

1 future interest in Lot No. 002 D 87. *See generally*, Objection to Conditional Appointment of Co-
2 Administratrix Ex. 1. Susana P. Rios has since passed away leaving surviving issue, including a
3 daughter – Hilda.

4 On May 2, 2017, on petition of Armando Villafuerte, Administratrix Ramirez was appointed
5 as an Administratrix of the Estate without objection. *See In the Matter of the Estate of Angelina*
6 *Borja Peredo, aka Angelina P. Rios*, Civ. No. 16–0252 (NMI Super. Ct. May 2, 2017) (Conditional
7 Order Granting Petition for Letters of Administration and Appointing Co-Administratrices at 2)
8 [hereafter “*Peredo* Appointing Order”]. Hilda came forward at the hearing for the appointment of
9 Administratrix Ramirez on April 20, 2017 and requested to be appointed Co-Administratrix. The
10 Court conditionally appointed Hilda as a Co-Administratrix of the Estate, subject to any objections
11 to her appointment made within five weeks of the Court’s order. *See Peredo* Appointing Order, Civ.
12 No. 16-0252 at 2-3.

13 On June 6, 2017, counsel for the Estate filed an objection to the conditional appointment of
14 co-administratrix of Hilda on behalf of nine heirs to the Estate. The Estate and objectors allege that
15 Hilda has a personal interest, which is in conflict with the interests of the Estate and would interfere
16 with her duties to the Estate; specifically, Hilda wishes to challenge a transfer of property by her
17 mother Susana P. Rios. The property transferred represents Susana P. Rios’ share in the Estate. The
18 objectors further allege that Hilda wished to be Co-Administratrix of the Estate only because of her
19 personal claim and “did not care if her role as co-administratrix resulted in the deadlock of
20 administration of this Estate or if such deadlock resulted in increased expense and delay.” Objection
21 to Conditional Appointment of Co-Administratrix at 3. Heirs Dorothy Kurtz, Julius P. Villafuerte,

1 Armando Villafuerte, and Ana R. Vergara proposed that another person, namely Magdalena Naputi,
2 be appointed as a co-administratrix or as a substitute administratrix.⁴

3 At the hearing on July 27, 2017, the Court heard testimony from Hilda and arguments from
4 counsel as well as from Administratrix Ramirez. Hilda testified that she is the granddaughter of Ms.
5 Peredo; via Ms. Peredo's daughter Susana P. Rios. Hilda alleges that she should be a beneficiary of
6 the Estate via the estate of her mother Susana P. Rios. Hilda admitted that she was reluctant to sign
7 any documents that would move the proceeding forward until she resolved her issues regarding her
8 mother's estate. Hilda also admitted she previously stated she would refuse to sign an inventory of
9 the Estate until her claims were litigated, though after explanation and clarification from the Court
10 she stated she might sign an inventory, but would not sign any documents relating to distribution.
11 Further, Hilda stated that despite receiving the legal advice of Attorney Hodson regarding the best
12 interest of the Estate, the state of the law, and the validity of the quit claim deed in question, she
13 still wanted to pursue her claims. The crux of Hilda's claim is that her mother, Susana P. Rios, did
14 not understand the quit claim deed when she signed the document on October 28, 1985. Though
15 Susana P. Rios lived for years after the quit claim deed was signed, there is no evidence Susana P.
16 Rios pursued legal action to contest the validity of the quit claim deed.

17 After reviewing the party's submissions, oral arguments, and relevant law, the Court makes
18 the following order.

19 II. DISCUSSION

20 While the Court conditionally appointed Hilda as Co-Administratrix of the Estate, such
21 appointment was subject to timely objections made with the presentation of supporting evidence.
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24 ⁴ Though such proposal was made, as of the issuance of this order, no petition for the appointment of an alternative or additional administratrix or administrator has been filed to put the issue properly before the Court.

1 Now faced with such evidence, the Court must consider whether the appointment of Hilda as Co-
2 Administratrix is appropriate pursuant to the NMI Rules of Probate Procedure.

3 The NMI Rules of Probate Procedure provide that a court must appoint an administratrix
4 “who under the circumstances is best able to administer the Estate.” NMI R. PROB. P. 18 (“Rule
5 18”). The administratrix’s responsibilities include filing an inventory of the estate within 60 days of
6 appointment, taking possession of the estate and its debts, paying the debts of the estate with the
7 court’s consent, maintaining awareness of prior or pending probate or civil matters that conflict
8 with the proposed distribution, petitioning for the court’s permission before making any payments
9 or distributions from the estate, fulfilling instructions and orders of the Court, fulfilling the notice
10 requirements for creditor claims, and fulfilling the requirements for final distribution of the estate.
11 NMI R. PROB. P. 9–11, 19–22.

12 An administratrix who is a participant in a probate proceeding owes a fiduciary duty of fair
13 dealing to the other participants, analogous to the duty of a trustee. *See Piteg v. Piteg*, 2000 MP 3 ¶
14 18. The administratrix of an estate also owes a duty of undivided loyalty to the estate. *In re the*
15 *Matter of the Estate of Elias S. Wabol*, Civ. No. 86–0791 (NMI Super. Ct. Aug. 3, 1998) (Decision
16 and Order at 8) (hereafter *Wabol Order*) (citing *Ramsell v. Union Trust Co.*, 519 A.2d 1185, 1189
17 (Conn. 1987)). Further, an administratrix is expected to act as a “prudent person dealing with the
18 property of another, one who is required to act with care, diligence, integrity, fidelity, and sound
19 business judgment.” *Wabol Order*, Civ. No. 86-0791 at 8. When there are co-administratrices, each
20 administratrix has a duty to cooperate in administering the estate and may be removed if her lack of
21 cooperation substantially impairs the administration of the estate. *See* RESTATEMENT 3D OF TRUSTS,
22 § 81 (2012); U.T.C. § 706(b)(2) (2010).

23 The court also imposes upon an administratrix the duties of honesty, loyalty, restraint from
24 self-interest, and good faith. *Wabol Order*, Civ. No. 86-0791 at 8 (citation omitted). Moreover, the

1 court has an active duty to ensure that a person whose interests conflict with the interests of the
2 estate does not serve as the administratrix of an estate because in such circumstances “the
3 [administratrix]’s ability to represent fairly the interests of the estate is irreparably tainted.” *See Id.*
4 (citation omitted).

5 Rule 18 grants the Court broad discretion to look at the individual circumstances of each
6 case and determine who is best able to carry out the fiduciary duties owed in the administration of
7 the estate in question. Here, the Co-Administratrix has the duty to further the interests of the Estate
8 by identifying the heirs and using sound business judgment to expediently and efficiently distribute
9 the Estate’s property and cooperate in the administration of the estate. However, delaying
10 distribution to determine whether the identified heirs chose to dispose of or maintain their share of
11 the Estate via a facially valid deed is not in the interests of the Estate, unless some extenuating
12 circumstances exist – such as when the action somehow diminishes the decedent’s ownership or
13 damages the overall value of the Estate or renders identification of the heirs impossible.

14 Hilda wishes to contest whether her mother, who had been identified as an heir to the Estate,
15 chose to deed away her vested future interest in the Estate to third parties. Hilda’s claim has no
16 bearing on Ms. Peredo’s ownership of the Estate, no effect on the overall value of the Estate, no
17 obstructive effect on identifying the heirs, nor are there any other extenuating circumstances that
18 involve the Estate’s interests in Hilda’s claim. Distribution of the Estate is not contingent upon the
19 resolution of Hilda’s claim. Rather, Hilda’s claim is on behalf of herself, pursuing her mother’s
20 share, against the third parties who benefitted from the quit claim deed signed by Hilda’s mother
21 (Susana P. Rios), and distribution of the Estate would not affect Hilda’s ability to pursue her claim
22 against the third parties. *See* Objection to Conditional Appointment of Hilda V. Rios Ex. 1.

23 Hilda’s claim therefore is not aligned with the interests of the Estate; rather Hilda’s claim
24 aligns with her own interests in pursuit of a property that her mother, Susan P. Rios, appears to have

