

1 CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

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3

4 ROBERT SULLIVANT, SR. PLAINTIFF

5 VS. CAUSE NO. CV-2021-612

6 ROBERT SULLIVANT, JR. DEFENDANT

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9 TRANSCRIPT OF THE MOTION HAD AND DONE IN THE  
10 ABOVE-STYLED AND NUMBERED CAUSE, NOT FOR APPEAL  
11 PURPOSES, BEFORE THE HONORABLE ROBERT Q. WHITWELL,  
12 CHANCELLOR, ON THE 25TH DAY OF JANUARY, 2023, IN  
13 LAFAYETTE COUNTY, MISSISSIPPI, TAKEN BY CECILY BOONE  
14 FAULKNER, RPR, CSR, OFFICIAL COURT REPORTER FOR THE  
15 EIGHTEENTH CHANCERY COURT DISTRICT OF MISSISSIPPI.

16 \*\*\*\*\*

17

18 APPEARANCES:

19 Present and Representing the Plaintiff:

20

21 HONORABLE SWAYZE ALFORD  
22 Attorney at Law  
23 1300 Van Buren  
24 Oxford, Mississippi 38655

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26 Present and Pro Se:

27

28 MR. ROBERT SULLIVANT, JR.  
29 1002 Crawford Circle  
Oxford, Mississippi 38655

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NO EXHIBITS

1 (WHEREUPON, THE CHANCERY COURT OF  
2 LAFAYETTE COUNTY WAS DULY AND LEGALLY  
3 CONVENED, AND THE FOLLOWING OCCURRED IN  
4 THIS MATTER.)

5 HONORABLE ROBERT Q. WHITWELL: Mr.  
6 Sullivant, since you are pro se, I'm going  
7 to have the clerk swear you in.

8 (WHEREUPON, MR. SULLIVANT FACED THE  
9 CLERK AND RAISED HIS RIGHT HAND TO TAKE  
10 THE OATH.)

11 HONORABLE ROBERT Q. WHITWELL: All  
12 right. You may proceed.

13 MR. ROBERT SULLIVANT, JR.: Thanks,  
14 Your Honor.

15 We're here today on a motion of --  
16 for summary judgment, and the reason I  
17 filed it is because I believe there is  
18 not -- no longer any material issue of  
19 fact in this matter.

20 But, basically, what has happened is  
21 my father and I sold a farmhouse, which we  
22 both had half interest in. We had agreed  
23 to put the money into a joint account, and  
24 that we would purchase another house with  
25 that money.

26 We had currently owned a house here  
27 in Oxford. So, therefore, I believe we  
28 had a contract or an agreement in which to  
29 do that.

1           And then also close to about that  
2           time, due to my father's writing lots of  
3           checks to what I call *mail scam*  
4           *solicitors*, after years of that and trying  
5           to control it, I had decided that I should  
6           probably put my father into a  
7           conservatorship.

8           And I had asked the sitter, Ms.  
9           Evelyn Stevens, to help me in that process  
10          as I had to get two IMEs in order to make  
11          that happen.

12          Ms. Stevens betrayed me. And as she  
13          stated in her deposition, she had told my  
14          father what I was trying to do.

15          And about that time she, basically,  
16          just quit and didn't show up anymore, and  
17          -- I'm not sure exactly what happened.

18          But also at that time, my father  
19          decided he would transfer the monies in  
20          the joint account or withdraw them and put  
21          them in his personal account, funds that  
22          we both owned jointly.

23          Of course, that -- you can do that.  
24          The bank cannot deny that withdrawal of  
25          request.

26          But on a civil level, we did have an  
27          agreement that those funds were owned --  
28          we owned them jointly, and we had agreed  
29          to buy a house.

1           So using a power of attorney, which  
2           he had issued me in 2017, and up to that  
3           point had no complaints, problems  
4           whatsoever -- and I managed everything for  
5           him quite well in my opinion.

6           After he moved the money to the  
7           account, Ms. Stevens, according to what  
8           she said in her deposition, found the  
9           power of attorney and took my father to  
10          Attorney Jay Westfaul in Batesville to  
11          have it revoked. And at this time, I had  
12          no idea.

13          And in the discovery process in an  
14          interrogatory, my father stated that he  
15          never told me that he had revoked my power  
16          of attorney.

17          So, therefore, in Mississippi Code  
18          87-3-113, it states that because I was  
19          not -- he did not tell me that the power  
20          of attorney had been revoked, and if I put  
21          that in the affidavit, which I have, that  
22          the termination of the power by revocation  
23          or principal's death or incapacity --  
24          capacity is conclusive proof of the  
25          non-revocation of the power of attorney at  
26          that time.

27          So, basically, his lawsuit is  
28          accusing me of stealing money from him,  
29          which I was actually in accordance with

1 the POA, trying to protect the funds  
2 because it was my understanding and  
3 belief, strong understanding and belief,  
4 that Ms. Stevens and him were about to go  
5 buy a house with that money, which was  
6 jointly owned by us.

7 So under my counsel at the time at  
8 Holcomb Dunbar, I used my power of  
9 attorney, which according to the  
10 Mississippi Code was in effect, and moved  
11 the money back to the joint account out of  
12 fear that he would do -- would lose the  
13 money somehow and it was at risk.

14 I moved that to both an investment  
15 account that he owned and an investment  
16 account that I owned. So my father was  
17 very unhappy about that and since moved  
18 out of the house.

19 Ms. Stevens found Mr. Alford and made  
20 an appointment for my father and took my  
21 father to that appointment.

22 And the reason I point that out, I  
23 believe it's an undue influence that she  
24 has put on my father.

25 And, furthermore, in an IME opinion  
26 by Thomas, he states or he concludes that  
27 my father cannot make those kind of  
28 decisions.

29 And, so, that's basically what has

1           happened. And I was sued, and I was  
2           accused of --

3                   HONORABLE ROBERT Q. WHITWELL: Mr.  
4           Sullivant, Jr., don't you think that the  
5           fact that you're claiming Ms. Stevens  
6           performed undue influence on Mr.  
7           Sullivant, Sr., that that's a disputed  
8           fact?

9                   MR. ROBERT SULLIVANT, JR.: I don't  
10          believe it is disputed by her testimony in  
11          the deposition.

12                   HONORABLE ROBERT Q. WHITWELL: You've  
13          got testimony in her deposition that she  
14          admitted to undue influence?

15                   MR. ROBERT SULLIVANT, JR.: She did  
16          not explicitly, but I think she implied.

17                   I just stated the fact that she did  
18          take -- she did find the power of  
19          attorney. She did state that. She did  
20          state that she took my father to the  
21          attorney in Batesville.

22                   She has stated, and I have proof of  
23          her notes, which have been admitted into  
24          court, and where she stated that she made  
25          the appointment with Mr. Alford and took  
26          him to Mr. Alford to discuss this matter,  
27          which this lawsuit was the resulting --  
28          result of all of those actions.

29                   HONORABLE ROBERT Q. WHITWELL: Now,

1           you went to -- did you go to Regions Bank  
2           in Batesville?

3           MR. ROBERT SULLIVANT, JR.: I  
4           absolutely did not.

5           HONORABLE ROBERT Q. WHITWELL: You  
6           did not go to Regions Bank in Batesville?

7           MR. ROBERT SULLIVANT, JR.: (Nodding  
8           head negatively).

9           HONORABLE ROBERT Q. WHITWELL: And  
10          you were not told at Regions Bank that the  
11          power of attorney had been given to them  
12          and that you could not withdraw the funds?

13          MR. ROBERT SULLIVANT, JR.:  
14          Absolutely not.

15          HONORABLE ROBERT Q. WHITWELL: You're  
16          under oath, Mr. Sullivant.

17          MR. ROBERT SULLIVANT, JR.: Yes, I  
18          understand that completely.

19          HONORABLE ROBERT Q. WHITWELL: But  
20          then you went to Oxford --

21          MR. ROBERT SULLIVANT, JR.: I started  
22          at Oxford.

23          HONORABLE ROBERT Q. WHITWELL: Okay.  
24          But you found out over there, didn't you,  
25          at Batesville --

26          MR. ROBERT SULLIVANT, JR.: No. I  
27          never went to Batesville.

28          HONORABLE ROBERT Q. WHITWELL: How  
29          did you find out about the power of



1 attorney?

2 MR. ROBERT SULLIVANT, JR.: Well, I  
3 found out, basically, when I received a  
4 lawsuit and that was one of the exhibits.  
5 And my father did state in his  
6 interrogatory in the discovery that he  
7 never told me.

8 HONORABLE ROBERT Q. WHITWELL: Yeah,  
9 he stated, also, that the bank told you in  
10 Batesville --

11 MR. ROBERT SULLIVANT, JR.: Well --

12 HONORABLE ROBERT Q. WHITWELL: -- in  
13 his interrogatory response; did he not?

14 MR. ROBERT SULLIVANT, JR.: Right.  
15 So that -- I believe that would be  
16 hearsay --

17 HONORABLE ROBERT Q. WHITWELL: Let's  
18 not leave out all of it. Let's put it all  
19 in there.

20 MR. ROBERT SULLIVANT, JR.: Right.

21 HONORABLE ROBERT Q. WHITWELL: The  
22 Court has read your paperwork and read  
23 this file.

24 MR. ROBERT SULLIVANT, JR.: Correct.  
25 And I would --

26 HONORABLE ROBERT Q. WHITWELL: You  
27 accused Mr. Alford of a half truth in some  
28 of your responses, and now you're telling  
29 me a half one there, that he did answer

1           that he thought the bank had told you in  
2           Batesville about --

3           MR. ROBERT SULLIVANT, JR.: I  
4           understand -- yes, I understand that has  
5           been stated, but it is not the truth. Why  
6           would I go to Batesville --

7           HONORABLE ROBERT Q. WHITWELL: Well,  
8           that's a fact. Whether it is or not, it's  
9           a disputed fact. He says yes, and you say  
10          no.

11          So that would be something that I  
12          would have to consider in a factual basis.

13          MR. ROBERT SULLIVANT, JR.: And I  
14          would reply that there is no evidence that  
15          I went to Batesville.

16          HONORABLE ROBERT Q. WHITWELL: Well,  
17          that's your testimony.

18          So anything further on your motion?

19          MR. ROBERT SULLIVANT, JR.: Yes, Your  
20          Honor.

21          There was some -- speaking of  
22          material statements of fact, I wanted to  
23          clear up a few that were filed in the  
24          plaintiff's -- well, his objection to  
25          my -- to my motion.

26          First, he will allege that -- hold on  
27          one second, please. Sorry, I have not  
28          done this -- or I have only done it one  
29          time and that was two weeks ago.

1 He has stated that, for instance, the  
2 Costco card that is -- was used for  
3 personal expenses, it never was.

4 That mortgage that he did not own  
5 any --

6 HONORABLE ROBERT Q. WHITWELL: He  
7 contests -- that's another contested fact  
8 that he says --

9 MR. ROBERT SULLIVANT, JR.: Okay.

10 HONORABLE ROBERT Q. WHITWELL: --  
11 that you paid off the Costco card --

12 MR. ROBERT SULLIVANT, JR.: Right.

13 HONORABLE ROBERT Q. WHITWELL: -- and  
14 that all the expenses on the Costco card  
15 were not his.

16 MR. ROBERT SULLIVANT, JR.: Correct.

17 HONORABLE ROBERT Q. WHITWELL: Isn't  
18 that what he says?

19 MR. ROBERT SULLIVANT, JR.: Uh-huh  
20 (Indicating yes).

21 HONORABLE ROBERT Q. WHITWELL: All  
22 right. That's his allegation in his  
23 answer and affidavit.

24 It also says that you only put  
25 \$50,000.00 in the Ameritrade, and you put  
26 it in your name with your PIN -- you put  
27 it in his name, but you had your PIN on  
28 it.

29 He couldn't get into it because you

1 kept the PIN to open the account; is that  
2 not right?

3 MR. ROBERT SULLIVANT, JR.: No, Your  
4 Honor, that is not correct. That was one  
5 of the other things I wish to correct.

6 And that is, I had given my father  
7 credentials, showed him how to get on to  
8 the website, and each month I would show  
9 him the balances.

10 I would tell him what was going on  
11 with his two accounts, and he didn't want  
12 to show any interest.

13 And I wrote down the credentials for  
14 him when we lived at the farmhouse, and he  
15 never went on to the website at all.

16 So then after the lawsuit was filed,  
17 I was asked to give him some credentials.  
18 So I didn't remember what his were, so I  
19 changed -- you know, I went through the  
20 process of changing it and gave him the  
21 credentials so he could log on.

22 I understand it was quite hard, as it  
23 should be, but, I assume, he got on to it.

24 HONORABLE ROBERT Q. WHITWELL: You're  
25 asking for a summary judgment and a  
26 judgment in your favor --

27 MR. ROBERT SULLIVANT, JR.: Yes, sir.

28 HONORABLE ROBERT Q. WHITWELL: -- and  
29 you admit in your pleadings that you owe

1 Mr. Sullivant \$51,000.00?

2 MR. ROBERT SULLIVANT, JR.: No, I  
3 paid that amount, and I have the deposit  
4 receipt in an e-mail from Mr. Golman.

5 I paid on -- on December the 10th, I  
6 put that money into his account.

7 HONORABLE ROBERT Q. WHITWELL: But  
8 that was a fact at the time of this  
9 lawsuit that you owed him \$51,000.00, when  
10 Mr. Alford filed that lawsuit.

11 That is one of the reasons he filed  
12 it is because there was money that was  
13 taken from Mr. Sullivant, Sr. that  
14 belonged to him; was it not?

15 MR. ROBERT SULLIVANT, JR.: Well,  
16 correct. I moved that to the joint  
17 account, and then moved it to both of our  
18 accounts.

19 But on December 10th, I put the  
20 remaining balance -- and I was trying to  
21 keep the money safe.

22 And I put the remaining balance,  
23 which here is the deposit slip in an  
24 e-mail to Mr. Golman, and he says he will  
25 let Swayze know.

26 So I have -- on December 10th of '21,  
27 I put that money into his account, which  
28 he had credentials -- you know, the new,  
29 fresh credentials, so he could go on it

1 and inspect, and I provided the actual  
2 deposit slip.

3 HONORABLE ROBERT Q. WHITWELL:  
4 Anything further?

5 MR. ROBERT SULLIVANT, JR.: No, Your  
6 Honor.

7 HONORABLE ROBERT Q. WHITWELL: Mr.  
8 Alford?

9 MR. SWAYZE ALFORD: Your Honor, I  
10 know you have read all the filings,  
11 including my response. And I know you're  
12 well familiar with that, so I'm not going  
13 to -- I will stand on my response, Your  
14 Honor.

15 But other than to say that, like you  
16 said, that the \$51,000.00 that he still  
17 owed was paid after we filed a lawsuit,  
18 after we served him with a complaint.

19 Then he came in and said, *Well, wait*  
20 *a minute. I returned \$50,000.00, which,*  
21 *of course, my client had no knowledge of*  
22 *because he couldn't access the Ameritrade*  
23 *account.*

24 *I paid \$6,000.00, which we dispute*  
25 *that that was an appropriate credit that*  
26 *he should take. I paid some utilities,*  
27 *you know, at a time when my client wasn't*  
28 *even living in the house.*

29 And Mr. Sullivant, Jr. was paying his

1 utilities and the mortgage when he was  
2 living there, so we dispute those amounts.

3 Then like you said, Your Honor, it is  
4 undisputed that the balance of \$51,000.00  
5 that was still being held by Mr.  
6 Sullivant, Jr. was paid back to Mr.  
7 Sullivant after the lawsuit was filed.

8 As far as the power of attorney, Your  
9 Honor, I mean he's arguing about whether,  
10 you know, he had knowledge of the  
11 termination of the power of attorney.  
12 That's a moot point, Your Honor.

13 You still can't -- even if you've got  
14 a power of attorney that's valid, you  
15 can't take it and use it for your own  
16 benefit and your own purposes with no  
17 notice and no permission and no knowledge  
18 by my client.

19 That's why people get sued over a  
20 misuse of a power of attorney, is because  
21 they take somebody's money unknowingly,  
22 which he admitted he did.

23 And he put it in his own account,  
24 Your Honor, and it was only returned after  
25 we sued him, Your Honor.

26 And so, like you said, he's asking  
27 for a judgment, I guess, and a dismissal  
28 for something he's already partially  
29 admitted to doing and returning the money.

1           We've got a dispute over how much  
2           more money my client would be entitled to.

3           HONORABLE ROBERT Q. WHITWELL: The  
4           Court can rely on pleadings, depositions,  
5           affidavits filed in the trial in the  
6           court.

7           In addition to what you've said, it's  
8           my understanding that Mr. Sullivant, Sr.  
9           claims that Junior gave him -- took credit  
10          for one half of the mortgage that he was  
11          paying while Mr. Sullivant, Sr. wasn't  
12          even living there --

13          MR. SWAYZE ALFORD: Yes, sir.

14          HONORABLE ROBERT Q. WHITWELL: -- and  
15          the utilities as well.

16          MR. SWAYZE ALFORD: Yes, sir.

17          HONORABLE ROBERT Q. WHITWELL: And he  
18          disputed the Costco card.

19          One thing that troubles me, Mr.  
20          Sullivant, is -- and I think it's an issue  
21          that would have to be ferreted out at  
22          trial is, you know, this was a joint  
23          account, and Mr. Sullivant, Sr. had an  
24          absolute right to withdraw it.

25          And then you go in, allegedly, with a  
26          power of attorney that supposedly has been  
27          revoked, and you claim you have no actual  
28          knowledge of it under 87-11-13.

29          I still think that there's a problem



1           there with the fact that the money that he  
2           put into his name was his.  There's some  
3           dispute over that money.

4           It's kind of like the 51,000 when you  
5           paid it back after the lawsuit.  When I  
6           was US Attorney, I prosecuted some very  
7           influential people, who decided at the  
8           last minute they would write us a check  
9           and pay it into the state auditor to see  
10          if they couldn't get around being  
11          prosecuted.

12          And the fact that you paid the money  
13          after the fact doesn't fly.  You committed  
14          the offense already before, before it  
15          happened.

16          So I find that the 51,000 was not  
17          paid on time, and that that was a  
18          violation of Mr. Sullivant, Sr.'s rights.

19          And it creates some issues that the  
20          Court feels are substantially enough to  
21          override the motion for summary judgment  
22          based on the pleadings and what's been  
23          filed and my statements about these  
24          particular instances and the dispute of  
25          the fact about Ms. Stevens being -- having  
26          created undue influence.

27          All of those factors are factual  
28          issues that have to be ferreted out in the  
29          proof at trial.

1                   Therefore, the motion for summary  
2 judgment will be denied.

3                   MR. SWAYZE ALFORD: Thank you, Your  
4 Honor.

5                   Your Honor, we do have an order that  
6 we have agreed upon that had to do with  
7 that account, so Mr. Sullivant, Jr. can  
8 have just some information from that  
9 account.

10                  HONORABLE ROBERT Q. WHITWELL: You  
11 didn't bring it up, Mr. -- do what now?

12                  MR. SWAYZE ALFORD: That is just an  
13 order to amend the account that was frozen  
14 just to allow Mr. Sullivant, Jr. to have  
15 information on the account.

16                  Thank you.

17                  HONORABLE ROBERT Q. WHITWELL:  
18 Swayze, you prepare the order.

19                  MR. SWAYZE ALFORD: Yes, sir. I'll  
20 have it brought over here today, Your  
21 Honor.

22                  HONORABLE ROBERT Q. WHITWELL: I find  
23 it interesting, Mr. Sullivant, that you  
24 filed a motion under Rule 201(b)(c)(2) to  
25 establish certain facts.

26                  I don't think that's what the intent  
27 of that rule was, but I will take  
28 everything you filed into consideration,  
29 as well as what I have said today.

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MR. ROBERT SULLIVANT, JR.: Thank  
you, Your Honor.

MR. SWAYZE ALFORD: Thank you, Your  
Honor.

(WHEREUPON, THE PROCEEDINGS WERE  
CONCLUDED.)

\* \* \*

## 1 COURT REPORTER'S CERTIFICATE

2  
3 STATE OF MISSISSIPPI

4 COUNTY OF UNION

5  
6 I, Cecily Boone Faulkner, RPR, CSR,  
7 Official Court Reporter for the Eighteenth Chancery  
8 District, Mississippi, do hereby certify that to the  
9 best of my skill and ability I have reported the  
10 proceedings had and done in the above styled and  
11 numbered cause on the docket of the Lafayette County  
12 Chancery Court, and the above and foregoing twenty  
13 (20) pages contain a true, full and correct  
14 transcript of my stenographic notes and realtime  
15 taken in said proceedings.16  
17 I do further certify that my certificate  
18 attached hereto applies only to the original and  
19 certified transcript. The undersigned assumes no  
20 responsibility for the accuracy of any reproduced  
21 copies not made under my control or direction.  
2223 This the 31st day of January, 2023.  
24  
25  
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28  
29

/s/ Cecily Boone Faulkner

CECILY BOONE FAULKNER, RPR, CSR  
Official Court Reporter  
512 Lakeview Cove  
New Albany, Mississippi 38652  
(662)316-1829  
National RPR No. 048426  
Mississippi CSR No. 1157

24 My Commission Expires: 1/12/2024  
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1 CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

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3 ROBERT SULLIVANT, SR. PLAINIFF

4 VS. CAUSE NO. CV-2021-612

5 ROBERT SULLIVANT, JR. DEFENDANT

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8 Transcript of 1/25/23

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11 Original Transcript: \$ 90.00

12 Deposit Paid: 135.00

13 Balance from 1/12/23: 13.00

14

15 Amount to Refund: \$32.00

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18 Thank you,

19 Cecily

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