

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

ROBERT SULLIVANT, SR.

PLAINTIFF

VS.

CIVIL ACTION NO. 2021-612 (W)

ROBERT SULLIVANT, JR.

DEFENDANT

MOTION TO STRIKE OR EXCLUDE OPINION OF DR. MILTON HOBBS

COMES NOW Robert Sullivant, Jr., defendant herein, by and through undersigned counsel, and files his *Motion to Strike or Exclude Opinion of Dr. Milton Hobbs*, and would show unto the Court as follows:

1. On February 8, 2022, the Court ordered that because Defendant's Counterclaim against Plaintiff alleged that Plaintiff lacked the capacity to manage his own financial affairs, two Independent Medical Examinations under Miss. R. Civ. P. 35 should take place. These examinations were to be performed by Dr. Milton Hobbs and Dr. Brian Thomas.

2. Pursuant to Miss. Code Ann. § 93-20-401(2), The Conservatorship Statute, the Independent Medical Examinations must address whether Plaintiff is "unable to manage property or financial affairs because of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services or technological assistance" and whether appointment is necessary to "avoid harm to the adult or significant dissipation of the property of the adult."

3. Dr. Hobbs' IME report does not adequately comply with the requirements of Miss. Code Ann. § 93-20-401(2), M.R.E 702, or the *Daubert* standard and should be excluded from consideration by this Court in determining whether Sullivant, Sr. should be placed under a conservatorship.

4. Upon exclusion of Dr. Hobbs' IME, Sullivant, Sr. should be compelled to undergo another IME by a physician which will adequately consider and determine Sr.'s cognitive ability to handle property and business affairs based on reliable examination.

5. In support of his Motion to Exclude, Defendant relies on his *Memorandum in Support of Motion to Exclude Medical Opinion of Dr. Milton Hobbs* and the following exhibits:

Exhibit A – Relevant Excerpts of Deposition Testimony of Dr. Hobbs

Exhibit B – Dr. Hobbs Independent Medical Evaluation Report and Affidavit

Exhibit C – Dr. Brian Thomas's Independent Medical Evaluation Report

Exhibit D – February 8, 2022, Lafayette County Chancery Court Order ordering two independent medical evaluations of Robert Sullivant, Sr.

WHEREFORE, PREMISES CONSIDERED, Robert Sullivant, Jr., defendant herein, respectfully moves the Court to strike Dr. Milton Hobbs' independent medical evaluation and opinions, require that another independent medical evaluation be completed on Robert Sullivant, Sr., and for such additional relief as the Court deems just and proper.

Respectfully submitted,

ROBERT SULLIVANT, JR.

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CERTIFICATE OF SERVICE

I do hereby certify that on June 20, 2022 I have served by United States mail and/or email
a true and correct copy of the above and foregoing document to:

Swayze Alford
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Attorneys for Plaintiff Robert Sullivant, Sr.



MARISSA WATSON