

No. \_\_\_\_\_

IN THE  
**SUPREME COURT OF THE UNITED STATES**

**ROBERT F. MANSUETO,**

Applicant,

v.

**SUSAN J. BROWN, AS TRUSTEE,**

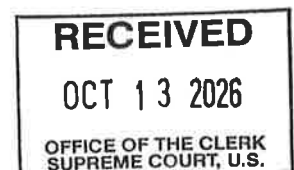
Respondent.

ON APPLICATION ARISING FROM THE  
CALIFORNIA COURT OF APPEAL  
FOURTH APPELLATE DISTRICT, DIVISION THREE

No. G066603

**EMERGENCY APPLICATION FOR STAY  
PENDING THE FILING AND DISPOSITION OF  
A PETITION FOR A WRIT OF CERTIORARI**

**TO THE HONORABLE ELENA KAGAN,**  
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES  
AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT



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### **EMERGENCY APPLICATION FOR STAY**

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Applicant Robert F. Mansueto respectfully applies under Supreme Court Rules 22 and 23 and 28 U.S.C. § 2101(f) for a stay, pending the timely filing and disposition of a petition for a writ of certiorari, of the enforcement and continuing effect of the August 13, 2024 order of the Superior Court of California, County of San Diego, removing Applicant from fiduciary office as trustee of the Edmund Mansueto and Helen Mansueto Joint Living Trust, as affirmed by the California Court of Appeal in *Brown v. Mansueto*, No. G066603.

The Trust instrument expressly designates Applicant as “First Successor Trustee.” Applicant does not ask this Court, on this emergency application, to resolve the separate state-law question of what priority or authority that designation confers relative to provisions addressing joint service. The designation matters here because the challenged order removed Applicant from a fiduciary position expressly assigned to him by the settlors.

The forthcoming petition will present a federal due-process question: whether a state may sustain a consequential trustee removal on procedural-waiver grounds where material opposition had been submitted through the court system, the deciding judge acknowledged that she did not have the objection before her, and the state appellate court nevertheless treated the matter as a procedural default. The Court of Appeal expressly rejected Applicant's Fourteenth Amendment contention.

Applicant seeks preservative, not merits, relief. He asks that the challenged removal order not produce further irreversible consequences while this Court determines whether to review the constitutional validity of the process by which he was removed.

## **STATEMENT**

1. Applicant and Respondent are siblings and are involved in long-running proceedings concerning their parents' trust. The Trust materials identify Robert F. Mansueto as First Successor Trustee and Susan Brown as Second Successor Trustee. Other provisions have been invoked concerning joint service after the death of the surviving settlor. This application does not ask the Court to decide those state-law interpretive issues.

2. In 2024 Respondent sought Applicant's suspension and removal. Applicant submitted written opposition in March 2024 in connection with the removal controversy. The California Court of Appeal later characterized that filing as opposition to an ex parte application rather than an objection to the underlying removal petition.

3. At a May 2024 hearing, the probate court stated that no written objection to the underlying petition had been filed, set August 1, 2024 as a deadline, and warned that failure to file could result in waiver. At the August hearing, Applicant maintained that he believed

objections were contained in another filing and requested additional time. The probate court rejected excusable neglect and deemed objections waived.

4. The certified transcript of the August 13, 2024 proceeding nevertheless records a circumstance central to the forthcoming federal claim. Addressing ROA 201, the removal petition, Judge Olga Alvarez stated:

“I did not receive that objection ... I don’t have it.”

The court then immediately stated its inclination to grant ROA 201. The court thereafter removed Applicant as trustee, permitted Respondent to evict remaining occupants of the former family residence, and awarded attorney fees in an amount to be determined.

5. The Court of Appeal affirmed. Its opinion states that the trial court permissibly found waiver because Applicant failed to file the required objection and instead had opposed an ex parte application. The appellate court emphasized the May-to-August opportunity to file another objection. It also expressly rejected Applicant’s contention that the procedure violated the Fourteenth Amendment.

6. The Court of Appeal issued its opinion in May 2026 and denied rehearing on May 20, 2026. Applicant sought review in the Supreme Court of California, which denied review on August 19, 2026. Applicant also sought a stay in the California Supreme Court, which denied that request. These rulings conclude the state appellate review sought by Applicant concerning the trustee-removal judgment.

7. On August 31, 2026, Applicant applied to the California Court of Appeal, Fourth Appellate District, Division Three, for a stay of issuance of the remittitur pending a petition to

this Court. The Court of Appeal subsequently issued the remittitur in No. G066603. No stay currently prevents enforcement of the removal order.

8. Emergency relief is requested because the challenged removal continues to determine who exercises trustee authority while Applicant's Petition to Enforce Trust Directive (ROA No. 421), originally calendared for September 18, 2026, has been continued to May 26, 2027. Probate Examiner Notes dated September 2, 2026 summarize the relief requested in that petition as including preservation of the residence and restrictions on its sale, transfer, or encumbrance pending further court order.

The same notes recite that the August 13, 2024 removal order authorized Respondent, as trustee, to take steps to evict occupants of 57 Tunapuna Lane in connection with the prior authorization to sell the property. Applicant reports substantial alterations to the residence during the pendency of the state proceedings. Those developments illustrate the risk that further action affecting the property could occur before the state court hears the preservation petition. Applicant requests relief tied to the challenged removal order to preserve this Court's ability to provide meaningful relief if certiorari is granted.

#### I. THIS COURT HAS AUTHORITY TO GRANT A STAY

"28 U.S.C. § 2101(f) provides that, when a final judgment or decree is subject to review by this Court on certiorari, its execution and enforcement may be stayed for a reasonable time to permit the aggrieved party to seek certiorari. Supreme Court Rule 23.2 likewise permits a

party to a judgment sought to be reviewed to apply to a Justice to stay enforcement of that judgment.

This application is addressed to the Circuit Justice for the Ninth Circuit under Rule 22.3. Applicant seeks review of the California judgment affirming his removal, and the forthcoming petition will invoke 28 U.S.C. § 1257(a).

Rule 23.3 requires an applicant to explain with particularity why relief is unavailable elsewhere and, absent extraordinary circumstances, to seek relief first in the appropriate court below. The California Supreme Court denied review and the request for a stay, and the California Court of Appeal issued its remittitur in No. G066603. Applicant has thus pursued state appellate review and relief from the state courts; no state-court stay is currently in place. Applicant seeks relief here to preserve the status quo while this Court considers a timely petition for certiorari.

## **II. THERE IS A REASONABLE PROBABILITY THAT CERTIORARI WILL BE GRANTED**

A stay pending certiorari requires a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant review, a fair prospect that a majority will vote to reverse, and a likelihood of irreparable harm; in close cases the Court also balances the equities. *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam).

The forthcoming petition will not ask this Court merely to reinterpret California Rule of Court 7.801 or to correct an asserted error of state probate procedure. It will present a federal

question concerning the constitutional consequences of state-court filing and adjudicative machinery: when a litigant has placed material opposition into the judicial system, but that material is not before the deciding judge, under what circumstances may the State convert that absence into waiver and impose a consequential deprivation?

The federal question was actually passed upon below. The Court of Appeal expressly stated that, for the reasons given in its waiver analysis, it disagreed with Applicant's contention that the trial court violated his due-process rights under the Fourteenth Amendment. That express disposition avoids a threshold problem that often arises when a federal question was never decided by the state court.

The issue also reaches beyond the label attached to Applicant's March filing. Applicant acknowledges the Court of Appeal's holding that the March filing was directed to the ex parte application and its reliance on the later deadline. The constitutional question is whether the State provided a genuinely meaningful adjudicative opportunity before removal when the deciding judge herself stated that she did not have the objection, and whether the later procedural treatment constitutionally cured that failure.

### **III. THERE IS A FAIR PROSPECT OF REVERSAL**

This Court has repeatedly treated a meaningful opportunity to be heard as a core component of due process. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), requires notice and an opportunity to present objections. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965), describes the required opportunity as one afforded "at a meaningful time and in a meaningful manner."

The record presents an unusual problem: the judge who was about to rule on removal expressly stated that she did not have the objection. This was not merely Applicant's later characterization of what the court reviewed. It was the deciding judge's contemporaneous statement at the removal hearing.

The State's answer, adopted by the Court of Appeal, is substantial and must be confronted directly: the March filing was captioned as opposition to the ex parte application; in May the probate court told Applicant that an objection to the underlying petition had not been filed; the court gave him until August 1; and Applicant did not file the additional document the court expected. The forthcoming petition will therefore not contend that any filing, whatever its caption or procedural function, automatically satisfies every later filing requirement.

Rather, Applicant will argue that due process requires more before a State may turn its own handling of material submissions into a waiver supporting removal from fiduciary office. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982), illustrates the broader principle that a litigant's protected claim cannot simply be extinguished because the State's adjudicatory machinery failed to perform a required procedural function. The factual setting here differs, but the constitutional principle—distinguishing a litigant's default from a failure attributable to the State's process—is directly relevant.

The appellate court's summary rejection of the federal claim did not separately analyze whether the judge's acknowledged lack of the objection, the nature of the material already submitted, and the consequences of removal required a different constitutional inquiry from the state-law waiver analysis. That presents a fair prospect of reversal or, at minimum, vacatur and remand for application of the correct federal standard if this Court grants review.

## **A. THE DISABLED BENEFICIARY AND THE NEED FOR PRESERVATION**

The consequences of the challenged removal extend beyond Applicant's personal fiduciary status. They directly implicate administration of a trust containing provisions asserted to protect disabled beneficiary Joyce Mansueto. Applicant's filings identify Trust language allocating a portion of the Trust Residence for Joyce's care and directing Robert Mansueto and Susan Brown to participate jointly and equally in that care.

Respondent simultaneously exercises authority as acting trustee and as Joyce's conservator, while decisions concerning disposition of the Trust Residence directly affect the disabled beneficiary's asserted rights and welfare. Applicant's pending state-court petition alleges that Joyce was moved away from the family residence while the residence was being marketed for sale, and it seeks preservation of the residence and enforcement of the Trust directive concerning Joyce.

The record submitted in support of that petition further states that Joyce herself expressed a desire to return to her family home and described her placement away from it as against her will. Applicant relies on these circumstances not to ask this Court to decide Joyce's conservatorship or proper placement, but to demonstrate the gravity and potential irreversibility of actions taken while the challenged trustee-removal order remains operative.

Applicant further contends that concerns about adequate protection of Joyce's interests reach back to the 2010 Settlement Agreement, in which, according to Applicant's present filings, Joyce was not independently represented despite decisions affecting administration and occupancy of the Trust Residence. Applicant does not ask this Court in this emergency application to adjudicate Joyce's independent constitutional rights, the validity of the 2010

Settlement Agreement, or whether Respondent personally committed a constitutional violation. Those matters are distinct from the judgment now proposed for review.

They do, however, underscore why constitutionally adequate process before Applicant's removal mattered. The federal question actually decided in G066603 is narrower: whether Applicant received the meaningful opportunity to be heard required by the Fourteenth Amendment before the State removed him from fiduciary office. The Court of Appeal expressly rejected that federal due-process contention.

The causal sequence relevant to emergency relief is concrete: the challenged procedure produced Applicant's removal; the removal left Respondent exercising trustee authority while also serving as Joyce's conservator; decisions concerning the Trust Residence bear on Joyce's asserted interests; and the hearing on preservation of the residence and Joyce's care has been continued to May 26, 2027. Narrow preservation relief would protect this Court's ability to afford meaningful relief without asking it to administer the Trust or conservatorship.

#### **IV. DENIAL OF A STAY THREATENS IRREPARABLE HARM**

The requested stay must be justified by present, non-speculative harm. Applicant does not rely merely on the fact that he was removed in 2024 or on monetary attorney-fee consequences. He seeks emergency relief because the removal continues to allocate fiduciary authority in a manner that may permit irreversible action before this Court can consider certiorari.

The August 13, 2024 removal order did more than change fiduciary title. It authorized Respondent, as trustee, to take steps necessary to evict occupants from 57 Tunapuna Lane, Coronado, and referred to the court's prior authorization permitting Respondent to sell that

property. Applicant's Petition to Enforce Trust Directive, now calendared for May 26, 2027, seeks preservation of the residence, protection against sale, transfer, or encumbrance, and enforcement of asserted Trust provisions concerning Joyce's care and residence. The continuing effect of the removal order bears directly on who exercises authority over the property while preservation issues await a hearing.

Respondent simultaneously exercises authority as acting trustee and as Joyce Mansueto's conservator, while decisions concerning disposition of the Trust Residence directly affect the disabled beneficiary's asserted rights and welfare. Applicant's state-court filings assert that the Trust allocates a portion of the residence for Joyce's care and directs Robert Mansueto and Susan Brown to participate jointly and equally in that care. Those filings further assert that Joyce has been placed away from the family residence and has personally expressed a desire to return home. These circumstances heighten the consequences of excluding Applicant from fiduciary participation while the validity and effect of the challenged removal remain subject to a forthcoming petition for certiorari.

The threat of irreversible physical alteration is also concrete rather than speculative. Applicant personally photographed the rear patio area in February 2026 via public access and again personally observed and photographed additional interior areas of trust residence on August 15, 2026, applicant entered through an open door during work hours and personally observed and photographed drastic demolition to the interior of trust residence. Applicant's authenticated before-and-after photographs document substantial demolition and alteration of the trust residence and patio, including removal of preexisting retaining/planter walls and

landscaping. Applicant offers those photographs only to document the physical change he personally observed, not to establish who performed or authorized the work. (App. L.)

Actions affecting a unique family residence, fiduciary control, and a disabled beneficiary's asserted rights may be difficult or impossible to restore fully after the fact. The requested stay is designed to preserve this Court's ability to provide effective relief if certiorari is granted, without asking this Court to adjudicate title or unwind completed transactions in this emergency application.

## **V. THE EQUITIES FAVOR NARROW PRESERVATION RELIEF**

The balance of equities favors a narrow stay directed to the challenged removal order rather than a broad injunction against the probate court. Applicant does not seek to prevent ordinary acts necessary to protect beneficiaries or preserve property. He asks only that the challenged removal not be used to accomplish irreversible acts that would frustrate this Court's potential jurisdiction.

Respondent's legitimate interest in orderly trust administration can be protected through narrowly tailored preservation terms. By contrast, if irreversible action occurs before this Court can consider the petition, the federal due-process claim may become practically incapable of meaningful relief.

Applicant therefore requests a stay pending the timely filing and disposition of the petition for a writ of certiorari, with the stay to terminate automatically if certiorari is denied and, if certiorari is granted, to continue pending this Court's final judgment, subject to any further order of the Court or Circuit Justice.

## CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Circuit Justice stay the enforcement and continuing effect of the August 13, 2024 order removing Applicant Robert F. Mansueto from fiduciary office, as affirmed in G066603, pending the timely filing and disposition of his petition for a writ of certiorari; grant such narrowly tailored ancillary preservation relief as is necessary to prevent irreversible consequences directly flowing from the challenged removal; and enter a temporary administrative stay pending disposition of this application if necessary to prevent irreparable harm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. Mansueto", written in a cursive style.

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Dated: September 25, 2026