

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

IN THE MATTER OF THE ESTATE OF: ELIZABETH WILLIAMS NAYLOR, Deceased

Case Number: D-202-PB-201100653

The Honorable Joshua A. Allison

OBJECTION TO PROPOSED ORDER APPROVING SUBSTITUTION OF COUNSEL

COMES NOW **Elizabeth Ann Naylor Owens (a/k/a Jan Black Owens)**, a beneficiary and Interested Party in the above-captioned matter, appearing *pro se*, and respectfully submits this Objection to the proposed *Order Approving Withdrawal and Substitution of Counsel* filed by Mr. F. Vaughn Thomas. As grounds for this Objection, Ms. Owens states as follows:

I. BACKGROUND

1. On February 8, 2025, Mr. F. Vaughn Thomas filed a Petition seeking to withdraw as attorney of record for the Estate of Elizabeth Williams Naylor, its Personal Representative Guy Markley Naylor, and the Co-Trustees of the Elizabeth Williams Naylor Protective Living Trust, namely Guy Markley Naylor and Dale W. Gunn, M.D.
2. The Petition proposes that Mr. Kurt A. Sommer substitute as counsel for all of these parties—including both the fiduciary entities (Estate and Trust) and the individual fiduciaries (Mr. Naylor and Dr. Gunn).

II. NO OBJECTION TO REPRESENTATION OF INDIVIDUAL FIDUCIARIES

3. Ms. Owens expressly does not oppose Mr. Sommer representing Mr. Naylor and Dr. Gunn in their individual capacities. Her objection is solely to his proposed representation of the fiduciary entities—the Estate and the Trust.
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III. EGREGIOUS FAILURE TO ADMINISTER THE ESTATE AND TRUST

4. Elizabeth Williams Naylor executed her Last Will and Testament and the Protective Living Trust on May 24, 2011. She passed away on November 25, 2011.
5. Article III of the Will requires the Personal Representative to *"make an inventory of the contents of the residence, have the items appraised (or, in the case of ordinary household items, estimate the value), then distribute or sell the same all in accordance with Article III of Mrs. Naylor's Will."* That article directs that the tangible personal property *"shall be divided equally between my son, Guy Markley Naylor, and my daughter, Elizabeth Ann Naylor Owens."*
6. The Trust Agreement executed the same day further mandates in Section 6.2.2: *"The second of the two equal parts shall be distributed outright, free of trust, to Grantor's daughter, Elizabeth Ann Naylor Owens (a/k/a Jan Black Owens)."*
7. The Trust's Section 5.2.2 provides that after the payment of taxes, expenses, and debts, *"the Trustee shall then distribute the Trust estate as provided in Section 6."*
8. These provisions impose a clear and prompt duty to distribute assets after the death of the Grantor, and certainly within a reasonable time. It has now been over thirteen years since the decedent's death and none of the mandated distributions have occurred.
9. On September 12, 2012, an Inventory and Appraisal was filed in the probate case, purporting to reflect the estimated value of the tangible personal property. Although its

level of specificity is questionable, it satisfied the filing requirements and further obligated the fiduciaries to proceed with distribution.

10. To this date, not a single item has been distributed to Ms. Owens from either the tangible personal property under the Will or from the residuary trust estate under the Trust. This inaction constitutes not only gross delay but a continued breach of fiduciary duties, if not constructive fraud.

IV. OBJECTION TO REPRESENTATION OF FIDUCIARY ENTITIES

11. Ms. Owens objects to Mr. Sommer representing the Estate and Trust because he already represents the individual fiduciaries whose conduct is contested.
12. This creates a disqualifying concurrent conflict of interest under Rule 16-107(A) of the New Mexico Rules of Professional Conduct, which prohibits a lawyer from representing clients whose interests are directly adverse or materially limited by obligations to another client.
13. Mr. Naylor and Dr. Gunn's actions as fiduciaries have been challenged, including failures to distribute, account, or administer assets in accordance with their duties, and potential self-dealing or fraudulent activity.
14. The fiduciary entities (Estate and Trust) owe duties to Ms. Owens as a beneficiary. Their counsel must be independent and capable of addressing wrongdoing by fiduciaries if necessary.

V. PRIOR ADVERSE REPRESENTATION

15. On February 10, 2025, Mr. Sommer filed a Response on behalf of Mr. Naylor and Dr. Gunn opposing Ms. Owens' Petition to Reopen Probate, claiming it was untimely, arguing that issues had been settled, and requesting attorneys' fees and costs against her.
16. These are formal legal positions that are directly adverse to Ms. Owens, who is a statutory beneficiary.
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VI. HISTORY OF REPRESENTATION AND CONTINUED NON-DISTRIBUTION

17. In early 2023, before filing her Petition to Reopen Probate, Ms. Owens contacted Mr. Naylor and Dr. Gunn in a good faith effort to privately resolve outstanding issues of distribution and accounting. At that time, Mr. Kurt A. Sommer was already acting as their counsel.
18. Since that time—under Mr. Sommer's legal guidance—**nothing has been distributed** to Ms. Owens. Her legal entitlement under the Trust and Will has been ignored despite the fiduciaries being legally empowered and duly represented.
19. The pattern of persistent non-distribution, legal opposition, and refusal to carry out the express directives of the decedent, even in the face of repeated requests and a formal inventory, undermines any claim that the fiduciaries or their counsel can impartially or ethically serve the Estate or Trust.
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VII. REQUEST FOR RELIEF

WHEREFORE, Ms. Owens respectfully requests that the Court:

- Deny the substitution of Mr. Kurt A. Sommer as attorney for the Estate and the Trust;
- Permit him to represent Mr. Naylor and Dr. Gunn in their individual capacities only;

- Consider appointing neutral or independent counsel for the Estate and Trust;
- Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 4th day of May, 2025.

Elizabeth Ann Naylor Owens (a/k/a Jan Black Owens)

Pro Se Beneficiary



CERTIFICATE OF SERVICE

COMES NOW, Petitioner, Elizabeth Ann Naylor Owens, and hereby certifies that on this **4th** day of **May, 2025**, a true and correct copy of the **Objection to Proposed Order Approving Substitution of Counsel** was served upon the following interested parties as required by **Rule 1-005(E) NMRA**:

Served Parties:

1. **Guy Markley Naylor & Dr. Dale Gunn**

[REDACTED]

Method of Service: First-Class Mail

2. **Kurt A. Sommer, Esq.**
Sommer Udall Law Firm, P.A.

[REDACTED]

Method of Service: First-Class Mail

3. **F. Vaughn Thomas**

[REDACTED]

Method of Service: First-Class Mail

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

Dated this **4th** day of **May, 2025**.

Respectfully submitted,

Elizabeth Ann Naylor Owens, Petitioner, Pro Se

[REDACTED]