IN THE CIRCUIT COURT FOR LAFAYETTE COUNTY, MISSISSIPPI

Robert Sullivant Jr.,
Plaintiff.

L23-180

v. **COMPLAINT**
(Demand for Jury)

J. Hale Freeland, Esq.,
Freeland Martz PLLC.,
Defendants.

Comes now, Plaintiff Robert Sullivant Jr., ("Plaintiff") acting pro se, and hereby submits the following Complaint against J. Hale Freeland and Freeland Martz PLLC, ("Defendants").

Mr. Freeland committed an overt abuse of process by inserting himself into a case where his client, Dr. Frank Perkins, is the court appointed expert witness. (See *Chancery Court No. 2021-612(W)*).

As will be explained in further detail below, Mr. Freeland used his authority as a licensed attorney in Mississippi and an officer of the court specifically to harass and intimidate the plaintiff into not deposing his client, Dr. Perkins, after serving him with a lawfully issued clerk's subpoena from the Lafayette County Chancery Court. Mr. Freeland sent multiple emails to the plaintiff which are frivolous on their face, cite false Mississippi Code, demand that the plaintiff provide details and documentary evidence of his personal matters to Mr. Freeland and his client, and demanded that his client be paid a minimum of $4,000 directly from the plaintiff before he would even consider appearing for a deposition.

To top it off, Mr. Freeland entered this matter fully knowing that his law firm, himself, and the plaintiff, had consulted on this exact case previously, meaning Freeland was and is in possession of confidential and privileged information related to the plaintiff. This is a clear conflict of interest that was completely ignored by Mr. Freeland, and he filed his *Motion to Quash* the subpoena of Dr. Perkins on June 12th, 2023. (*Ex. B*).

PARTIES AND VENUE

1. Plaintiff Robert Sullivant Jr. is a resident of Lafayette County and resides at 1002 Crawford Cir., Oxford, MS 38655.

2. Defendant J. Hale Freeland is an attorney licensed in the State of Mississippi and whose law firm has an office located at 302 Enterprise Drive, Suite A I Oxford, MS 38655.

3. Freeland Martz PLLC., is the law firm of Defendant J. Hale Freeland and is located at the address listed above, in Lafayette County.

4. Venue is proper as all parties reside or do business in Lafayette County.

BACKGROUND

5. The underlying case for this action lies within another civil action currently taking place in the Lafayette County Chancery Court, *Sullivant Sr. v. Sullivant Jr.*, Case No. 2021-612(W).

6. In said action, the plaintiff here, Robert Sullivant Jr, is the defendant in a matter related to conservatorship for his father, Robert Sullivant Sr. The matter also contains claims related to the execution of a will and Mr. Sullivant Sr's testamentary capacity in regard to such. The court in that matter, in accordance with the GAP Act, retained two expert witnesses to examine Sullivant Sr. One being Dr. Brian Thomas, and the other being Dr. Milton Hobbs. (*Ex. E*).

7. Dr. Hobbs retired in the midst of the proceedings, and the parties agreed to retain a new doctor to conduct the IME. As stated in the court order, "the parties have agreed that two IMEs under Rule 35 should take place."(*Ex. E, ¶ 3*).

8. The new doctor retained by the court and by "agreement of both parties pursuant to Rule 35", was Dr. Frank Perkins. M.R.C.P 35 clearly does not govern a parties' private expert witness, and there is no reason why Dr. Perkins' role in the case would be any different than that of Hobbs or Thomas.

9. Dr. Perkins is a court-appointed expert witness, who was appointed by the Chancery Court to determine the need for a conservatorship for the plaintiff in that case. His testimony is guided by M.R.E 706. This rule, specifically section (b)(2), states that a court appointed expert witness may be deposed by **any party**. (*M.R.E 706(b)(2)*).

10. The plaintiff here attempted numerous times to cordially and respectfully schedule Dr. Perkins for a deposition, beginning on March 1st, 2023, nearly four months ago. (*Ex. D*). Dr. Perkins ignored these communications and refused to be deposed. Mr. Alford even intervened and emailed the plaintiff here, attempting to procure fees for Dr. Perkins that are not authorized by law, or the court. (*Id.*) After spending months being ignored, on June 8th, 2023, the plaintiff lawfully served a clerk's issued subpoena for deposition on Dr. Perkins pursuant to M.R.C.P 45, and M.R.E 706.

11. Mr. Freeland's *Motion to Quash* states that "Dr. Perkins is willing to testify so long as this deposition does not interfere with patient care, that he be compensated for his time invested in preparation for, travel to, and attendance at the deposition." (*Ex. B102, ¶ 5*).

12. However, this is a lie to the court as Dr. Perkins is clearly not willing to testify, as he had four months to schedule a deposition at his convenience and chose to instead ignore the plaintiff and retain counsel in order to have his subpoena quashed. Further, Mr. Freeland is demanding payment that his client is not entitled to, violating MRE 706. (*Ex. B102, ¶¶ 5, 7*)

13. That same day, plaintiff received an email from Mr. Freeland. (*Ex. A001*). In the email, Mr. Freeland cites a non-existent rule for objecting to the subpoena. Miss. R. Civ. Proc. 16(b)(1) does not exist.

14. Mr. Freeland also states that Dr. Perkins will not be deposed because he has not been paid by the Plaintiff, and because the plaintiff failed to inquire as to Dr. Perkins schedule before setting the deposition date. (*Id*). (See also *Ex. B102*)

15. To conclude this email, Mr. Freeland sets the hearing date on his *Motion to Quash* to the morning of exact same date as the deposition scheduled for the afternoon. He sets this date without conferring with the plaintiff as to his availability, simply assuming the plaintiff had the whole day open.

16. When it was pointed out that the plaintiff was available in the afternoon of June 22nd, but not the morning, Mr. Freeland demanded documentary evidence to prove the Mr. Sullivant Jr. was indeed not available. (*Ex. A103*). Plaintiff had a medical appointment that morning and was under no obligation to prove this to Mr. Freeland. Mr. Freeland did not follow any procedure for noticing this motion and set the hearing without conferring with the plaintiff whatsoever. He did not get a hearing order signed by the plaintiff or the Judge.

17. When it was pointed out by the plaintiff to Mr. Freeland that Miss. R. Civ. Proc. 16(b)(1) does not exist, he then changed his authority to Miss. R. Civ. Proc. 26, which he claims, "applies to experts appointed by the court." (*Ex. A102*). It does not. In fact, Rule 26 specifically omits any reference to court appointed expert witnesses governed by M.R.E 706. (*See M.R.C.P 26* generally, referencing *M.R.E 702, 703*, and *705*...**not *706***, and making specific reference to "***a party's*** expert witness" with no mention of a court appointed expert witness.)

18. Mr. Freeland than demands payment from the plaintiff for Dr. Perkins deposition upfront, condescendingly asking the plaintiff to "explain to the court why you are entitled to have [Perkins] appear for free". (*Ex. A102*).

19. Mr. Freeland and his firm, Freeland Martz PLLC., have previously consulted with the plaintiff in this matter in regard to potentially representing him in the underlying matter. (*Ex. C*). As part of the consultation, the parties discussed case strategy, the plaintiff's evidence, details of the plaintiff's personal life, and the plaintiff sent a list of key strategy points for the case.

20. M. Reed Martz, the other attorney at Freeland Martz PLLC., emailed the plaintiff explicitly stating that they have a conflict of interest and "cannot be involved in this case." (*Ex. A101*). Apparently, the defendants cannot be involved to assist the plaintiff, but have no issue illicitly

involving themselves specifically to bully and harm him by quoting fake statutes, then changing their mind and instead citing inapplicable statutes, then demanding a $4,000 minimum payment directly from the plaintiff to Dr. Perkins. (*Ex. B102,* ¶ 5).

21. Despite this, Mr. Freeland dishonestly asserts to the Chancery Court in his rebuttal that:

    "Robert Sullivant Jr. never retained Freeland Martz PLLC. On June 10, 2023, he identified himself as a retired engineer who had a power of attorney over his father, that his father was upset with him, and that he was going to see Dr. McIntosh about his father. (*Ex B106,* ¶ 3).

22. This summarization of the parties' conferences and consultations (plural) is absurdly inaccurate. First, the reference to the date of June 10th, 2023, makes no sense. The parties did not confer on June 10th, 2023 (this would be after the *Motion to Quash* was filed). Second, the plaintiff is not a retired engineer. Third, and most importantly, Mr. Freeland is in possession of far more information regarding the plaintiff than this, and even initially agreed to take his case after multiple conversations and conferences between 28-29, 2022. Fourthly, the consultation above that Mr. Freeland refers to occurred on June 10, 2020 more than a year before Sullivant, Sr v. Sullivant, Jr. would be filed.

23. Mr. Freeland did consult with the plaintiff between April 28 -29, 2022 on the specific case. Mr. Freeland agreed to represent the plaintiff in the matter of Sullivant, Sr. v Sullivant, Jr., and that he should be able to strike the Hobbs' opinion, and make the case for the Plaintiff to be appointed conservator of his father. Because Mr. Freeland would be delayed in starting work, the Plaintiff decided on other counsel.

24. Indeed, Mr. Freeland's assertion that "he never represented Robert Sullivant Jr. in this or any other proceeding" (*Id*), is not relevant whatsoever. Mr. Freeland and his firm clearly have no actual methods for conflict checks, as they admit to completely ignoring conflicts that can arise from "prospective clients" per ABA Rule 1.18.

25. Mr. Freeland also tells the court that "Robert Sullivant Jr. only mentioned his father was upset over the son's use of a power of attorney and he might have engaged the law firm." (*Id.*, ¶ 5).This again, is far from the only thing that the plaintiff discussed with Mr. Freeland.

26. To prove this is *Exhibit C*, which contains emails between the plaintiff and defendants from April of 2023, showing that the plaintiff sent a lengthy email filled with personal and privileged information which also contained a PDF file with more personal and privileged information. Needless to say, Mr. Freeland is silent on this fact to the Chancery Court in his motion (See *Ex. B generally*).

27. Mr. Freeland's partner subsequently emailed the plaintiff stating that they could not represent him after all, due to a "conflict with the case." (*Ex. A101*).

28. On June 8th, 2023, Mr. Freeland filed his *Motion to Quash* asserting the aforementioned incorrect statutes, stating that his client is "willing to testify so long as this deposition does not interfere with patient care…", and demanding payment directly from the plaintiff. (*Ex. B102, ¶ 5*)

29. Mr. Freeland was instructed directly by Mr. Swayze Alford, plaintiff's opposing attorney in the underlying case, to quash the subpoena issued by the plaintiff. (*Ex. A106-107*).

30. This means specifically that, according to the emails attached hereto, Mr. Freeland was alerted by Mr. Alford that Dr. Perkins had been subpoenaed and Mr. Alford does not want him to be deposed for his own nefarious reasons. Mr. Freeland immediately agreed to step in, represent Dr. Perkins, and quash the subpoenas. It is likely Mr. Alford, and not Dr. Perkins, who is compensating Mr. Freeland for this move.

31. This also means that both Alford and Freeland are well aware of the fact that Dr. Perkins is a court-appointed expert witness, (as if they already weren't), as Mr. Alford would have no reason to engage an outside attorney to quash the subpoena of his own retained expert. Certainly, neither Mr. Alford nor Mr. Freeland alerted the court in the underlying case to their backdoor communications, and the evidence of them was clearly forwarded to the plaintiff accidently.

32. Mr. Freeland agreed to quash the subpoena before he even looked at it or knew the facts and circumstances of the case. Clearly, he didn't care. Facts, circumstances, the law, ethics,

professional responsibility, all were completely dismissed by Mr. Freeland so that he could perform a hitjob as hired gun for his friend and colleague Swayze Alford.

33. Mr. Freeland also asserts to the Chancery Court that Mr. Sullivant Jr. "could've deposed [Perkins] before the hearing." (*Ex. B107, ¶ 8*). This is another lie propagated by Mr. Freeland, as he knows full well that Perkins rejected every attempt to set a deposition for months, and that while the plaintiff was trying to set the deposition, Perkins was demanding outrageous and unlawful fees through Mr. Freeland and Mr. Alford.

34. Mr. Freeland also asserts to the Chancery Court that

    "Robert Sullivant Jr. unilaterally set the date and time for deposing without regard to Dr. Perkins' schedule or medical duties and attempted to utilize a subpoena to have Dr. Perkins appear two-and-a-half hours from his office without having to compensate Dr. Perkins." (*Ex. B108, ¶ 13*).

35. This is again easily disprovable, as demonstrated by the email sent from the plaintiff to Dr. Perkins on March 1st, 2023, where the plaintiff explicitly says, "Please let me know by tomorrow **when and where it is convenient for you**, or you may call me to discuss times or place." (*Ex. D*). This actually demonstrates an express *regard* for Dr. Perkins' schedule and medical duties, not the opposite as Mr. Freeland erroneously asserts.

36. Mr. Freeland continues his nefarious and dishonest assertions to the Chancery Court, when he states that "Robert Sullivant Jr. asserts that Dr. Perkins was Court-appointed, though there is no order indicating his appointment by the Court." (*Ex. B107, ¶ 10*).

37. First, how would Mr. Freeland know this? Mr. Freeland is jumping into a case he knows nothing about and asserting that his client is an expert witness that was retained by Mr. Alford. He is not. If he were, Mr. Freeland's services would not be needed. Mr. Alford presumably knows the procedure for quashing a subpoena directed at his own witness. Even if he doesn't, there is no reason to engage Mr. Freeland behind the plaintiff's back and without disclosure to the court.

38. Further, Mr. Sullivant Jr. was required to approve of Dr. Perkins prior to being appointed to the case, per M.R.C.P 35. Typically, parties don't look to each other for approval on who their own expert witnesses will be, and they certainly don't need the opposing party to sign off on it.

39. This is further evidenced by the fact that at no time was Dr. Perkins disclosed as a Rule 26 witness to Mr. Sullivant Jr in the underlying case by Mr. Alford. Mr. Alford never stated he was hiring his own expert, and the parties stipulated to the appointment of Dr. Perkins to conduct a statutorily required Independent Medical Exam per the GAP Act to determine the need for conservator, just as they did with the previous two IME physicians. (*Ex. E*). The key word here being "independent". A doctor retained and paid specifically by one party can hardly be considered independent, and to assert otherwise is blatant dishonestly. The GAP Act does not call for competing expert witness testimony to determine a conservator.

40. Mr. Freeland's claim that Dr. Perkins is the retained expert of Mr. Alford, rather than a court appointed expert retained to conduct an IME in accordance with the GAP Act, is a flat out lie. If Mr. Alford did pay Dr. Perkins for his testimony, then that is a separate issue that Mr. Alford will be confronted with and does not in any way effect the plaintiff's right to depose Dr. Perkins. In fact, it even further necessitates his testimony if the doctor has taken direct payment from an opposing attorney despite being court appointed to remain "independent". There is a reason why the fees and payment schedule for court appointed expert witnesses are determined by the court, and that is to avoid this exact type of impropriety and backdoor dealings.

41. On June 21st, 2023, the hearing regarding the *Motion to Quash* was cancelled. At this time, Mr. Freeland sent Plaintiff an email stating that Dr. Perkins will not be appearing for deposition and that he will seek to continue the Motion out by "more than 30-days." (*Ex. A104*).

42. Mr. Freeland cannot explain on what authority he inserted himself into this matter, sent threatening emails to the plaintiff, attempted to secure unreasonable deposition fees for his client that are not authorized by the court or any rule or statute, and filed a frivolous *Motion to Quash* with no basis in any relevant law whatsoever. Now, his unnecessary and quite frankly illicit

participation in that action has resulted in an extension of at least one month, likely longer, in a case that has already been ongoing for nearly two years.

43. As a result of Mr. Freeland's overt abuse of process, the plaintiff now has to wait to depose Dr. Perkins, who's deposition he is entitled to take per MRE 706, for at least over a month. He now has to further delay resolution to his case, which involves his elderly father who suffers from a progressive and degenerative neurological disorder, and he was harassed, intimidated, and bullied by a member of the Mississippi Bar, who also attempted to extort money in exchange for his client's deposition.

CLAIM ONE

Abuse of Process

44. Plaintiff reiterates lines 1-42 as if fully incorporated herein.

45. A cause of action for abuse of process has been described as follows:

> [It] consists in the misuse or misapplication of a legal process to accomplish some purpose not warranted or commanded by the writ. It is the malicious perversion of a regularly issued civil or criminal process, for a purpose and to obtain a result not lawfully warranted or properly attainable thereby, and for which perversion an action will lie to recover the pecuniary loss sustained. . . . *Williamson v. Keith*, 786 So.2d 390, 393-94 (¶ 12) (Miss. 2001) (quoting *State ex rel. Foster v. Turner*, 319 So.2d 233, 236 (Miss. 1975)).

46. "The elements of abuse of process are: (1) the party made an illegal use of the process, a use neither warranted nor authorized by the process, (2) the party had an ulterior motive, and (3) damage resulted from the perverted use of process." *Franklin Collection Serv., Inc. v. Stewart*, 863 So.2d 925, 931 (¶ 18) (Miss. 2003) (quoting *McLain v. West Side Bone and Joint Ctr.*, 656 So.2d 119, 123 (Miss. 1995)). According to the Mississippi Supreme Court, the "crucial element" of this cause of action is "**the intent to abuse the privileges of the legal system.**" *Ayles v. Allen*, 907 So.2d 300, 303 (¶ 10) (Miss. 2005) (citing *McLain*, 656 So.2d at 123). *Cent. Healthcare v. Citizens Bank*, 12 So. 3d 1159, 1167 (Miss. Ct. App. 2009).

47. In accordance with the foregoing authorities, the defendants' actions more than constitute a claim for abuse of process. First, they made illegal use of the process of a Motion to Quash by filing such a motion with no basis in the law. The defendant does not and cannot cite a single authority that allows a court appointed expert witness to quash a lawfully issued subpoena for deposition, (*Ex. B*), and in fact, the law says the opposite.

48. M.R.E 706 explicitly states that a court appointed expert witness may be deposed by any party, and the caselaw in Mississippi confirms this. This is well-settled law.

49. M.R.C.P 26 as cited by the defendant in paragraph 6 of his Motion to Quash (*Ex. B*), is inapplicable on its face. Mr. Freeland's own quote confirms this....

> "According to Miss R. Civ. P 26 (C)(E) (i), before Dr. Perkins is required to appear, "the court shall require that the party seeking discovery taking the deposition of an **opposing party's expert** who has been specially retained or employed to present expert testimony at trial to pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)(4)(A)(ii) and (b)(4)(B) giving deposition testimony and a reasonable fee for up to two hours actually spent preparing for such deposition. *In re Rules of Civil Procedure* (Miss. 2019). (*See Ex. B102,* ¶ *6*).

50. It is quite clear that Rule 26 was not crafted with **court-appointed** expert witnesses in mind. Their testimony is governed by M.R.E 706, which the defendant does not even mention. Depositions by oral examination are governed by M.R.C.P 30, which the defendant also omits.

51. Second, it is M.R.E 706 which dictates when, and how much a court appointed expert witness is compensated, not the witness or his attorney. (*M.R.E 706(c)(2)*). Mr. Freeland demanding that the plaintiff pay his client a minimum of $4,000 before he will agree to a deposition that the plaintiff is **entitled by law** to take, borders on extortion. [1]

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[1] As defined by MS Code § 97-3-82.... "A person is guilty of extortion if he purposely obtains or attempts to obtain **property of another** or any reward, favor, or advantage of any kind by threatening to inflict bodily injury on any person or by **committing or threatening to commit** any other criminal offense, **violation of civil statute**, or the public or private revelation of information not previously in the public domain for the purpose of humiliating or embarrassing the other person, without regard to whether the revelation otherwise constitutes a violation of a specific statute.

52. No law authorizes Mr. Freeland to make such a demand. His reference to M.R.C.P 26 is again moot, as it applies to a party's own expert witness and not a court appointed expert witness.

53. Mr. Freeland circumvented the protocol of Lafayette Chancery Court, and was able to get his Motion to Quash on the docket without consent of the Plaintiff or Judge Whitwell. The rule is that an Order of Setting must be signed by all parties and Judge Whitwell. The Motion to Quash was on the docket at Pittsboro, June 22, 2023 without an Order of Setting ever being filed.

54. Also notable, is that Mr. Freeland never filed a notice of appearance with the court in the underlying case.

55. Mr. Freeland's motive was clear, and it was not to use the legal process to lawfully quash the subpoena of his client on legal grounds. His motive was to intimidate the plaintiff into not taking his clients' deposition. This was the obvious intent, as Mr. Freeland came forth with no authority to support his request, he attempts to mislead the court by citing inapplicable rules, and he demands a massive amount of money from the plaintiff, otherwise he will violate the rules of civil of procedure, the rules of evidence, and fail to appear for deposition.

56. Finally, Mr. Freeland knowingly and willfully violated the basic rules of ethics related to conflicts of interest, by inserting himself directly into a case where his firm had previously determined there was a conflict of interest and whom had extensive privileged information on the plaintiff.

57. The plaintiff had to take the time to respond to the defendants' frivolous motion, will not be able to depose Dr. Perkins on June 22nd, or anytime shortly thereafter, as Mr. Freeland has maliciously now sought to continue his motion to "more than 30-days out", (*Ex. A104*), just to needlessly extend a case and waste judicial resources on a Motion that has no business in that case, filed by an attorney who also has no business in that case.

CLAIM TWO

Intentional Infliction of Emotional Distress

58. Plaintiff reiterates lines 1-55 as if fully incorporated herein.

59. A claim of intentional infliction of emotional distress requires that:

    1. The defendant acted willfully or wantonly towards the plaintiff by [committing certain described actions];
    2. The defendant's acts are ones "which evoke outrage or revulsion in civilized society";
    3. The acts were "directed at or intended to cause harm to" the plaintiff;
    4. The plaintiff "suffered severe emotional distress as a direct result of the [acts] of the defendant; and"
    5. "Such resulting emotional distress was foreseeable from the intentional [acts] of the defendant."

    J.R ex rel. R.R. v. Malley, 62 So.3d 902, 906–07 (¶ 15) (Miss.2011) (quoting Miss. Practice Model Jury Instr. Civil § 21:1 (2010))

60. The actions committed by the defendants described herein were done willfully and wantonly, with no legal justification.

61. In a civilized society, an attorney abusing his authority as a member of the Bar to intimidate, harass, and attempt to extort money from a pro se individual involved in a case that Mr. Freeland has absolutely nothing to do with, is likely to "evoke outrage", particularly if this behavior is allowed to proceed unchecked.

62. The intent of the defendants' actions was specifically to harm the plaintiff, and he suffered severe emotional distress as a result. The plaintiff has already been in a two-year conservatorship battle with his father that has been taxing to say the least. Now, the defendants decide to come in and illicitly send him threatening and intimidating emails specifically crafted to harass and bully him, not to mention quash the subpoena of a court appointed expert witness whose deposition is imperative to the plaintiff in the underlying case.

63. There is no doubt that the defendants foresaw the distress that such actions would create. In fact, distress appears to be the ultimate goal of the email given that no legal justification is provided, and the defendants attempted to extort money from the plaintiff.

CLAIM THREE

Negligence/Gross Negligence

64. Plaintiff reiterates lines 1-61 as if fully incorporated herein.

65. To succeed on a claim for negligence, the plaintiff must prove duty, breach, causation and injury. *Meena v. Wilburn*, 603 So.2d 866, 869 (Miss. 1992). The plaintiff must show "(1) the existence of a duty `to conform to a specific standard for the protection of others against the unreasonable risk of injury,' (2) a breach of that duty, (3) causal relationship between the breach and alleged injury, and (4) injury or damages." *Id.* at 870 n. 5 (citing and quoting *Burnham v. Tabb*, 508 So.2d 1072, 1074(Miss. 1987)). *Rein v. Benchmark Construction Co.*, 865 So.2d 1134, 1143 (Miss. 2004) (citing *Donald v. Amoco Prod. Co.*, 735 So.2d 161, 174 (Miss. 1999)).

66. The defendants have a duty under the rules of ethics and professional responsibility to not unjustifiably assert themselves into a legal action under false authority and pretext. They also have a common law duty not to attempt methods of extorting money from the plaintiff. They clearly breached this duty, and their actions were willful, wanton, and malicious.

67. Due to the defendants' breach of duty, the plaintiff has to now wait at least a month to depose Dr. Perkins, if he gets to at all. His alternative was/is to pay the defendant $4,000 up front. He has to respond to the defendants' frivolous motion and appear in court to argue it. The underlying matter is now prolonged in its resolution, causing extreme distress to the plaintiff and costing him even more time and money in litigating the underlying case.

CLAIM FOUR
Punitive Damages

68. Plaintiff reiterates lines 1-65 as if fully incorporated herein.

69. It is well established law in this state that the elements allowing punitive damages are: (1) a wrongful act, (2) intentionally performed, (3) gross disregard of rights, and (4) willfulness. *National Mortg. Co. v. Williams*, 357 So. 2d 934 (Miss. 1978).

70. This principle was clearly laid down in *Illinois Central R. Co. v. Ramsay,* 157 Miss. 83, 127 So. 725, 726, where the court said: "To authorize the infliction of punitive damages, the wrongful act complained of must either be intentional, or result from such gross disregard of the rights of the complaining party as amounts to willfulness on the part of the wrongdoer." (*Id.*). Mr. Freeland's actions meet both standards.

71. There is no doubt that Mr. Freeland's actions were intentional and in gross disregard of the plaintiff's rights. Mr. Freeland attempts to interject himself into a case where he had an established conflict of interest, then he proceeds to mislead the court and cite made up laws and inapplicable statutes, and he demands a minimum of $4,000 directly from the plaintiff and threatens to withhold his client from testifying unless this amount is paid. Prior to this, he sent multiple emails to the plaintiff of the exact same nature, culminating in two distinct attempts to bully and intimidate the plaintiff into foregoing his right to depose Dr. Perkins by intentionally abusing the legal process and using his status as a court officer to interfere with the plaintiff's rights in a case where his firm had already disqualified itself based on conflicts of interest.

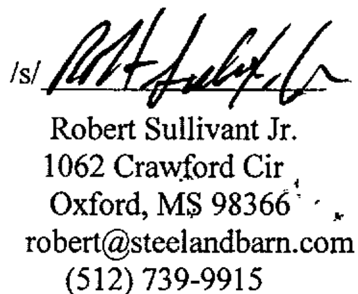
72. What is also particularly concerning and somewhat ironic, is that Mr. Freeland's website touts his experience as "a faculty member of various continuing legal education seminars on *attorney ethics*." Despite this "experience and service" in the field of attorney ethics, Mr. Freeland seems to have a tentative grasp at best of the Rules of Professional Conduct for attorneys in Mississippi, and he certainly does not abide by them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Robert Sullivant Jr requests the following:

1. Compensatory and Punitive Damages to be determined by a jury,
2. Costs and Fees associated with the bringing forth of this action,
3. Compensation for any future damages resulting from the defendants' actions in the plaintiff's underlying case,
4. Any other relief this court deems necessary and just.

Dated: June 26, 2023.



/s/

Robert Sullivant Jr.
1062 Crawford Cir
Oxford, MS 98366
robert@steelandbarn.com
(512) 739-9915

Plaintiff Pro Se

EXHIBIT A

---------- Forwarded message ---------
From: **Hale Freeland** <hale@freelandmartz.com>
Date: Thu, Jun 8, 2023 at 4:34PM
Subject: Re: Conservatorship of Sullivan (Laf Chicanery No 21-512) (our file 02587)
To: Swayze Alford <salford@swayzealfordlaw.com>, <roabter@steelandbarn.com>, Errol Castens <errol@freelandmartz.com>

Conservatorship of Sullivant (Laf 2021-612 (W)) Our file 02587

Gentlemen,

Since Mr Alford was not provided notice of the deposition as required by Miss R Civ P 16(b)(1);
neither I nor Mr Alford available could appear for a hearing prior to June 22nd due to conflicts in our schedules when on the attached motion to quash may be heard;
Dr Perkins fees have not been paid for taking the deposition;
and no determination was made regarding Dr. Perkins schedule before the subpoena was issued to provide reasonable notice to Dr. Perkins regarding his his schedule was and patient care;
we will set the hearing on our motion to quash (attached) on June 22, 2023 when Judge Whitwell can hear the motion, Mr Alford will be already be before the Court on other matters..
Mr Sullivant noticed the deposition on that date, he does not have a conflict either.

Hale

---------- Forwarded message ---------
From: **Reed Martz** <reed@freelandmartz.com>
Date: Fri, Apr 28, 2023 at 10:41AM
Subject: Re: Sullivant v Sullivant
To: Robert Sullivant <robert@steelandbarn.com>

Sir, I have not read your email. Immediately following our conversation I put your name into our conflicts database and found that we have a conflict. We cannot be involved in this case. I wish you success in finding someone else and appreciate Whit referring you to our firm.

--
M. Reed Martz
Providing legal services in AL, GA, MS, and TN
Offices in Oxford, Miss. and Chattanooga, Tenn.
Freeland Martz, PLLC
Mailing and physical address:
302 Enterprise Drive, Suite A, Oxford, MS 38655
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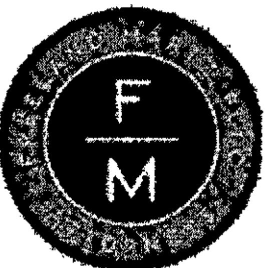
reed@freelandmartz.com | freelandmartz.com



02587

Robert Sullivant <robert@steelandbarn.com>

Rules of Evidence

Hale Freeland <hale@freelandmartz.com> Mon, Jun 12, 2023 at 8:00 AM
To: Robert Sullivant <robert@steelandbarn.com>
Cc: Errol Castens <errol@freelandmartz.com>

Mr Sullivant,
This rule applies to experts appointed by the court, not by a party. In any event the rule states 'The expert is entitled to a reasonable compensation,.' If you disagree, tell court why you are entitled to have him appear for you for free,

Hale

[Quoted text hidden]
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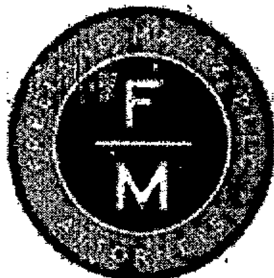


J. Hale Freeland
Admitted in MS, TN, and MO
Freeland Martz, PLLC
302 Enterprise Drive, Ste. A
Oxford, MS 38655-2762
T 662.234.1711 | Toll Free 844.671.1711
hale@freelandmartz.com | www.freelandmartz.com

Robert Sullivant <robert@steelandbarn.com>

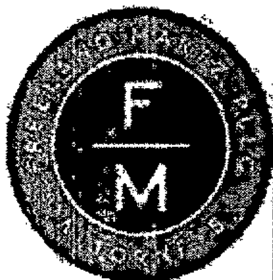
Fwd: 02587-Conservatorship of Robert Sullivant, Sr.

Hale Freeland <hale@freelandmartz.com> Mon, Jun 12, 2023 at 8:00 AM
To: Robert Sullivant <robert@steelandbarn.com>
Cc: Errol Castens <errol@freelandmartz.com>, Swayze <salford@swayzealfordlaw.com>

Mr. Sullinant,

You noticed the deposition for that date. How do you have a conflict? Please provide some document that establishes a conflict.

Hale
[Quoted text hidden]
--



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hale@freelandmartz.com | www.freelandmartz.com

---------- Forwarded message ---------
From: **Hale Freeland** <hale@freelandmartz.com>
Date: Wed, Jun 21, 2023 at 5:06PM
Subject: Re: Motion to Quash - Sullivant
To: Samantha Weathersbee <SWeathersbee@lafayettecoms.com>
Cc: Robert Sullivant <robert@steelandbarn.com>, Jennifer Kincaid <JKincaid@lafayettecoms.com>, Swayze Alford <salford@swayzealfordlaw.com>, Walter <waltdavis@dunbardavis.com>, Errol Castens <errol@freelandmartz.com>

Samatha,

Thanks you for your email.

Mr Sullivant, for your information,
Dr. Perkins will not appear for a deposition in Oxford tomorrow, We will move forward on our motion to quash as directed at a date more than thirty days from today.

Mrs Kincaide, Please provide me 3 dates (in order that we can have one of those without a conflict), *after July 21, 2023*, preferably in Oxford for a hearing on our motion to quash.
Thanks,

Hale

From: Robert Sullivant <robert@steelandbarn.com>
Sent: Wednesday, June 21, 2023 3:45 PM
To: Jennifer Kincaid <JKincaid@lafayettecoms.com>
Cc: Samantha Weathersbee <SWeathersbee@lafayettecoms.com>
Subject: Hale Freeland

Jennifer,

I have been confused with Hale Freeland's behavior. He is demanding to have a hearing to quash a deposition I have scheduled for tomorrow at 1PM with his client.

He sent me a notice of hearing that there would be a hearing on the 22nd in Pitsboro. I never agreed to such hearing and told him I already had an obligation that morning. He has never consulted with me about the hearing date, just said there was going to be one.

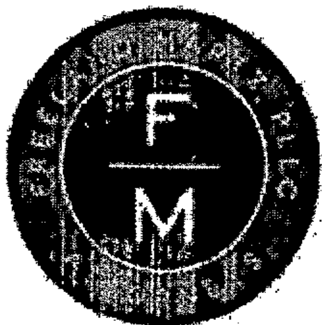
I have not signed an Order of Setting, not seen one signed by Judge Whitwell. Not sure how the motion could get put on the docket without an Order of Setting.

Is a Motion to Quash for CV-2021-612 on the docket for tomorrow?

If indeed the Motion to Quash is on the docket for the 22nd in Pitsboro, I will not be there as I have Dr. appointment at 11 tomorrow here in Oxford. I had told Hale it was 8AM, as that is when I had it my calender, but the Dr's office called me this morning to confirm the appointment and said it was for 11.

Thank you,

Robert Sullivant, Jr.



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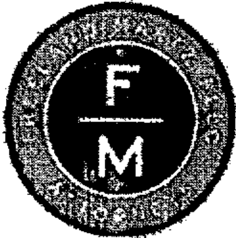
Robert Sullivant <robert@steelandbarn.com>

Fwd: Conservatorship of Sullivan (Laf Chicanery No 21-512) (our file 02587)

Errol Castens <errol@freelandmartz.com> Thu, Jun 8, 2023 at 5:06 PM
To: rsullivantjr@gmail.com, "robert@steelandbarn.com" <robert@steelandbarn.com>

Errol Castens
Paralegal for J. Hale Freeland
Freeland Martz, PLLC
302 Enterprise Dr., Ste. A
Oxford, MS 38655
(662) 234-1711, ext. 4
www.freelandmartz.com



---------- Forwarded message ---------
From: **Hale Freeland** <hale@freelandmartz.com>
Date: Thu, Jun 8, 2023 at 4:34 PM
Subject: Re: Conservatorship of Sullivan (Laf Chicanery No 21-512) (our file 02587)
To: Swayze Alford <salford@swayzealfordlaw.com>, <roabter@steelandbarn.com>, Errol Castens <errol@freelandmartz.com>

Conservatorship of Sullivant (Laf 2021-612 (W)) Our file 02587

Gentlemen,

Since Mr Alford was not provided notice of the deposition as required by Miss R Civ P 16(b)(1);
neither I nor Mr Alford available could appear for a hearing prior to June 22nd due to conflicts in our schedules when on the attached motion to quash may be heard;
Dr Perkins fees have not been paid for taking the deposition;
and no determination was made regarding Dr. Perkins schedule before the subpoena was issued to provide reasonable notice to Dr. Perkins regarding his his schedule was and patient care;
we will set the hearing on our motion to quash (attached) on June 22, 2023 when Judge Whitwell can hear the motion, Mr Alford will be already be before the Court on other matters..
Mr Sullivant noticed the deposition on that date, he does not have a conflict either.

Hale

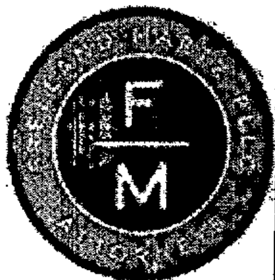
On Thu, Jun 8, 2023 at 4:02 PM Swayze Alford <salford@swayzealfordlaw.com> wrote:

> Got it. Thanks
>
> Sent from my iPhone
>
> > On Jun 8, 2023, at 2:22 PM, Hale Freeland <hale@freelandmartz.com> wrote:
> >
> > Swazey,
> >
> > Please find the subpoena to depose Dr Perkins on June 22, 2023. We

106

> are filing a motion to quash it.
>
> Hale
> <Subpoena Dr. Perkins.pdf>

--



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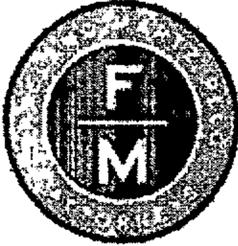
23.06.08 LTT Clerk Enc Mtn to Quash 02587.pdf
310K

Exhibit B



FREELAND MARTZ

J. Hale Freeland
Admitted in MO, MS, & TN
hale@freelandmartz.com

Our File No. 02587

June 8, 2023

Via Hand Delivery

Hon. Sherry J. Wall, Clerk
Lafayette County Chancery Court
300 N. Lamar Blvd.
Oxford, MS 38655

RE: Robert Sullivant Sr. v. Robert Sullivant Jr.
Cause No. 2021-612 (W)

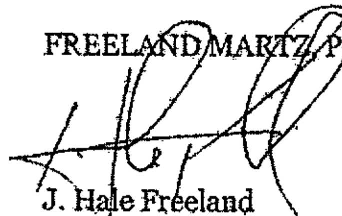
Dear Sherry:

Enclosed please find a *Motion to Quash* related to the above-referenced cause. Please file it in the Court's records and provide to us a filed-stamped copy.

Thank you for your assistance with this matter.

Sincerely,

FREELAND MARTZ, PLLC



J. Hale Freeland

Enclosure

cc: Dr. Frank Perkins *via email*
Swayze Alford Esq. *via email*
Robert Sullivant Jr. *via email*

302 Enterprise Drive, Suite A | Oxford, MS 38655
Phone 662.234.1711 | Fax 662.234.1739
www.freelandmartz.com

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

ROBERT SULLIVANT SR. **PLAINTIFF**

v.

ROBERT SULLIVANT JR. **DEFENDANT**

CAUSE NO. 2021-CV-612 (W)

ROBERT SULLIVANT JR. **THIRD PARTY PLAINTIFF**

v.

ROBERT SULLIVANT SR. and
EVELYN STEVENS **THIRD PARTY CO-DEFENDANTS**

MOTION TO QUASH

COMES NOW Dr. Frank Perkins, Forensic Psychiatrist, by and through his attorney, and moves to quash the subpoena duces tecum served upon him to appear on June 22 and produce documents relating to his examination, notes, and procedures utilized in examining Robert Sullivant Sr. In support thereof, Dr Perkins would show:

1. Dr. Perkins maintains an active practice in which he has staff privileges in facilities in and around the Jackson, Mississippi, metro area; Vicksburg, Mississippi; and the Mississippi Gulf Coast. The movant did not inquire regarding Dr. Perkins' availability for this time and date insofar as staff and treatment schedule.

2. Dr. Perkins has already testified in open court regarding this matter.

3. The Notice states that Dr. Perkins is going to be deposed related to the following matters: "your (Dr. Perkins) medical examination of Plaintiff Robert Sullivant, Sr., and your conclusions, your court testimony on these matters and any other matters relevant to the claims of any of the parties in this action."

4. The court has already entered two orders; one entered on May 17, 2023, in which the court found Robert Sullivant incapable of managing his affairs and appointing Sherry Wall as his conservator, and an order of May 18, 2023, holding that Mr. Sullivant had the testamentary capacity to execute a will for his estate. Robert Sullivant Jr. was present when the motion related to those orders was heard and took the opportunity to question Dr. Perkins at that time. Those issues having been decided by the court, there is no reason to conduct discovery related to the issues the court has already decided.

5. Dr. Perkins is willing to testify so long as this deposition does not interfere with patient care, that he be compensated for his time invested in preparation for, travel to, and attendance at the deposition. His hourly rate is $600.00 with the time to prepare being two hours and the time for the deposition two hours. His hourly rate for travel time is $200 per hour. Accordingly, Dr, Perkins' fee to take his deposition is $4,000.00 for preparation, attendance, and travel.

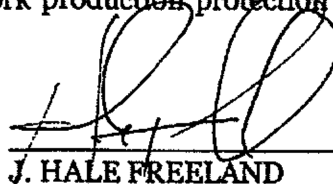
6. According to Miss R. Civ. P 26 (C)(E) (i), before Dr. Perkins is required to appear, "the court shall require that the party seeking discovery taking the deposition of an opposing party's expert who has been specially retained or employed to present expert testimony at trial to pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)(4)(A)(ii) and (b)(4)(B) giving deposition testimony and a reasonable fee for up to two hours actually spent preparing for such deposition. In re Rules of Civil Procedure (Miss. 2019).

7. Robert Sullivant Jr. has not tendered Dr. Perkins' fee to take his deposition, a prerequisite for taking Dr. Perkins' deposition, nor has he inquired what those fees would be.

8. Robert Sullivant Jr. is also requesting that Dr. Perkins produce notes and documentation that could considered work product between attorney and client and as

such protected from disclosure. In addition, some of the information could be subject to a medical privilege, as the issue has been waived due to the nature of this proceeding. As a result, Dr. Perkins asked for instructions from Robert Sullivant Jr. with regards to inquiry and production of work product and the medical privilege as well as instructions from the court concerning the scope of relevant information that he can disclose by production of documents and through his testimony.

WHEREFORE, premises considered, the plaintiff asks the court to quash the subpoena, which failed to comply with the Mississippi Rules of Civil Procedure, and requests further instruction from Robert Sullivan Sr. and his counsel and this court regarding disclosure of documents and information subject to work production protection and Robert Sullivant Sr.'s medical privilege.



J. HALE FREELAND

J. Hale Freeland, Esq., MSB No. 5525
FREELAND MARTZ PLLC
302 Enterprise Dr., Suite A
Oxford, Mississippi 38655
(662) 234-1711
hale@freelandsmartz.com

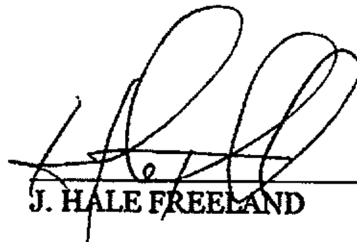
CERTIFICATE OF SERVICE

I, J. Hale Freeland, attorney for Dr. Frank Perkins, hereby certify that I have on this date sent a true and complete copy of the above and foregoing *Motion to Quash* by electronic mail to the following:

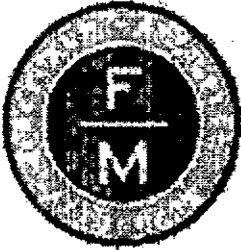
Swayze Alford Esq.
Attorney at Law
salford@swayzealfordlaw.com

Robert Sullivant Jr.
robert@steelandbarn.com

This, the 8th day of June, 2023.



J. HALE FREELAND



FREELAND MARTZ

J. Hale Freeland
Admitted in MO, MS, & TN
hale@freelandmartz.com

Our File No. 02587

June 21, 2023

Via Hand Delivery

Hon. Sherry J. Wall, Clerk
Lafayette County Chancery Court
300 N. Lamar Blvd.
Oxford, MS 38655

RE: *Sullivant v. Sullivant*
Cause No: 2021-cv-612W

Dear Sherry:

Enclosed please find a *Rebuttal in Response to Objection to Motion to Quash* related to the above-referenced cause, along with an enclosure of a referenced opinion by Judge Michael Malski. Please file these in the Court's records; we will receive our copy via MEC.

Thank you for your assistance with this matter.

Sincerely,

FREELAND MARTZ, PLLC

J. Hale Freeland

Enclosure

cc: Hon. Robert Whitwell *via email*
Dr. Frank Perkins *via email*
Swayze Alford Esq. *via email*
Robert Sullivant Jr. *via email*

302 Enterprise Drive, Suite A | Oxford, MS 38655
Phone 662.234.1711 | Fax 662.234.1739
www.freelandmartz.com

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

ROBERT SULLIVANT SR.	**PLAINTIFF**
v.	
ROBERT SULLIVANT JR.	**DEFENDANT**
	CAUSE NO. 2021-CV-612 (W)
ROBERT SULLIVANT JR.	**THIRD PARTY PLAINTIFF**
v.	
ROBERT SULLIVANT SR. and EVELYN STEVENS	**THIRD PARTY CO-DEFENDANTS**

REBUTTAL IN RESPONSE TO OBJECTION TO MOTION TO QUASH

COMES NOW, Frank Perkins M.D., by and through the undersigned counsel, and files this rebuttal in response to Robert Sullivant Jr.'s objection to the motion to quash. In support thereof, Frank Perkins would show:

1. This Court entered a final order denying the Petition to appoint Robert Sullivant Jr. as Conservator. A motion to reconsider that order of June 16, 2023, was not filed within 10 days of that order pursuant to Miss. R. Civ. P. 59, and no notice of appeal has been filed pursuant to Miss. R. App. 4, within thirty days of the Court's ruling of May 16, 2023. Accordingly, this Court lacks jurisdiction over this matter. Accordingly, any further proceeding including discovery cannot be entertained by this Court.

2. The subpoena noticed the deposition to be taken at the Lafayette County Courthouse, not in the county where the deponent Dr. Frank Perkins was physically present, as requested by Miss. R. Civ. P. 30b(7). Dr. Perkins' office is at 3531 Lakeland Drive, Suite 1060, Flowood, Rankin County, Mississippi.

3. Robert Sullivant Jr. never retained Freeland Martz PLLC. On June 10, 2023, he identified himself as a retired engineer who had a power of attorney over his father, that his father was upset with him, and that he was going to see Dr. McIntosh about his father. This information is hardly confidential in that it states that nature in which the firm might be engaged, and in his petition Robert Sullivant Jr. stated he had had a power of attorney over his father until his father revoked the POA (petition for conservatorship, paragraphs 4 and 7).

4. Robert Sullivant Jr. did not thereafter engage the law firm, and the firm never represented Robert Sullivant Jr. in this or any other proceeding. In order to object or disqualify the Freeland Martz PLLC law firm from representing Dr. Perkins, Robert Sullivant Jr. "must prove the existence of both (1) an actual attorney client relationship" *H/S Florence LLC v. Carroll L. Little Jr.* 18 ¶ (Enclosure 1, Alcorn County Chancery 21-CV 00622-MM, Doc 17). In *H/S Florence* Judge Malski held that an attorney's discussion of "broad vague allegations of disclosure of strategy" would not disqualify a law firm which was not ultimately engaged by the client in the matter and would not have constituted the disclosure of confidential information. ¶ 22.

5. The idea that a party can disqualify an attorney by a call that the firm might be hired in a matter has no legal basis, and Robert Sullivant Jr. provided none. Robert Sullivant Jr. only mentioned his father was upset over the son's use of a power of attorney and he might have engaged the law firm. Robert Sullivant Jr. never engaged the law firm nor disclosed confidential information. Asserting one might hire a law firm regarding the subject matter does not establish an attorney-client relationship, and merely identifying the potential scope of representation that never occurred does not constitute privileged confidential attorney-client communications. Accordingly, Robert Sullivant Jr.'s objection to J. Hale Freeland's representation of Dr. Perkins herein should be overruled.

6. The purpose of this deposition of Dr. Perkins is that Robert Sullivant Jr. was unprepared to examine Dr. Perkins at trial on his petition to have his father subject to a conservatorship, which

was denied. (Robert Sullivant, Jr's .Response to the petition, ¶ 3) Not being prepared for trial is not a good reason to reopen discovery in a matter that has been decided. The only basis that the court's decision could be revisited would be pursuant to Miss R. Civ P 60, and being unprepared to examine a witness a party was aware is not a basis to challenge the court's prior decision or reopen discovery.

7. Robert Sullivant Jr. was certainly aware that Dr. Frank Perkins had examined Robert Sullivant Sr. and declared Dr. Perkins' opinions in paragraphs 22-26 of his petition for a conservatorship. Notwithstanding, Robert Sullivant Jr. did not interpose discovery or take the deposition of Dr. Perkins prior to the hearing on Robert Sullivant Jr.'s petition for a conservatorship over his father.

8. Robert Sullivant Jr. set the emergency hearing on the petition to be appointed as his father's Conservator. He should not have set the hearing if he were unprepared to examine Dr. Perkins at trial. He could have deposed him before the hearing or propounded discovery. There is no reason to have him deposed now, when there are no pending motions before the Court related to the order denying Robert Sullivant Jr.'s petition.

9. Miss. R. Civ. P. 26 E required Robert Sullivant Jr. to pay an expert reasonable fees to take his deposition unless a "manifest injustice would result." Failing to take undertake discovery prior to trial or take a pretrial deposition to be prepared to cross examine a witness does not constitute a manifest injustice.

10. Robert Sullivant Jr. asserts that Dr. Perkins was Court-appointed, though there is no order indicating his appointment by the Court, and points to Miss. R. Evidence 706, which also provides: "The expert is entitled to a reasonable compensations, as set by the court."

11. In response to the motion to quash, Robert Sullivant Jr. has demanded Dr. Frank Perkins appear pursuant to a subpoena and stated, "I will depose Dr. Perkins on June 22 in courtroom #1, else I will have him cited for contempt" (Exhibit A, Sullivant June 8, 2023, email).

12. In his objection Robert Sullivant Jr. acknowledged that Dr. Frank Perkins may be paid a reasonable fee for his service. However, he has failed to tender a fee.

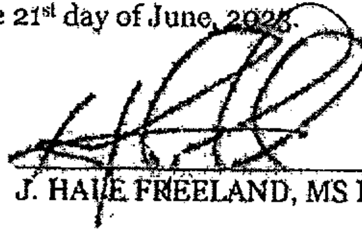
13. Robert Sullivant Jr unilaterally set the date and time for deposing without regard to Dr. Perkins' schedule or medical duties and attempted to utilize a subpoena to have Dr. Perkins appear two-and-a-half hours from his office without having to compensate Dr. Perkins.

14. The subpoena can only be seen as harassment and a response to Dr. Perkins' testimony. It should be denied, and Robert Sullivant Jr. should be assessed the attorney's fees in defending against it and should be denied any access to this proceeding or any other proceeding against his father until these fees are paid into the Court.

15. Except as indicated heretofore, the allegations contained in the objection to the motion are denied.

WHEREFORE, premises considered, the motion to quash should be denied, and this Court should impose sanctions upon Robert Sullivant Jr. with a restriction enjoining Robert Sullivant Jr. from filing any proceeding in this Court before satisfying and paying those sanctions.

RESPECTFULLY SUBMITTED, this the 21st day of June, 2025.



J. HALE FREELAND, MS BAR NO. 5525

FREELAND MARTZ PLLC
302 Enterprise Dr., Suite A
Oxford, Mississippi 38655
(662) 234-1711
hale@freelandmartz.com

CERTIFICATE OF SERVICE

I, J. Hale Freeland, hereby certify that I have this day forwarded by electronic mail a true and complete copy of the above and foregoing *Notice of Hearing* to the following:

Swayze Alford, MSB No. 8642
1221 Madison Avenue
Oxford, MS 38655
(662) 234-2025
salford@swayzealfordlaw.com

Robert Sullivant Jr., *pro se*
rsullivantjr@gmail.com
robert@steelandbarn.com

This, the 21st day of June, 2023.

J. HALE FREELAND

Hale Freeland <hale@freelandmartz.com>

Re: Conservatorship of Sullivan (Laf Chicanery No 21-512) (our file 02587)

1 message

Robert Sullivant <robert@steelandbarn com> . Thu, Jun 8, 2023 at 6:34 PM
To: Errol Castens <errol@freelandmartz com>, hale@freelandmartz.com

Hale,

Please state your authority to be involved in this matter? Once I did consult with you taking on this case on my behalf

Miss R Civ P 16(b)(1) does not exist, and Rule 16 does not pertain to discovery.

I did not receive the motion you referred to in your email

I will not be available the morning of the 22nd as you incorrectly assumed. At 2 o'clock in courtroom #1 I will be deposing Dr. Frank Perkins. I have every right to depose him

I just received the affidavit from the process server today, and immediately sent to Swayze. I will file it and the subpoena tomorrow. Swayze has been noticed and in appropriate time Dr. Perkins and Swayze have been evasive in my right and request to depose Dr Perkins. It should not have come to this, but my actions are the result of Dr. Perkins' and Swayze's inappropriate conduct.

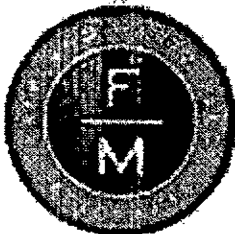
You have not made a reasonable argument to quash the subpoena to depose Dr. Perkins. I am not sure that you have the authority to speak in this matter on behalf of anyone

In conclusion I will depose Dr. Perkin's on June 22 in courtroom #1, else I will have him cited for contempt. Also, I will not be available for a motion that I have not seen, or agreed to be set. Furthermore, I consider your communication out of order, incoherent, baseless, and not pursuant to any Mississippi Rule of Civil Procedure. I have followed the Mississippi Rules of Civil Procedure and have the right to depose Dr. Perkin's.

Regards,
Robert Sullivant (for future reference and communication. please note the spelling of Robert)
512-739-9915

On Thu, Jun 8, 2023 at 5:06 PM Errol Castens <errol@freelandmartz.com> wrote

Errol Castens
Paralegal for J. Hale Freeland
Freeland Martz, PLLC
302 Enterprise Dr., Ste. A
Oxford, MS 38655
(662) 234-1711, ext. 4
www.freelandmartz.com



---------- Forwarded message ---------
From: **Hale Freeland** <hale@freelandmartz com>
Date Thu, Jun 8, 2023 at 4 34 PM
Subject Re. Conservatorship of Sullivan (Laf Chicanery No 21-512) (our file 02587)
To Swayze Alford <salford@swayzealfordlaw.com>, <roabter@steelandbam com> Errol Castens <errol@freelandmartz.com>

Conservatorship of Sullivant (Laf 2021-612 (W)) Our file 02587

Gentlemen,

Since Mr Alford was not provided notice of the deposition as required by Miss R Civ P 16(b)(1);
neither I nor Mr Alford available could appear for a hearing prior to June 22nd due to conflicts in our schedules when on the attached motion to quash may be heard;
Dr Perkins fees have not been paid for taking the deposition;
and no determination was made regarding Dr. Perkins schedule before the subpoena was issued to provide reasonable notice to Dr. Perkins regarding his his schedule was and patient care;
we will set the hearing on our motion to quash (attached) on June 22, 2023 when Judge Whitwell can hear the motion, Mr Alford will be already be before the Court on other matters..
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Hale

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Sent from my iPhone

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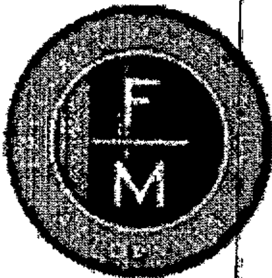

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hale@freelandmartz com | www.freelandmartz com

IN THE CHANCERY COURT OF ALCORN COUNTY, MISSISSIPPI

H/S FLORENCE, LLC,

Plaintiff,

V. **CAUSE NO. CV2021-0622-02-MM**

CARROLL K. LITTLE, JR., Defendant; CKL DEVELOPMENT, LLC, Garnishee; CKL PROPERTIES, LLC, Garnishee; THE CLUB AT SHILOH RIDGE, LLC, Garnishee; AND LITTLE'S JEWELERS, INC., Garnishee

Defendants.

ORDER DENYING MOTION TO DISQUALIFY

THIS CAUSE came on for hearing on the Motion to Disqualify filed by H/S Florence, LLC ("Florence") and the Response in Opposition filed by Carroll K. Little, Jr, ("Little"). The Court, after being fully advised in the premises, finds that it has jurisdiction over the parties and the subject matter and does **FIND, ORDER, AND ADJUDGE** as follows:

¶1. On November 8, 2021, Florence filed a Motion for Charging Order against Little and those entities listed above as Garnishees, seeking payment on a judgment entered in the Lauderdale County, Alabama Circuit Court matter of H/S Florence, LLC v. Carroll Little, Cause Number CV 2015-900044.00 ("the Alabama judgment"). According to Florence's Motion, the Alabama judgment consists of an award against Little for $662,997.76 in breach of contract damages and $420.98 for Florence's court costs.

¶2. Little filed his Response to Motion for Charging Order on or about December 14, 2021. According to this Response, Little's counselors of record are Albert G. Delgadillo and Robert E. Quimby both attorneys with the Mitchell McNutt and Sams, P.A. law firm ("Mitchell McNutt").

Enclosure 1

¶3. Through a Motion to Disqualify filed on April 5, 2022, Florence seeks to disqualify Mitchell McNutt and its attorneys from continuing to serve as counsel for Little and the following entities: CKL Development, LLC; CKL Properties, LLC; The Club at Shiloh Ridge, LLC; and Little's Jewelers, Inc.

¶4. Florence owns a shopping mall located in Florence, Alabama, which is managed by Hull Property Group, LLC ("Hull"), a corporation providing management services to individuals or entities owning shopping malls and shopping centers in multiple states. Hull also manages the Leigh MS Mall, LLC ("Leigh") property located in Columbus, Mississippi.

¶5. Douglas Ford ("Ford") and Mitchell McNutt formerly represented Leigh in the matter of *Dollar Tree Stores, Inc. v. Leigh MS Mall, LLC*, an action filed in the United States District Court for the Northern District of Mississippi ("the Leigh Mall matter").

¶6. Sometime on or around April 18, 2021, shortly after Mitchell McNutt was engaged to represent Leigh, John Markwalter ("Markwalter"), in-house counsel for Hull, contacted Ford via telephone and inquired if Mitchell McNutt could represent Florence in a collections case against Little wherein Florence sought to collect its Alabama judgment. According to Ford, there were no discussions during this telephone call about Florence or its relationship with Leigh through Hull.

¶7. On April 19, 2021, Markwalter emailed Ford at Mitchell McNutt as a follow-up to the prior phone call and the two exchanged correspondence regarding a potential conflict due to Little's prior representation by a Donald Downs, another attorney Markwalter believed to be affiliated with Mitchell McNutt. Markwalter requested that Ford identify alternative counsel to represent Florence. In his reply, Ford informed Markwalter that he did not recall Donald Downs to be a member of Mitchell McNutt, and requested further information to "run a conflicts." In a subsequent email on that date, after running a conflicts check, Ford identified the existence of a

potential conflict to Markwalter and suggested that Markwalter contact another attorney to assist in this matter, providing contact information for William "Bill" Davis, a former Mitchell McNutt lawyer located in Corinth.

¶8. According to Markwalter, during a follow-up telephone call on April 20, 2021, he requested that Ford tell him the nature of the conflict, to the extent he would be able. Ford testified that he indicated to Markwalter that Mitchell McNutt attorney Albert Delgadillo had prepared wills for Little or his family members, and he would need to follow up to determine the extent of Delgadillo's work in order to determine if a conflict actually existed. Markwalter testified that Ford indicated to him that he did not believe this to be a conflict for the firm in representing Florence against Little, but more, a reticence to become adversarial with a former client. Markwalter further testified that he and Ford discussed seeking charging orders as to certain LLCs either associated with or controlled by Little, and alternatively, seeking garnishments.

¶9. Ford testified that, prior to identifying the potential conflict, he and Markwalter had not discussed substantive information about the case. Markwalter conceded on cross-examination that he was probably the one who brought up the substantive issues in his discussions with Ford during their discussions.

¶10. Also on April 20, 2021, Markwalter obtained copies of deeds for properties in which Little held either ownership interest or control. These deeds were prepared by Wendall Trapp, an attorney with Mitchell McNutt. Upon learning this fact, Markwalter believed there to be a conflict which would prohibit Mitchell McNutt from representing Florence or Little, because, in Markwalter's opinion, he had discussed Florence's strategy with Ford, while Ford's firm, Mitchell McNutt, had prepared the deeds for Little's properties which could become involved in Florence's efforts to collect the Alabama judgment.

¶11. Markwalter stated that, on the afternoon of April 20, 2021, he voiced his concerns about Mitchell McNutt participating in the debt collection case based upon the deed preparation by the firm, upon which he learned Mitchell McNutt was actively representing Little in the debt collection matter and therefore could not represent Florence.

¶12. Markwalter took the position that Ford gave him legal advice during their discussions of the charging orders, garnishments, and Florence's possibility of success on those methods of collection. Ford argued that Florence was not a client during these discussions, and that he and Markwalter did not discuss Florence's strategy, but standard practices in collecting a judgment. Florence asserts that the discussions between Mitchell McNutt and Markwalter on behalf of Florence requires a disqualification of Mitchell McNutt.

¶13. Further according to Markwalter, Florence and Leigh, Mitchell McNutt's client in the unrelated Federal Court litigation, share common elements of ownership. Markwalter asserted that Hull owns Florence and also owns fifty percent (50%) of Leigh. However, Markwalter admitted that he could not recall as to whether he told Ford that he represented Leigh, or whether he discussed the common ownership interests Leigh and Florence had through Hull. Nonetheless, because of the Mitchell McNutt/Leigh attorney-client relationship and because of the asserted affiliation between Florence, Leigh, and Hull, Florence asserts that Mitchell McNutt and its attorneys are disqualified to represent Little and the Garnishees in this action.

¶14. "The attorney-client privilege is the oldest of the privileges for confidential communications known to the common law." *Hewes v. Langston*, 853 So. 2d 1237, 1244 (Miss. 2003) (citing *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981). This privilege is defined as follows:

> **(b) General Rule of Privilege.** A client has a privilege to refuse to disclose--and to prevent others from disclosing--any confidential communication made to facilitate professional legal services to the client:
>
> (1) between the client or the client's representative and the client's lawyer or the lawyer's representative;
>
> (2) between the client's lawyer and the lawyer's representative;
>
> (3) by the client, the client's representative, the client's lawyer, or the lawyer's representative to another lawyer or that lawyer's representative, if:
>
> (A) the other lawyer represents another party in a pending case; and
>
> (B) the communication concerns a matter of common interest;
>
> (4) between the client's representatives or between the client and a client representative; or
>
> (5) among lawyers and their representatives representing the same client.

Miss. R. Evid. 502(b). A "confidential communication" is defined by the Rule in part as a communication "not intended to be disclosed to third persons other than those to whom disclosure is made to further rendition of professional legal services to the client. . . ." Miss. R. Evid. 502(a)(5)(A).

¶15. "[I]f a communication between a lawyer and client would facilitate the rendition of legal services or advice, the communication is privileged." *Freesenius Medical Care Holdings, Inc. v. Hood*, 269 So. 3d 36, 63 (Miss. 2018). The Mississippi Supreme Court has interpreted the scope of the attorney-client privilege under Mississippi law broadly:

> the privilege relates to and covers all information regarding the client received by the attorney in his professional capacity and in the course of his representation of

> the client. Included are communications made by the client to the attorney and by the attorney to the client. In that sense it is a two-way street.

Barnes v. State, 460 So. 2d 126, 131 (Miss. 1984). The attorney-client privilege "does not require the communication to contain purely legal analysis or advice to be privileged. *Dunn v. Sate Farm Fire & Cas. Co.*, 927 F.2d 869, 875 (5th Cir. 1991).

¶16. Excepting certain limited circumstances, an attorney "shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is [otherwise expressly] permitted. Miss. R. Prof'l Conduct 1.6(a). Rule 1.7 of the Mississippi Rules of Professional Conduct generally prohibits an attorney from representing a client "if the representation of that client will be directly adverse to another client . . ." or if such representation may be "materially limited by the lawyer's responsibilities to another client or to a third person. . . . The Mississippi Rules of Professional Conduct further provide:

> A lawyer who has formerly represented a client in a matter shall not thereafter:
>
> (a) represent another in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or
>
> (b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known.

Miss. R. Prof'l Conduct 1.9.

¶17. With that framework in mind, the Mississippi Supreme Court has applied a "two-part test developed by the United States Court of Appeals for the Fifth Circuit for attorney disqualification. . . . The two elements which must be found are: (1) an actual attorney-client relationship between the moving party and the attorney he seeks to disqualify; and (2) a substantial relationship exists

between the subject matter of the former and the present representations." *Hartford Cas. Ins. Co. v. Halliburton Co.*, 826 So.2d 1206, 1221 (internal citations omitted) (Miss. 2001); see also *Newsome v. Shoemake*, 234 So. 3d 1215, 1229 (Miss. 2017) (same).

¶18. In terms of the instant matter, then, Florence must prove the existence of both (1) an actual attorney-client relationship between Florence and Mitchell McNutt or its attorney(s), and (2) a substantial relationship between the subject matter of Mitchell McNutt's present representation of Little and some former representation.

(1) Did an actual attorney-client relationship exist between Florence and Mitchell McNutt and/or its attorneys?

¶19. Florence takes the position that it's in-house counsel, Markwalter, engaged in substantive discussions with Ford, a Mitchell McNutt attorney, regarding Florence's legal strategy to collect on the Alabama judgment against Little and asserts that these communications, along with Mitchell McNutt's representation of Leigh in the Leigh Mall matter, established an attorney-client relationship as contemplated by the first prong of the *Hartford* test.

¶20. First, the Court cannot find that an attorney-client relationship ever existed between Florence and Mitchell McNutt or Ford.

¶21. On April 19, 2021, during the initial consultation between Markwalter and Ford, Ford identified a potential conflict with Mitchell McNutt representing Florence against Little in this matter. Ford confirmed that conflict to Markwalter on April 20, 2021. When questioned by this Court, Markwalter conceded that Ford gave him no indication during these initial discussions that Mitchell McNutt was going to represent Florence. Indeed, a reticence was voiced by Ford to Markwalter regarding Mitchell McNutt's representation of Florence against Little, and Ford, in essence, said he would check for existing conflicts. Nonetheless, after this reticence was conveyed

and the conflict issue raised, Markwalter discussed with Ford his thoughts on Florence's efforts to collect against Little and the use of charging orders and garnishments.

¶22. According to Markwalter, the discussion with Ford of these two collection strategies should disqualify Mitchell McNutt from representation of Little. However, Markwalter identified no other statements made to Ford or Mitchell McNutt which would constitute the disclosure of confidential information to be employed by Florence against Little. Rather, Markwalter has only presented broad, vague allegations of disclosure of strategy through the use of charging orders and garnishments. This Court cannot conceive that any capable attorney would **not** seek to employ charging orders and garnishments to collect an outstanding judgment. Ford's testimony indicated that he learned nothing of Florence's position beyond that which a reasonable attorney would employ as standard practice in a collection suit. Further, Markwalter conceded through his Affidavit and testimony that the discussion of strategy came subsequent to the disclosure to him by Ford of the potential issue with representing Florence against Little, with knowledge of the conflicts check being in progress.

¶23. In the *Hartford* case, the party seeking to disqualify an attorney claimed that said attorney "learned confidential information from the expert witness that Hartford plans to use in this case." *Hartford*, 826 So. 2d at 1222. The attorney asserted that he learned nothing confidential and "nothing beyond that which he could have gained in a deposition." *Id.* The Mississippi Supreme Court, considering this broad and vague allegation alone, without Hartford stating exactly what information the attorney allegedly learned that would be harmful to Hartford's case, found that Hartford's motion to disqualify was properly denied. Similarly, here, Markwalter only makes broad allegations of disclosure of strategy through the use of charging orders and garnishments. Florence's use of these methods to attempt to collect a judgment is standard practice which would

be expected of any attorney, and Markwalter's disclosure cannot be said to be harmful to Florence's case.

¶24. Considering the above findings and the rationale employed in *Hartford*, the Court can find nothing in the record to support a finding that Ford or Mitchell McNutt received any confidential communication from Florence or its counsel which would cause an attorney-client relationship to arise warranting disqualification of Mitchell McNutt or its attorneys.

¶25. Second, the Court cannot find that an attorney-client relationship existed by virtue of the common ownership interest between Florence, Leigh, and Hull.

¶26. Florence attempts to rely on Mitchell McNutt's representation of Leigh to claim an attorney-client relationship, based upon Florence's affiliation with Leigh through Hull, their common management group. Little argues in his Response that "representation of a management company does not create an attorney-client relationship with every individual and/or entity that the management company provides management services to." Markwalter conceded during his testimony that, prior to his discussions with Ford, Mitchell McNutt had not represented Florence anywhere in the country. Further, according to Ford, the common ownership interest between these entities was never disclosed to him during his discussions with Markwalter. No assertion was made that any information disclosed to Mitchell McNutt during its representation of Leigh would have any relevance to Florence or Little. Accordingly, the Court finds this assertion to also be without merit.

¶27. Although the Court has found that there existed no attorney-client relationship between Florence and Ford or Mitchell McNutt, out of an abundance of caution the Court will briefly address the second prong of the *Hartford* test.

(2) Is there a substantial relationship between the subject matter of the current litigation and the former litigation in which Mitchell McNutt or its attorneys participated?

¶28. If "it is established that the prior matters are substantially related to the present case, the court will irrebuttably presume that relevant confidential information was disclosed during the former period of representation." *Owens v. First Family Financial Services, Inc.*, 379 F. Supp. 2d 840, 850 (S.D. Miss. 2005) (internal citation omitted).

¶29. In its Motion, Florence claims that the second prong of the *Hartford* test was satisfied because "the underlying facts, legal issues, and parties are the same." This argument is flawed and misapprehends the *Hartford* test. The Court has found that Florence never enjoyed an attorney-client privilege with Mitchell McNutt in the current litigation, and Markwalter conceded on the stand that Mitchell McNutt has not otherwise represented Florence in any matter.

¶30. Florence argues in its Motion that "Douglas Ford and the Firm previously established an attorney client relationship with Leigh, a company that is affiliated with Florence by and through their shared management company, to-wit: Hull." However, Markwalter, Florence's attorney, conceded during his testimony that the subject matter between Leigh and Florence was not substantially the same, and further conceded that Little was not in any way involved in the Leigh Mall matter. Although Markwalter argued the commonality of ownership interests between Florence and Leigh, through Hull, Florence can establish no similarity between the nature of the instant collections case against Little and the Leigh Mall matter involving a co-tenancy dispute.

¶31. Accordingly, even if Florence had established the first prong of the Hartford test for disqualification, it cannot satisfy the second prong requiring the existence of a substantial relationship.

¶32. Based upon the foregoing findings, the Court finds that Mitchell McNutt and its attorneys should not be disqualified pursuant to any Mississippi legal authority.

¶33. It is therefore ordered that Florence's Motion to Disqualify is **OVERRULED** and the relief sought therein **DENIED**.

ALL SO ORDERED AND ADJUDGED, this the 31st day of October, 2022.

MICHAEL MALSKI
CHANCELLOR

EXHIBIT C

Robert Sullivant <robert@steelandbarn.com>

Sullivant v Sullivant

Robert Sullivant <robert@steelandbarn.com> Fri, Apr 28, 2023 at 10:14 AM
To: reed@freelandmartz.com

I have attached an appeals filing that will explain the legal matters in more detail.

In short, my 89 yo father who is mentally incapacitated fell under undue influence of the sitter I had hired. I had asked her to help me in getting the 2 IME's necessary for a conservatorship.

My father had been falling victim to endless scams losing over a $1,000/mo to mail, email and phone scams. He must have been on a list.

The sitter betrayed me, and told my father that I was going to put him in a conservatorship, then put him in a mental asylum, then steal his money and blow it on my friends. My father had been mad with me about intercepting his incoming and outgoing mail to prevent him from sending out checks to them. He thought the scams were real, and it was his duty to help these people. He also believed the sitter. My father has referred to the sitter as his girlfriend in a phone call with a cousin of mine.

The sitter convinced him to take $230k from a joint account and buy a house. She also took him to an attorney to revoke my POA the day after they took the money. The sitter was not aware I had to be notified of POA revocation. I knew they were about to steal the money to buy a house. I noticed the transaction when it happened, and with the help of atty at the time, Tom Suzsec, had the bank reverse the transaction, I then transferred the money in our seperate, individual TDAmeritrade accounts for safe keeping.

My father was very upset with me about this, and told me the money was not mine, but it was. That is not a disputed fact. The sitter found Swayze Alford, and took him to Swaye, and sat in on every meeting. My father moved out. The sitter maintained her relationship with my father, but lied about that in a deposition. I had a gps tracker on the car and have documented the many lies she told in the deposition.

Swayze overtly violated a court order. Swayze was to put $450k of land sale proceeds in his trust account, so my father could not do anything unwise with the money. Instead, Swayze put the money into an account he told my father to set up at FNB in Oxford. Swayze told him he could put the sitter's name on the account. Swayze never reconciled the account, and my father went back to sending checks to mail scammers and bought the sitter a pick up. He also gave the sitter his Buick, which I am part owner. $60k of court ordered protected funds were lost, and with Swayze's tacit approval.

I filed a bar complaint against Swayze for violation of the order and many other things he has done that are unambiguous violations of the MRPC, and MRCP. The MS Bar has accepted the complaint and assigned it docket # 22-303-4.

On April 6th, Swayze called me to retract the bar complaint, as he said 'this will end my law practice'. Apparently Swayze did know that bar complaints cannot be retracted, but I was not going to retract anyway.

Since then Swayze has gone rogue, and adopted a vindictive strategy against me, and is rushing this matter to trial, trying to appoint the Chancery Clerk conservator (not me), along with other vindictive court actions.

1. Have evidence that the sitter has perjured herself and committed Criminal Financial Exploitation (43-47-5(i)&(q). I have turned that over and made a statement to Steve Jubera and Ben Creekmore at the Lafayette DA's office.

2. Swayze did not disclose any evidence during discovery as requested, and my father made admissions that he had no evidence, and that he did not give me notice of POA revocation.

3. My transfer of the funds was legal (and my duty) per the MS Code and the POA. Notice has to be given.

3. I have the 2 required IME's for a conservatorship. The only contention is who will be the conservator. Swayze wants Sherry Wall (Clerk) as he can control her, and says the justification is that my father does not want me to be his conservator. I am requesting myself, as I have more experience than Sherry, and the Code prefers a family member, and states a clerk shall be conservator if there are no other qualified candidates.

Recently I have been Pro Se, but it is now time for a trial, and I do not believe I can compete with Swazye in the courtroom.

May I discuss this matter with, and your possibility of you representing me?

Thanks,
Robert Sullivant, Jr
512-739-9915

Summary Judgement Appeal v4.0 02.09.23.pdf
503K

Robert Sullivant <robert@steelandbarn.com>

Sullivant v Sullivant

Reed Martz <reed@freelandmartz.com> Fri, Apr 28, 2023 at 10:41 AM
To: Robert Sullivant <robert@steelandbarn.com>

Sir, I have not read your email. Immediately following our conversation I put your name into our conflicts database and found that we have a conflict. We cannot be involved in this case. I wish you success in finding someone else and appreciate Whit referring you to our firm.

--
M. Reed Martz
Providing legal services in AL, GA, MS, and TN
Offices in Oxford, Miss. and Chattanooga, Tenn.
Freeland Martz, PLLC
Mailing and physical address:
302 Enterprise Drive, Suite A, Oxford, MS 38655
Office (662) 234-1711 | Direct (662) 715-3057
reed@freelandmartz.com | freelandmartz.com

02587

EXHIBIT D

Robert Sullivant <robert@steelandbarn.com>

deposition

Robert Sullivant <robert@steelandbarn.com> Wed, Mar 1, 2023 at 5:48 PM
To: fperkins@preciseforensicservices.com

Dr. Perkins,

I retrieved your email from a resume Mr. Alford sent me.

I called your office this morning regarding setting up a time for a deposition regarding Sullivant Sr v Sullivant Jr. I am representing myself (Pro Se). I was told I would have to contact Swayze Alford to get in touch with you. Sorry to say that is not how it works. Per the Mississippi Rules of Civil Procedure, I arrange my own depositions without assistance from Mr. Alford. I would like to conduct the deposition of time and place of your convenience.

Please let me know by tomorrow when and where it is convenient for you, or you may call me to discuss times or place. The alternative is I will have to issue a subpoena per rule 30 that will be of a time and place of my convenience. I would prefer to schedule on a cordial, cooperative basis.

Please call me with any questions or concerns.

Robert Sullivant, Jr.
512-739-9915

Robert Sullivant <robert@steelandbarn.com>

Dr. Perkins

Swayze Alford <salford@swayzealfordlaw.com> Thu, Mar 2, 2023 at 1:40 PM
To: Robert Sullivant <robert@steelandbarn.com>
Cc: Lacey Whitaker <lacey@swayzealfordlaw.com>

Robert,

It is my understanding that you have contacted Dr. Perkins's office about taking his deposition. I was not aware of your desire to take his deposition. I think that we need to ccordinate available dates for everyone in order to schedule a convenient time and date. Dr. Perkins charges $600 an hour for his time to prep for and attend the deposition and $200 an hour for travel. You will be responsible for the cost. Thanks.

Swayze Alford, Esq.

Swayze Alford Attorney At Law

Post Office Box 1820

1221 Madison Avenue

Oxford, Mississippi 38655

(662) 234-2025 phone

(662) 234-2198 fax

swayzealford.com

Confidentiality Note:

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EXHIBIT D

FILED
STATE OF MISSISSIPPI

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

2022 FEB -8 P 2:42
CHANCERY CLERK
BY DC TJ

ROBERT SULLIVANT, SR. PLAINTIFF

VS. CAUSE NO.: 2021-612(W)

ROBERT SULLIVANT, JR. DEFENDANT

AGREED ORDER FOR INDEPENDENT MEDICAL EXAMS

THIS COURT, having been made aware of an agreement of the parties, now enters this AGREED ORDER FOR INDEPENDENT MEDICAL EXAMS:

1. Pending before this Court is the Counterclaim of the Defendant and a part of the Counterclaim raised the issue of capacity.

2. Plaintiff disputes the allegation in the Counterclaim that he lacks capacity.

3. On account of this issue of capacity, the parties have agreed that two IMEs under Rule 35 shall take place.

4. These examinations will be conducted by Dr. Milton Hobbs and Dr. Brian Thomas.

5. Pursuant to Section 93-20-401(2), the conservatorship statute, the examinations will 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."

6. The TD Ameritrade account of Plaintiff will be preserved until further order of the Court.

SCANNED

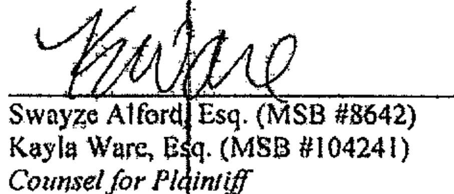
7. Defendant will, on or before January 31, 2022 sign the closing papers for the sale to White Oak Ridge, LLC. The funds resulting from that sale will be held in trust by the Office of Swayze Alford until further Order of this Court.

8. The court also resets this matter for the 30th day of March, 2022 for all pending issues.

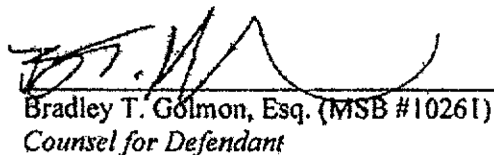
SO ORDERED, this the 8th day of February, 2022.

CHANCELLOR

AGREED:



Swayze Alford, Esq. (MSB #8642)
Kayla Ware, Esq. (MSB #104241)
Counsel for Plaintiff



Bradley T. Golmon, Esq. (MSB #10261)
Counsel for Defendant