FILED
11/09/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF JAMES L. CHAMBERS, DECEASED. _____ KATHLEEN R. WELLS, Appellant, vs. NICOLE LEIGH SMITH AND VICKI LYNN YANNI, Respondents.	No. 90648-COA

ORDER AFFIRMING IN PART
AND DISMISSING IN PART

Kathleen R. Wells appeals from a district court order setting aside trust property. Ninth Judicial District Court, Douglas County; Hon. Thomas W. Gregory, Judge.

This appeal involves the administration of the Chambers Family Revocable Trust dated May 14, 2019, settled by James L. Chambers and Rosalind Chambers, the parents of the parties. Rosalind passed away on December 21, 2019. James passed away on July 23, 2021. Pursuant to the terms of the trust, Wells was appointed as the initial trustee at the time of the trust's creation in 2019.

During the proceedings below, respondents Nicole Leigh Smith and Vicki Lynn Yanni, who are beneficiaries of the trust,[1] petitioned the district court for a formal accounting, alleging that Wells, as trustee, provided

[1]Wells and the parties' brother, Eugene Earl Chambers (who is not party to this appeal), are also beneficiaries of the trust.

an initial accounting that failed to account for a $1.2-million insurance payment received by the trust estate in 2019-2020. Following a hearing, the district court directed Wells to prepare an accounting with supporting documents within 60 days of entry of the order. Wells did not do so.[2]

Thereafter, respondents petitioned the district court to compel a formal accounting, or in the alternative to remove Wells as trustee and appoint a replacement trustee, and for attorney fees and costs. In that petition, respondents generally alleged that Wells had been negligent in her duties as trustee due to her failure to account. The petition also contained allegations that Wells may have converted over one million dollars in estate assets during her time as trustee while James was still alive. Wells later filed a response to the petition admitting or denying the allegations contained therein, and a brief in advance of the evidentiary hearing arguing that Wells's inclusion as trustee in the trust document prior to her parents' death was a mistake and that she did not have control over trust funds until after James' death in 2021.

The district court held an evidentiary hearing in September 2024 concerning the petition and ultimately entered an order removing Wells as trustee for being negligent in her duties, and appointing a third-party as trustee. Relevant here, the district court entered an order on September 23, 2024, finding that Wells was negligent in her duty to account, as her final accounting did not comply with the district court's earlier order to provide supporting documentation related to trust accounts. In light of this finding,

---

[2]Wells eventually filed an untimely "final account," but it did not substantially comply with the district court's order as it did not contain supporting documents or any explanation of relevant account activity.

the district court removed Wells as trustee and appointed a third party to serve as trustee. The district court directed the third-party trustee to complete a forensic accounting of the trust from May 14, 2019, to the present, and include all relevant trust assets and transactions. The court directed the third-party trustee to "marshal all assets belonging to the Trust" and permitted the trustee to "petition the court for an order setting aside those assets to the trust." The district court also awarded attorney fees and costs to respondents.

Several months later, the third-party trustee filed a forensic report, and respondents petitioned the district court to set aside $802,401 of additional assets belonging to the trust that were currently held in Wells's financial accounts At the hearing on the petition, Wells had no objection to transferring the identified assets to the trust, stating "I am more than willing to give them the accounts," and responding "no, not at all" to the court's question about whether she had an objection "to the named assets being designated as trust assets." Instead, she objected to the amount of attorney fees and costs sought by respondents and requested additional time to file a written objection to their request. The district court continued respondent's request for attorney fees and costs and entered an order setting aside the assets belonging to Wells that were identified in the petition. Wells now appeals.

On appeal, Wells presents several arguments in which she appears to challenge the district court's finding that she was negligent and breached her fiduciary duty to account for the trust. Wells also challenges the award of attorney fees and costs to respondents. However, as noted above, the district court made these determinations in its September 2024 order, for which notice

of entry was served on September 23, 2024. As an order instructing or appointing a trustee and directing the payment of attorney fees and costs, this order was independently appealable under NRS 155.190(1)(h) and (j) and the time to appeal these determinations expired 30 days after service of the notice of entry of the order. Thus, to the extent that Wells challenges the district court's determination that she was negligent in the accounting, her removal as trustee, and the award of attorney fees and costs contained in that order, her notice of appeal is untimely and we dismiss the portions of her appeal that challenge that order. *See Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (providing that this court lacks jurisdiction over an untimely notice of appeal).

Further, to the extent that Wells sought to challenge the district court's order setting aside trust assets, this position is inconsistent with her representation to the district court below, wherein she stated that she was "more than willing" to provide the trustee with her accounts and affirmed that she had no objection to the personal assets named in the petition being named as trust assets. It is well recognized that "parties may not raise a new theory for the first time on appeal, which is inconsistent with or different from the one raised below." *Schuck v. Signature Flight Support of Nev., Inc.*, 126 Nev. 434, 437, 245 P.3d 542, 544 (2010) (internal quotation marks omitted); *see also Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been [forfeited] and will not be considered on appeal."). As Wells has not demonstrated a basis for relief in this matter, we hereby

ORDER the judgment of the district court AFFIRMED in part and DISMISS the appeal in part.[3]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Hon. Thomas W. Gregory, District Judge
Alling & Jillson, Ltd.
Kathleen R. Wells
Douglas County Clerk

[3]Insofar as Wells raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.