

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

Case No. D-202-PB-2018-00295

IN THE MATTER OF THE RUDOLPH  
L. BACA LIVING TRUST DATED  
FEBRUARY 14, 2007

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TRISH M. BACA, as Co-Trustee of the  
Rudolph L. Baca Living Trust,

Petitioner,

v.

MARK P. BACA, Individually and as  
Co-Trustee of the Rudolph L. Baca Living  
Trust; et al.,

Respondents.

**ORDER GRANTING PETITION TO VOID DEED,  
DENYING AND DISMISSING COUNTERCLAIMS FILED  
BY RESPONDENTS, AND ENTERING JUDGMENT**

THIS MATTER CAME before the Court for a non-jury bench trial on November 13-16, 2023, upon the Petitioner's *Petition to Remove Co-Trustee and to Void Deed* (filed June 26, 2018) and the Respondents' *Response/Counterpetition to Remove Trish M. Baca as Co-Trustee of the Baca Living Trust and Revocable Living Trust Agreement* (filed January 18, 2022.) Petitioner, Patricia "Trish" M. Baca, as Co-Trustee of the Rudolph L. Baca Living Trust, was represented by Benjamin Hancock, Esq., and Ryan Baughman, Esq., and Respondents Mark P. Baca, Monica

Tucker, and Lucille Baca were represented by counsel Esteban A. Aguilar, Sr., Esq., and Andres Rivera, Esq.

The Court, having considered the evidence and the testimony of the witnesses; having heard the arguments of counsel; having reviewed the proposed findings of fact and conclusions of law submitted by the parties; and being otherwise fully advised in the premises, makes the following findings and orders.

The Court previously made Findings of Fact and Conclusions of Law which were filed of record in this cause on February 14, 2024. *See the Court's Findings of Fact and Conclusions of Law.* Those Findings of Fact and Conclusions of Law are incorporated herein by reference.


The Court hereby ORDERS, ADJUDGES, AND DECREES as follows:

1. The *Quitclaim Deed* dated February 13, 2018, signed by Mark Baca and Trish Baca as Co-Trustees of the *Rudolph L. Baca Living Trust*, is hereby set aside and declared void *ab initio*.
2. The *Rudolph L. Baca Living Trust* dated February 14, 2007, is hereby reformed so as to specifically indicate that the Six-Plex passes pursuant to the Trust's residuary clause to all of the beneficiaries equally.
3. The *Rudolph L. Baca Living Trust* is hereby granted judgment against Mark P. Baca in the amount of \$150,000. The net rental income that Respondent Mark P. Baca collected from the Six-Plex between November 6, 2017, and July of 2021, in the amount of \$150,000, is to be returned to the Decedent's Trust. Alternatively, the Trust may debit Mark P. Baca's ultimate inheritance/distribution from the Trust for monies he received from the Six-Plex that he cannot account for.

4. A constructive trust is hereby imposed upon the net rental proceeds that Respondent Mark P. Baca collected from the Six-Plex in the amount of \$150,000, wherever those funds are now located.
5. The *Rudolph L. Baca Living Trust* is hereby awarded attorney fees and costs under NMSA 1978, § 46A-10-1004, and judgment will be entered against Respondent Mark P. Baca in an amount to be determined by the Court after consideration of any motion and cost bill filed by the Trust under Rule 1-054 NMRA.
6. All funds on deposit in the Court Registry shall be released to the Decedent's Trust upon entry of this judgment.
7. The relief sought in connection with Respondents' counterclaims (for breach of trust; for return of funds; and for violations of the Trust's "no contest clause") filed on January 18, 2022, is hereby DENIED, and those counterclaims are hereby DISMISSED WITH PREJUDICE.
8. Trish Baca, as the acting sole Trustee of the *Rudolph L. Baca Living Trust*, shall:
  - a. Cause a survey and a re-plat to be performed which separates and partitions the two tracts of land, namely:
    - i. The land upon which the Six-Plex sits (including the parking lot), and which abuts Edna NW, and which has historically been known as 2129 Edna NW; and
    - ii. The land east of the Six-Plex, which abuts Rio Grande Blvd. NW, and which has historically been known as 315 Rio Grande NW.
  - b. After the survey and re-plat, execute a Trustee's Deed conveying 315 Rio Grande NW to Mark P. Baca (not including the Six-Plex).

- c. After the survey, list and sell the Six-Plex at fair market value.
- d. Thereafter, take such steps as necessary to distribute and close the trust estate of the *Rudolph L. Baca Living Trust*.

IT IS SO ORDERED.

  
VICTOR S. LOPEZ, JUDGE  
Second Judicial District, Div. XXVII

SUBMITTED AND APPROVED BY:

LAW OFFICE OF BENJAMIN HANCOCK, P.C.

/s/ Benjamin Hancock

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APPROVED AS TO FORM ONLY:

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Electronically approved as to form only on February 27, 2024

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