, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 19 day of May, 2006

/s/ Doug Johnson
NOTARY PUBLIC in and for
said County and State [LOGO]

My commission expires April 1, 2008

[SEAL]

* * *

Wise County
HONORABLE Sherry Parker-Lemon
COUNTY CLERK
Decatur, Texas 76234

Instrument Number: 2007-9997
As
Official Records

Recorded On: July 19, 2007
Parties: JENNINGS DOROTHY J ESTATE OF ET AL

Billable Pages: 5
Number of Pages: 6

To CONLEY PRODUCTION INC
Comment: AMEND OIL GAS LEASE

(Parties listed above are for Clerks reference only)

*   *   *

AMENDMENT OF OIL AND GAS LEASE

THIS AMENDMENT OF OIL AND GAS LEASE made and executed as of May 1, 2006, by and between, Brigitte Feuche and Edward G. King, III acting in their capacity as co-executors of the Estate of Dorothy J. Jennings, lessor, and Conley Production, Inc., lessee,

WITNESSETH:

WHEREAS, lessor's predecessor, Dorothy J. Jennings, leased, let and demised the property described below to Conley Production, Inc. by lease dated as of and effective June 1, 2004, recorded in the Official Records of Wise County, Texas on July 27, 2004, Volume 1450, Page 372; and

WHEREAS, lessor and lessee under said lease wish to amend said lease to provide for an extension of the primary term of said least;

NOW THEREFORE:

1. Lessor, in consideration of the sum of Ten Dollars ($ 10.00) and other good and valuable

consideration, receipt of which is hereby acknowledged, does hereby AMEND said lease and lease unto lessee the land covered hereby. The land covered hereby, herein called "said land", is located in the County of Wise, State of Texas and is described as follows:

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF

2. Paragraph 2 of said lease dated as of June 1, 2004 is deleted in its entirety, and replaced by the following language:

> "Unless sooner terminated or longer kept in force under other provisions hereof, this lease shall remain in force for a term of ten (10) years from the effective date hereof, hereinafter called "primary term", and as long thereafter as oil or gas or either of them is produced from the said land".

3. Under paragraph 14(a) of this lease, lessor waives the requirement of the 180 day continuous drilling provision until the expiration of the primary term.

* * *

(Execution page of that certain Amendment of Oil and Gas Lease dated effective May 1, 2006)

IN WITNESS WHEREOF, this instrument is executed and effective as of the date first above written.

LESSOR

ESTATE OF DOROTHY J. JENNINGS

/s/ Edward G. King III
Edward G. King, III, co-executor
15054 Kimberley Ct.
Houston, TX 77079

/s/ Brigitte Feucht
Brigitte Feucht, co-executor
8936 Cliffridge Ave.
La Jolla, CA 92037

LESSEE

CONLEY PRODUCTION, INC.

By: /s/ Edward G. King, III
Edward G. King, III
President

INDIVIDUAL ACKNOWLEDGMENT

STATE OF California)
) SS.
COUNTY OF San Diego)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Brigitte Ursula Feucht to me personally known, and known to me to be the same person ___ described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged to me that she ___ executed and delivered the same as free and voluntary act and deed, for the uses, purposes and consideration therein expressed, including the relinquishment of dower and homestead.

Given under my hand and official seal this 20th day of January, 2007

My Commission Expires: Mar 20, 2010

/s/ Nina Kim
NOTARY PUBLIC in and for said County and State, residing at California San Diego

[SEAL]

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS)
) SS.
COUNTY OF HARRIS)

BEFORE ME, the undersigned Notary Public, on this day personally appeared Edward G. King, III, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he, being fully authorized to do so, executed and delivered the same as President of Conley Production, Inc., a Texas corporation, on the day and year therein mentioned and as the act and deed of said corporation, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ___ day of ________, 20__.

____
NOTARY PUBLIC in and for said
County and State

My commission expires ____________________

* * *

INDIVIDUAL ACKNOWLEDGMENT

STATE OF LOUISIANA____)
) SS.
PARISH OF ORLEANS_____)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that EDWARD G. KING III, to me personally known, and known to me to be the same person ___ described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged to me that ___ he ___ executed and delivered the same as free and voluntary act and deed, for the uses, purposes and consideration therein expressed, including the relinquishment of dower and homestead.

Given under my hand and official seal this 22nd day of April, 2007

My Commission: IS FOR LIFE [DLK]

/s/ Donald L. King
Notary Public in and for said
Parish and State, residing at
1825 Calhoun St.
New Orleans, La 7048 [sic]
Orleans Parish, LA

CORPORATE ACKNOWLEDGEMENT

STATE OF LOUISIANA)
) SS.
COUNTY OF ORLEANS)

BEFORE ME, the undersigned Notary Public, on this day personally appeared Edward G. King, III, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he, being fully authorized to do so, executed and delivered the same as President of Conley Production, Inc., a Texas corporation, on the day and year therein mentioned and as the act and deed of said corporation, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22nd day of April, 2007.

/s/ Donald L. King
NOTARY PUBLIC in and for
said Parish and State
Bar Roll #7390
Orleans Parish, La.

My commission IS FOR LIFE [DLK]

WHEN RECORDED RETURN TO: 4704 Rue Laurent Metairie, LA 70002	This instrument was filed for record on the ___ day of _____, 20__, at __ o'clock __M, and duly recorded in Book _____, Page ____ of the _____ records of this office. _____________ County Clerk County of _____ State of _______

Wise County
HONORABLE Sherry Parker-Lemon
COUNTY CLERK
Decatur, Texas 76234

Instrument Number: 2008-21647
As
Official Records

Recorded On: March 12, 2008
Parties: JENNINGS DOROTHY J ESTATE OF ET AL To CONLEY PRODUCTION INC
Comment: CORR AMND OIL GAS LEASE

Billable Pages: 4
Number of Pages: 5

(Parties listed above are for Clerks reference only)

* * *

CORRECTION OF EFFECTIVE DATE TO AMENDMENT OF OIL AND GAS LEASE

THIS **CORRECTION OF EFFECTIVE DATE TO AMENDMENT OF OIL AND GAS LEASE** is made and effective as of April 1, 2006, by and between, Brigitte Feucht and Edward G. King, III acting in their capacity as co-executors of the Estate of Dorothy J. Jennings, lessor, and Conley Production. Inc., lessee,

WITNESSETH

WHEREAS, lessor's predecessor, Dorothy J. Jennings, leased, let and demised the property described below to Conley Production, Inc. by lease dated as of and effective June 1, 2004, recorded in the Official Records of Wise County, Texas on July 27, 2004, Volume 1450, Page 572; and

WHEREAS, lessor and lessee under said lease wish to amend said lease to provide for an extension of the primary term of said lease, and

WHEREAS, the original **AMENDMENT OF OIL AND GAS LEASE** was recorded in the Official Records of Wise County Texas at Volume 1835 at Page 560 (Instrument Number 2007-9997) and

WHEREAS, lessor and lessee wish to correct the effective date of **AMENDMENT OF OIL AND GAS LEASE** to reflect the parties true intention of the effective date therefor and to restate the original terms of the **AMENDMENT OF AND GAS LEASE**

NOW THEREFORE:

1. Lessor, in consideration of the sum of Ten Dollars ($ 10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby **CORRECT AND AMEND** the effective date of said AMENDMENT OF OIL AND GAS LEASE to be effective as of April 1, 2006. The land covered hereby, herein called "said land", is located in the County of Wise, State of Texas and is described as follows;

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF

2. Paragraph 2 of said lease dated as of June 1, 2004 is deleted in its entirety, and replaced by the following language;

> "Unless sooner terminated or longer kept in force under other provisions hereof, this lease shall remain in force for a term of ten (10) years from the effective date hereof, hereinafter called "primary term", and as long thereafter as oil or gas or either of them is produced from the said land".

3. Under paragraph 14(a) of this lease, lessor waives the requirement of the 180 day continuous drilling provision until the expiration of the primary term.

* * *

6. This instrument is made and effective as of April 1, 2006.

* * *

(Execution page of that certain Amendment of Oil and Gas Lease dated effective April 1, 2006)

IN WITNESS WHEREOF, this instrument is executed and effective as of the date first above written.

LESSOR

ESTATE OF DOROTHY J. JENNINGS

/s/ Edward G. King III
Edward G. King, III, co-executor
15054 Kimberley Ct.
Houston, TX 77079

/s/ Brigitte Feucht
Brigitte Feucht, co-executor
8936 Cliffridge Ave.
La Jolla, CA 92037

LESSEE

CONLEY PRODUCTION, INC.

By: /s/ Edward G. King, III
Edward G. King, III
President

INDIVIDUAL ACKNOWLEDGMENT

STATE OF CALIFORNIA California)
) SS.
COUNTY OF SAN DIEGO San Diego)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Brigitte Feucht, to me personally known, and known to me to be the same person ___ described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged to me that she ~~he~~ she executed and delivered the same as free and voluntary act and deed, for the uses, purposes and consideration therein expressed, including the relinquishment of dower and homestead.

Given under my hand and official seal this 23 day of February, 2008

My commission expires December 14, 2011

/s/ Patricia Areola a notary public
NOTARY PUBLIC in and for
said County and State residing
at San Diego California

[SEAL]

INDIVIDUAL ACKNOWLEDGMENT

STATE OF LOUISIANA_____)
) SS.
PARISH OF ORLEANS______)

I the undersigned, a Notary Public in and for said Parish and State, do hereby certify that Edward G. King III, to me personally known, and known to me to be the same person ___ described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged to me that ___ he ___ executed and delivered the same as free and voluntary act and deed, for the uses, purposes and consideration therein expressed, including the relinquishment of dower and homestead.

Given under my hand and official seal this 6th day of March, 2008

My Commission: IS FOR LIFE ___

/s/ [Illegible]
Notary Public in and for said
County and State residing at
2122 N. Causeway Blvd.
Metairie, LA 70001

[SEAL]

CORPORATE ACKNOWLEDGMENT

STATE OF LOUISIANA)
) SS.
PARISH OF ORLEANS)

BEFORE ME, the undersigned Notary Public, on this day personally appeared Edward G. King III, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he, being fully authorized to do so, executed and delivered the same as President of Conley Production, Inc. a Texas corporation, on the day and year therein mentioned and as the act and deed of said corporation, for the purposes and consideration therein a-expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6 day of March, 2008.

/s/ [Illegible]
NOTARY PUBLIC in and for
said Parish and State

My commission: IS FOR LIFE ____ [SEAL]

WHEN RECORDED RETURN TO:	This instrument was filed for
Edward G. King, III	record on the ___ day of _____,
4704 Rue Laurent	20__, at __ o'clock __M, and
Metairie, LA 70002	duly recorded in Book _____,
	Page ____ of the _____ records
	of this office. _____________
	County Clerk County of _____
	State of _______