

IN THE CHANCERY COURT OF LAFAYETTE COUNTY MISSISSIPPI

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STATE OF MISSISSIPPI  
LAFAYETTE COUNTY  
2021 JUN 30 AM 10:56  
CHANCERY CLERK  
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Robert Sullivant Sr.,  
Plaintiff

v.

Robert Sullivant Jr.,  
Defendant.

Case No. 2021-612(W)

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Robert Sullivant Jr.,  
Third-Party Plaintiff,

**MOTION TO STRIKE ALL TESTIMONY  
AND REPORTS OF DR. FRANK PERKINS,  
OR, IN THE ALTERNATIVE, TO COMPEL  
HIS DEPOSITION BY COURT ORDER**

v.

Robert Sullivant Sr. and  
Evelyn Stevens,  
Third-Party Defendants

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COMES NOW, Defendant and Third-Party plaintiff Robert Sullivant Jr., (“JR”), and requests that this court strike the testimony and reports of Dr. Frank Perkins, or, to hold him in contempt of court and compel his deposition for failing to appear without any legal justification. Dr. Perkins is the court appointed expert witness in this matter, whose testimony is governed by the Mississippi Rules of Evidence, Rules of Civil Procedure, Title 30 of the Mississippi Administrative Code (“MAC”), and the American Medical Association (“AMA”) Code of Medical Ethics.

As will be shown in JR’s memorandum, Dr. Perkins has violated the statutes and policies of each one of the foregoing authorities in this matter. Dr. Perkins has refused to share his findings with JR, refused to testify as required by law, and has accepted payment from opposing counsel in exchange for his testimony. Dr. Perkins is a court-appointed witness who engaged an attorney to quash a lawfully issued subpoena to testify in this matter. A subpoena should have never even been necessary. Dr. Perkins has been evasive, secretive, and is acting as a personal

**SCANNED**

expert witness for Mr. Alford rather than the neutral and objective court appointed expert he was brought into this case to be.

Dr. Perkins' behavior in this matter will be reported to the Mississippi Board of Medical Licensure. His antics have been detrimental to the administration of justice in this matter, he has openly flouted court rules, made a mockery of the rule of law in Mississippi, failed to follow the basic tenets of a court appointed expert witness, and has sold his testimony to Mr. Alford. Dr. Perkins has also ignored JR and ignored every attempt JR made to schedule a deposition in good faith.

Dr. Perkins also testified on behalf of Mr. Alford with practically no notice, drove 2.5 hours to do so, and examined SR minutes before the hearing. It is not debatable that Dr. Perkins has an inherent bias towards Mr. Alford when he is willing to drive 2.5 hours to perform an "exam" and then to testify, with practically no notice; but will not even communicate with JR to attempt to schedule a deposition for **four months**, forcing a subpoena to be issued by the clerk. There is little doubt Dr. Perkins was personally compensated by Mr. Alford for this, given that he has made it clear that his testimony and travel time are worth \$200 per hour, and that amount must be paid in advance. At least those are the rules for JR according to Dr. Perkins.

Respectfully, the court does not have control over Dr. Perkins, and he is quite frankly a rogue expert witness, appointed by the court, whose opinion is now being paid for by opposing counsel. The court has been deliberately and maliciously misled by Dr. Perkins. The court is to set Dr. Perkins' fees and distribute them according to the court's determination of what is reasonable, and these fees are dispersed by the court, again, in a time and manner determined by the court. This is clear on its face from MRE 706. Dr. Perkins' behavior has not only been detrimental to this case, but it is also of great concern to public policy as the Mississippi Legislature has made abundantly clear when it established Title 30.

Accordingly, Dr. Perkins should at the least be held in contempt of court for failing to appear for deposition under lawful subpoena issued by this court and signed by the clerk. Wherefore, JR is requesting at a minimum that Dr. Perkins be ordered to attend deposition in this matter on Monday July 24<sup>th</sup>, 2023, at 10am, at Dr. Perkins' office, located at 3531 Lakeland Drive, STE 1060 – Flowood, MS 39232. If Dr. Perkins again refuses to attend deposition, JR requests that all testimony and reports in this matter submitted by Dr. Perkins be stricken from the record and Dr. Perkins be barred from acting as a witness in this case any further.

## I. BACKGROUND

The background in this matter is well-established. This is a matter related to the conservatorship of Robert Sullivant Sr, where SR sued JR for allegedly taking funds from a joint account that SR believed he did not have the authority to withdraw. SR filed this action alleging 13 different counts, including fraud, conversion, and accounting. JR responded with an Answer and Counterclaims, and the parties have conducted depositions, discovery, and several motions have been heard decided, including allowing SR to execute a will and placing him into a conservatorship with the clerk.

As part of the conservatorship process and in accordance with the Mississippi GAP Act, SR was subjected to multiple IME's. These IMEs were conducted by court appointed expert witnesses, who were retained by the court to provide neutral and objective testimony related to the mental capacity of SR. One of these experts is Dr. Perkins.

Dr. Perkins conducted his IME of SR on January 17<sup>th</sup>, 2023. (*Ex. B*). Since that time, JR has attempted numerous times to contact Dr. Perkins' office to schedule a deposition. (*Ex. D104*). Dr. Perkins ignored these communications and refused to schedule a deposition with JR. The reason he gives JR and the court for this refusal, under oath, is that he was retained by Mr. Alford. (*Ex. C-206*).

So first, there is the issue of Dr. Perkins accepting a retainer payment in exchange for his testimony as a *court appointed* expert witness. A "retainer" is "**a sum of money paid to a lawyer** to secure his availability to a client over a given period of time regardless of whether the lawyer actually performs any service for the client." See *Black's Law Dictionary Revised 5th Edition* (1979). Dr. Perkins also attempts to assert attorney/client privilege with Mr. Alford in his Motion to Quash. (*Ex. A*, ¶ 8). It is not just reasonably inferable that Dr. Perkins has been compensated by Mr. Alford, it seems almost certain based on Dr. Perkins own statements under oath and penalty of perjury.

The fact that Dr. Perkins accepted funds from Mr. Alford, and he admits this under oath, should automatically disqualify him from this case. This is a massive violation of Title 30 of the Mississippi Administrative Code, (*30 Miss. Code R. § 2635-8.5(D)*), it violates MRE 706, and it runs directly afoul to the American Medical Association (AMA) Code of Ethics.

Not only did Dr. Perkins stonewall JR for months about scheduling a deposition, but when he was finally properly noticed and subpoenaed, he had his attorney, J. Hale Freeland, draft a harassing email to JR demanding money and asking why his client should appear for free (*Ex. D*). The amount demanded in his *Motion to Quash* was a minimum of \$4,000 before he would allow his client's deposition. (*Ex. A*, ¶ 5). This is absurd. Dr. Perkins and his attorney drafted this email and Motion knowing that Dr. Perkins is compensated by the court, who also sets his fees and his payment schedule, and this is per MRE 706(b).

After ignoring JR for months, illicitly accepting payments from Mr. Alford, demanding a \$4,000 fee for his deposition to be paid in advance, and trying to quash a lawfully issued subpoena, Dr. Perkins then came to Oxford for a hearing, examined SR in the courthouse for testamentary capacity, and then testified minutes later to his findings (*Ex. C-202*). During this testimony, Dr. Perkins explicitly lies under oath when he states that his findings related to SR's testamentary capacity are contained in his IME report. They are not, and they never were. (*See Ex. B*- no mention of "testamentary capacity" anywhere).<sup>1</sup> This is not surprising since "testamentary capacity" is not one of the issues Dr. Perkins was retained by the court to examine.

Dr. Perkins examined SR for testamentary capacity for the first time at the courthouse, minutes before the hearing was to take place. He of course did not share the findings from this "exam" with JR until he was cross examined minutes later, where he proceeded to boldly lie to JR and the court by stating that all of this information is in his report. Notably, Your Honor seemed to only allow Perkins' testimony because he was under the false impression from both Dr. Perkins and Mr. Alford that JR had this information from Dr. Perkins' report (*See Ex. C205*)...

**MR. SULLIVANT JR:** ...So I am really caught today without any basis to ask these question.

**YOUR HONOR:** You've had his report; have you not?

**MR. SULLIVANT JR:** I have his report right here.

**YOUR HONOR:** And you've had it for some time?

**MR. SULLIVANT JR:** I have had it for some time...

Your Honor was clearly under the impression that Dr. Perkins had included information related to testamentary capacity in his report and that JR had previously reviewed this

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<sup>1</sup> Also notably missing from Perkins' report is any mention of the conversation testified to related to a Will or capacity to create one.

information. None of this was true, and had Your Honor not been misled by Mr. Alford and Dr. Perkins, perhaps the hearing would have gone in a different direction.

Dr. Perkins' testimony has been paid for by Mr. Alford and he is not a reliable expert witness. Dr. Perkins has also lied under oath and attempted secure a large sum of money from JR before agreeing to be deposed. Presumably because of rampant behavior such as this, the Mississippi Legislature and the AMA have both recognized a lack of regulation over medical expert witnesses as a matter of great public concern in the state. (See *Rule 30-2635-8.8(1)*). As a result of this concern, Title 30 of the MAC was crafted to prevent the exact type of antics being engaged in here. Dr. Perkins' ignorance of the basic tenets of AMA ethics, court rules, and Mississippi law, has poisoned this case. He is not capable, nor even willing to act neutrally. He has accepted money in exchange for his bias testimony and his findings in this matter must be stricken.

JR also incorporates his memorandum in response to the *Motion to Quash* filed by Dr. Frank Perkins, into this Motion, and that document is attached hereto as *Exhibit E*.

## II. STANDARD OF REVIEW

**Mississippi Rule of Evidence 706** states in relevant part that:

**(b) Expert's Role.** The court must inform the expert of the expert's duties. The court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:

- (1) *must advise the parties of any findings the expert makes;*
- (2) *may be deposed by any party;*
- (3) *may be called to testify by the court or any party; and*
- (4) *may be cross-examined by any party, including the party that called the expert.*

**(c) Compensation.** The expert is entitled to a reasonable compensation, *as set by the court*. The compensation is payable as follows: **(2)** in any other civil case, by the parties in the proportion and *at the time that the court directs* - and the compensation is then *charged like other costs*.

**30 Miss. Code R. § 2635-8.5** states that:

Any physician who performs medical expert activities must:

- A. Comply with these rules and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules) with regard to the performance of medical expert activities.
- B. Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations.
- C. Be honest in all professional interactions involving his or her medical expert activities.
- D. Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated.
- E. Not make or use any false, fraudulent, or forged statement or document.

Under Mississippi Rule of Civil Procedure 37 and the inherent power of the trial court to protect the integrity of its process, the trial court has the broad authority to impose sanctions for abuse-of-discovery violations. *See Miss. Farm Bureau Mut. Ins. Co. v. Parker*, 921 So.2d 260, 265 (Miss. 2005). In *Parker*, the Court stated:

“Our trial judges are likewise in a much better position to decide which parties and/or lawyers need to be sanctioned for their behavior, and our trial judges should unhesitatingly exercise this inherent power and authority.” (See also; *E.I. DuPont de Nemours & Co. v. Strong*, 968 So. 2d 410, 414 (Miss. 2007)).

### **III. ARGUMENT**

#### **I. Dr. Perkins Lied Under Oath**

Dr. Perkins was retained by the court, upon stipulation of both parties, to perform the duties of a neutral medical expert witness in this matter. Pursuant to the GAP Act, Dr. Perkins was brought in to examine SR for a conservatorship petition and is required to report his findings to both parties. (MRE 706(b)(1)). His is also subject to deposition from either party. (*Id.*)

On January 17<sup>th</sup>, 2023, Dr. Perkins performed an IME on SR and submitted his report to the parties. (*Ex. B*). Completely absent from this report is any mention of SR’s “testamentary capacity”. However, at the hearing on May 9<sup>th</sup>, 2023, Dr. Perkins testified to the exact opposite, stating that in his evaluation of SR, he did make determinations on testamentary capacity. (*Ex. C-202*). This is completely untrue as proven by the report and Dr. Perkins not only lied to the court, but also refused to provide information related to his findings to JR, in violation of MRE 706.

Dr. Perkins knows that he is a court appointed witness and cannot honestly assert otherwise, as is evidenced by this exchange between Dr. Perkins and Mr. Alford at the May 9<sup>th</sup> hearing, (*Ex. C200*):

**MR. ALFORD:** Were you *appointed by the court* in this matter to do an independent medical examination on Mr. Robert Sullivant Sr.?

**DR. PERKINS:** *I was.*

Dr. Perkins admitted two key facts in his testimony that day; (1) he is a court-appointed expert witness, and (2) he has accepted payment from Mr. Alford in exchange for his favorable testimony.

## 2. Dr. Perkins Has Accepted Payment from Mr. Alford

Dr. Perkins, as a court appointed expert witness, has his fees set by the court, and he is paid by the court, pursuant to MRE 706(b). He is not paid directly by the parties and accepting payment from one party in exchange for favorable testimony is height of illicit activity in this matter.

However, this is precisely what Dr. Perkins did. Mr. Alford states during Dr. Perkins' testimony admits that he was "appointed by the court" (*Ex. C-200*). Later on, Dr. Perkins testifies that he has accepted a retainer from Mr. Alford. (*Ex. C-206*).

Also during his testimony at the hearing, Dr. Perkins stated that during the IME, that he discussed changing SR's Will with him, that SR expressed a desire to change his Will, and that Dr. Perkins determined that he had the capacity to do so. Dr. Perkins again states to the court that this information is in his report. (*Ex. C202-203*). It is not.

Dr. Perkins has illicitly accepted a retainer payment from Mr. Alford, making any neutral or objective testimony from him impossible. There is no argument that can be made to the contrary. He has contracted with Mr. Alford to provide favorable testimony as though he is Mr. Alford's personal expert. His prior testimony is entirely unreliable on not only the grounds of accepting money from one party, but also on the grounds of his previous lies told to the court, upon which this court relied upon to determine both a conservatorship and the execution of a Will of JR's mentally incapacitated father. However, it cannot now be said what the court relied upon in deciding these crucial issues, since Dr. Perkins has shown himself more than willing to be dishonest when testifying under oath.

### 3. Dr. Perkins has Violated MAC Rule 30-2635-8.5, 8.8 and Multiple Rules of AMA Ethics

In crafting MAC Rule 30-2635-8.8, the Medical Licensing Board determined, in cooperation with the Board's Consumer Health Committee, leaders of the medical and legal professions, former judges, officials from the Federation of State Medical Boards, and members of the public, the Mississippi State Board of Medical Licensure that...

“There is a problem in Mississippi with the lack of regulation of medical expert activities by physicians. This lack of regulation causes the performance of medical expert activities to be vulnerable to fraud, abuse, dishonesty, deception, incompetence, and other forms of unprofessional, dishonorable, and unethical conduct by physician experts, all of which are harmful to the public.” (§ 30-2635-8.8(1)).

They also found as a matter of fact that... “the Board has the statutory authority and duty to regulate in order to **protect the public.**” (*Id*\*2).

Dr. Perkins’ unethical behavior is addressed by the Code in subdivision 7, stating that...

“It is unprofessional, dishonorable, and unethical for a physician to willfully state an opinion or a material fact as a medical expert in the context of a legal matter that the physician knows or should know is false, or that a reasonable person could objectively conclude was a misrepresentation or other distortion of the truth, or was intended by the physician to mislead or deceive a judge, juror, lawyer, litigant, other expert, hearing officer, administrative body, investigator, legal authority, or any finder of fact.” (§ 30-2635-8.8(7)).

30 Miss. Code R. § 2635-8.5 relates to the professional standards medical experts must adhere to, and Dr. Perkins has undeniably failed in almost every category. The Code states that any physician who performs medical expert activities must:

- A. Comply with these rules and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules) with regard to the performance of medical expert activities.
- B. Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations.
- C. Be honest in all professional interactions involving his or her medical expert activities.



D. Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated.

E. Not make or use any false, fraudulent, or forged statement or document.

Dr. Perkins first violates Rule A, by violating Mississippi Rule of Evidence 706 as it relates to his compensation, the sharing of his findings with all parties, and JR's right to depose him. He also violates this rule by attempting to quash a lawfully issued subpoena on erroneous grounds by misleading the court. (*Ex. A*).<sup>2</sup>

Dr. Perkins violates Rule B when he overtly flouts AMA Ethics, specifically Rule 9.7.1, stating that whenever physicians serve as witnesses they must:

- (a) Accurately represent their qualifications.
- (b) Testify honestly.
- (c) Not allow their testimony to be influenced by financial compensation. Physicians must not accept compensation that is contingent on the outcome of litigation.

The Rule also states that expert witnesses must “[E]valuate cases objectively and provide an independent opinion.” (Rule 9.7.1(i)). Dr. Perkins has not testified honestly in this case and has allowed his testimony to be influenced through financial compensation by accepting a retainer from Mr. Alford. His testimony and opinions are far from independent and cannot be considered objective. Whatever compensation he received from Mr. Alford is highly inappropriate to say the very least, and his demand from JR for \$4,000 minimum to be paid in advance of his deposition, lest he ignore a subpoena and violate the rules of procedure and evidence, is extortive in nature.

#### 4. Dr. Perkins Has Never Once Explained His Methods for Examining SR

At this point in the proceedings. Dr. Perkins' basic qualifications and professional ability to perform his duties in this matter are questionable at best. Referring to his report, nowhere does he explain the methodology used to examine SR. The report cites conclusions, but no methods.

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<sup>2</sup> In Dr. Perkins' attached Motion to Quash (*Ex. A*), he refers to multiple subdivisions of Miss. R. Civ. Proc. 26, none of which apply to “court appointed” expert witnesses. (*Id.* ¶ 6). He also erroneously and with no legal grounds claims attorney AND medical privilege from testifying. (*Id.* ¶ 8).

When provided the opportunity during his court testimony to explain his methods, he could not answer how he came to his conclusions or the methods that he used. Just that he used some undisclosed method:

**Mr. Alford:** And so, when you are court ordered to do the Independent Medical Examination for an individual under the GAP Act, can you tell the Court how you go about doing that?

**Dr. Perkins:** So I begin off with having just a verbal conversation with the individual and doing what is considered a psychiatric evaluation, which is a *standardized process*<sup>3</sup> for which that we do. And then I follow that with *any appropriate testing*<sup>4</sup> that would be necessary to help clarify diagnosis and level of impairment that someone might have. If that individual -- if either the court order or the individual raises other issues during my interview, such as testamentary capacity, I may ask those questions at that time as well.  
(*Ex. C-200-201*).

Dr. Perkins then concluded that SR had testamentary capacity after a brief conversation at the courthouse, that took place unbeknownst to JR. Dr. Perkins took the stand to explain this...

**Mr. Alford:** Now, coming forward to today and talking about Mr. Sullivant and his testamentary capacity, have you had a chance to talk with him again today?

**Dr. Perkins:** Yes. We met for 20 to 30 minutes this morning before coming over to the courthouse.

**Mr. Alford:** And, again, in your opinion, he has the testamentary capacity to execute a will to devise his property where he wants it to go?

**Dr. Perkins:** He does. He does. He'll -- if given freeform speech, he will spiral off and kind of go down rabbit holes and kind of miss the topic of the conversation. But with redirection, he is still able to demonstrate capacity and retention of the ability to identify those prongs of testamentary capacity.  
(*Ex. C-202*).

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<sup>3</sup> “*Standardized Process*”: Does not explain this process.

<sup>4</sup> “*Appropriate Testing*”: Does not explain what tests or what these undisclosed tests were “appropriate” for determining.

Finally, Dr. Perkins inappropriately and on the basis of zero authority, recommends a “neutral and independent conservator” in his report and his testimony, which unironically is a very favorable opinion for Mr. Alford. (*Ex. B*); (*Ex. C-203*). It is very interesting that Dr. Perkins can find no place in his report to explain how he reached his medical conclusions and the methods he employed but certainly does not forget to include a wholly inappropriate legal conclusion related to who should be conservator, which coincidentally was exactly who Mr. Alford chose as well. The court should not have allowed this opinion in the first place, and it should be stricken now... “[A]llowing an expert to give his opinion on the legal conclusions to be drawn from the evidence both invades the court's province and is irrelevant.” *Owen v. Kerr-McGee Corp.*, 698 F.2d 236, 240 (5th Cir. 1983).” *Neel v. Fannie Mae*, CIVIL No. 1:12cv311-HSO-RHW, at \*7 (S.D. Miss. Mar. 20, 2014).

### CONCLUSION

Allowing Dr. Perkins to continue on this case would be wholly inappropriate. He admitted under oath to taking money from one party, he has violated multiple court rules, a lawfully issued subpoena, and lied under oath. Dr. Perkins cannot explain his methodologies or how he arrives at his conclusions. He conducted pseudo-evaluation of SR in a courthouse hallway minutes before a hearing and attempted to procure a \$4,000 minimum payment for his deposition from JR. Put bluntly, Dr. Perkins has acted in overt disregard for the Mississippi Rules of Procedure, Rules of Evidence, and the AMA’s ethical standards. It appears that Dr. Perkins knows all of this, and his trepidation about being deposed on such matters is not a fact he is even trying to hide. Dr. Perkins refused to even communicate with JR for months and then filed a motion to quash his subpoena citing made up rules of procedure and incorrect statutes. He also attempted to avoid deposition by citing his own outrageous fees and demanding \$4,000 upfront.

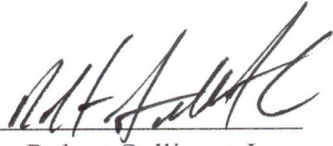
**WHEREFORE**, Defendant and Third-Party Plaintiff Robert Sullivant Rr hereby requests the following:

1. That Dr. Frank Perkins be held in civil contempt for lying under oath, violating Mississippi Code, violating AMA ethics for expert witnesses, completely abandoning his duties as a court appointed expert witness, and accepting compensation from Mr. Alford

in a manner and means which also violate the foregoing authorities, while completely ignoring JR and illicitly attempting to procure fees from him,

2. That the testimony, reports, and records provided by Dr. Perkins in this matter be stricken, or, in the alternative,
3. That Dr. Perkins be compelled by court order to attend deposition on July 24<sup>th</sup>, 2023, at 10am, at his office in Flowood Mississippi, and,
4. JR further requests a protective order for any deposition of Dr. Perkins which bars Freeland Martz PLLC., from being present and representing Dr. Perkins due to the direct conflict of interest raised in JR's *Response to Motion to Quash*, attached hereto as *Exhibit E*.

Respectfully Submitted: June 30, 2023.

/s/   
Robert Sullivan Jr.  
*Defendant/Third-Party Plaintiff*

## CERTIFICATION

I, Robert Sullivant Jr, hereby certify that on June \_\_, 2023, I served a copy of the foregoing Motion and all attachments referenced therein to the below counsel of record:

Swayze Alford, Esq. (MSB #8642)  
Kayla Ware, Esq. (MSB #104241)  
Post Office Drawer 1820  
Oxford, Mississippi 38655  
(662) 234-2025 phone  
(662) 234-2198 facsimile

*Attorneys For Plaintiff and  
Third-Party Defendant  
Robert Sullivant Sr.*

Freeland Martz PLLC.  
302 Enterprise Drive, Suite A  
Oxford, MS 38655  
Phone 662.234.17111  
Fax 662.234.1739  
hale@freelandmartz.com

*Attorneys for Dr. Frank Perkins*

As a courtesy, a copy of this Motion and attachments was also sent to Third-Party Defendant Evelyn Stevens, although she has yet to appear in this matter, to the below address of court record:

Mary H. "Evelyn" Stevens  
217 Country Road 436  
Tulsa, MS 38655

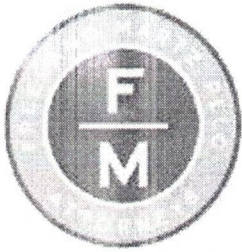
Dated: June 30, 2023.

/s/ 

Robert Sullivant Jr.  
1062 Crawford Cir.  
Oxford, MS 38655  
robert@steelandbarn.com  
(512) 739-9915



# EXHIBIT A



FREELAND MARTZ

ATTORNEYS

J. Hale Freeland  
Admitted in MO, MS, & TN  
[hale@freelandmartz.com](mailto: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*

**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**

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**MOTION TO QUASH**

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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.

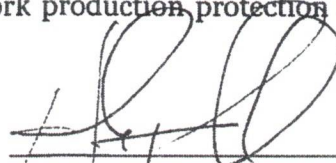
6. According to Miss R. Civ. P 26 (C)(E)(i), before Dr. Perkins is required to appear, "the court shall require that the party seeking discovery taking the deposition of an opposing party's expert who has been specially retained or employed to present expert testimony at trial to pay the expert a reasonable 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 be 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.



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J. HALE FREELAND

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Oxford, Mississippi 38655  
(662) 234-1711  
[hale@freelandsmartz.com](mailto: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](mailto:salford@swayzealfordlaw.com)

Robert Sullivant Jr.  
[robert@steelandbarn.com](mailto:robert@steelandbarn.com)

This, the 8<sup>th</sup> day of June, 2023.



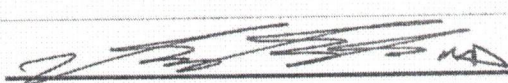
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J. HALE FREELAND

# EXHIBIT B

## MEDICAL AFFIDAVIT

Please complete this form to the best of your knowledge and ability.

Today's Date: 1/27/2023		Referring Court: Lafayette			
<b>EXAMINER INFORMATION</b>					
Examiner's Last Name: Perkins		First: Frank	Middle: N	Specialty: Psychiatry	
Hospital / Medical Group Affiliation: Precise Forensic Services, PLLC		Years Practicing: 7	State of Licensure: MS		
Address: 3531 Lakeland Drive, Suite 1060 Flowood, MS 39232		Designation: M.D. <input checked="" type="checkbox"/> D.O. <input type="checkbox"/> N.P. <input type="checkbox"/> P.A. <input type="checkbox"/>		Ph.D. <input type="checkbox"/>	
<b>§§ 93-20-305 &amp; 407</b>					
<b>Professional evaluation</b>					
<p>The chancery court must conduct a hearing to determine whether a guardian/conservator is needed for the respondent. Before the hearing, the court, in its discretion, may appoint a guardian ad litem to look after the interest of the person in question; the guardian ad litem must be present at the hearing and present the interests of the respondent.</p> <p>The chancery judge shall be the judge of the number and character of the witnesses and proof to be presented, except that the proof must include certificates made after a personal examination of the respondent by the following professionals, each of whom shall make in writing a certificate of the results of that examination to be filed with the clerk of the court and become a part of the record of the case, two (2) licensed physicians; or one (1) licensed physician and either one (1) licensed psychologist, nurse practitioner, or physician's assistant.</p> <p>The personal examination may occur face-to-face or via telemedicine, but any telemedicine examination must be made using an audio-visual connection by a physician licensed in this state and as defined in Section 83-9-351. A nurse practitioner or physician assistant conducting an examination shall not also be in a collaborative or supervisory relationship, as the law may otherwise require, with the physician conducting the examination. A professional conducting an examination under this section may also be called to testify at the hearing.</p>					
<b>§ 93-20-301</b>					
<b>Basis for appointment of guardian</b>					
<p>The court may appoint a guardian for an adult when the respondent lacks the ability to meet essential requirements for physical health, safety or self-care because the adult is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services or technological assistance; or the adult is found to be a person with mental illness or a person with an intellectual disability as defined in Section 41-21-61 who is also incapable of taking care of his or her person.</p>					
<b>§ 93-20-401</b>					
<b>Basis for appointment of conservator</b>					
<p>The court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that the adult 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; the adult is missing, detained, incarcerated, or unable to return to the United States.</p>					
Signature					
Date		1/27/2023			
<b>PATIENT INFORMATION</b>					
Patient's Last Name: Sullivant		First: Robert	M: Burnell	Marital Status: Divorced	
Is this the patient's legal name?	If not, what is his / her legal name?	Former name:	Birth date:	Age:	Sex:
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			11/19/1933	89	<input checked="" type="checkbox"/> M <input type="checkbox"/> F
Address: 100 Azaela Drive Apt 153 Oxford, MS 38655					
Have you treated this patient in the past for his / her medical needs, whether related or unrelated to this exam?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, indicate the dates and circumstances within the last year, and / or reference if you have been the patient's personal physician for a period of time and the time frame:			
Did a friend or family member accompany the patient during your examination?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Name / Relationship to Patient:		Is this the patient's primary caretaker?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		Phone Number:			

If the above named individual is not the patient's primary caretaker, who is? (Name / Phone / Relationship to Patient):

**EVALUATION**

**MEDICAL HISTORY – Physical**

Has the patient experienced	Physical Impairments or Chronic Pain:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
	Chronic Diseases or Illnesses:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
	Surgery within the past year	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
Are there any physical limitations affecting the patient's	Activities of Daily Living	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
	Cognitive / Memory Abilities	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
In the last six months, has the patient had:	Hospitalizations	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
	Therapy or Treatment	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
	Psychological or Psychiatric Testing	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
Patient's Current Condition / Status of Physical Illnesses: Mr. Sullivant appears to have stable impairments in mobility requiring a walker and chronic medical condition of hypertension which he takes medications for.		
History of Substance Abuse / Use	<input checked="" type="checkbox"/> Denies Substance Use <input type="checkbox"/> Prescribed Medications Only	
Drug(s) of Choice and Age of Onset:	Has the Patient Previously Sought Addiction Treatment?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Patterns of Substance Use / Abuse	How Much:	How Often:
	Methods of Use: <input type="checkbox"/> Oral <input type="checkbox"/> Snort <input type="checkbox"/> Inject <input type="checkbox"/> Insert <input type="checkbox"/> Inhale <input type="checkbox"/> Other: _____	

**MEDICAL HISTORY – Mental**

Previous Psychiatric Issues: Patient denies any past psychiatric issues.	
Do these psychiatric / mental illnesses affect the patient's ability to take care of him / herself?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the patient suffer from a developmental and / or intellectual disability?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Previous In-Patient or Out-Patient Psychiatric Treatment (with dates and location): Patient denies and past inpatient or outpatient psychiatric treatment.	
Does the Patient Indicate Homicidal Ideation or Behavior?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the Patient Indicate Suicidal Ideation or Behavior?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Describe Other Counseling and / or Therapeutic Experiences: None known	
Set forth the results of any tests which bear on the issue of incapacity and date of test (attach results if necessary): MOCA (1/17/2023) - 20/30, Clock Drawing Impaired, Trail A 73 seconds, Trail B 300 sec (did not complete)	
<b>Traumatic Event Exposure / History</b> (Where applicable, identify type and date of event): <input type="checkbox"/> Serious Accidents: _____ <input type="checkbox"/> Natural Disaster: _____ <input type="checkbox"/> Witness to Traumatic Event: _____ <input type="checkbox"/> Sexual Assault: _____ <input type="checkbox"/> Physical Assault: _____ <input type="checkbox"/> Childhood Molestation: _____ <input type="checkbox"/> Close Family / Friend Murdered: _____ <input type="checkbox"/> Homelessness: _____ <input type="checkbox"/> Victim of Stalking / Bullying: _____ <input checked="" type="checkbox"/> N / A <input type="checkbox"/> Other (Specify): _____	<b>Social / Cultural History</b> (Note / Describe Relationships as Appropriate): Parents: <input type="checkbox"/> Close <input type="checkbox"/> Amicable <input type="checkbox"/> Estranged <input checked="" type="checkbox"/> Other: <u>Deceased</u> Spouse / Partner: <input type="checkbox"/> Close <input type="checkbox"/> Amicable <input type="checkbox"/> Estranged <input checked="" type="checkbox"/> Other: <u>Deceased</u> Children: <input type="checkbox"/> Close <input type="checkbox"/> Amicable <input checked="" type="checkbox"/> Estranged <input type="checkbox"/> Other: _____ Siblings: <input type="checkbox"/> Close <input type="checkbox"/> Amicable <input type="checkbox"/> Estranged <input checked="" type="checkbox"/> Other: <u>N/A</u> Other Family: <input checked="" type="checkbox"/> Close <input type="checkbox"/> Amicable <input type="checkbox"/> Estranged <input type="checkbox"/> Other: _____ Friends / Colleagues: <input checked="" type="checkbox"/> Close <input type="checkbox"/> Amicable <input type="checkbox"/> Estranged <input type="checkbox"/> Other: _____

Indication of Functional Limitations (Check Major Life Areas Affected)	<input type="checkbox"/> Basic Living Skills (eating, bathing, dressing, etc.)
	<input checked="" type="checkbox"/> Instrumental Living Skills (maintaining a home, managing money, local travel, taking medications, etc.)
	<input checked="" type="checkbox"/> Social Functioning (ability to function within the family, vocational or educational settings, other social contexts)

Does the patient have the mental or physical capacity to effectively manage his / her property?  Yes  No  Undetermined

Does the patient have the mental or physical capacity to make necessary daily living and health care decisions?  Yes  No  Undetermined

Initial Behavioral Observations	Speech	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Slowed <input type="checkbox"/> Mechanical <input type="checkbox"/> Rapid <input type="checkbox"/> Other: _____
	Behavior	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Withdrawn <input type="checkbox"/> Bizarre <input type="checkbox"/> Volatile <input type="checkbox"/> Other: _____
	Appearance	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Disheveled <input type="checkbox"/> Unclean <input type="checkbox"/> Inappropriately Dressed <input type="checkbox"/> Other: _____
	Mood	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Manic <input type="checkbox"/> Depressed <input type="checkbox"/> Labile <input type="checkbox"/> Irritable <input type="checkbox"/> Other: _____
	Affect	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Flat <input type="checkbox"/> Labile <input type="checkbox"/> Other: _____
	Oriented To	<input checked="" type="checkbox"/> Place <input checked="" type="checkbox"/> Time <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Situation <input type="checkbox"/> Other: _____
	Thought Content	<input checked="" type="checkbox"/> Appropriate <input type="checkbox"/> Incoherent <input type="checkbox"/> Obsessive <input type="checkbox"/> Other: _____
	Memory	<input type="checkbox"/> Appropriate <input type="checkbox"/> Repressed <input checked="" type="checkbox"/> Confused <input checked="" type="checkbox"/> Other: <u>Impaired in Short Term and Long Term</u>
	Judgment / Insight	<input type="checkbox"/> Appropriate <input checked="" type="checkbox"/> Impaired <input type="checkbox"/> Suicidal <input type="checkbox"/> Homicidal <input type="checkbox"/> Other: _____

**Comments on Mental / Physical Health:** Mr. Sullivant's presentation is most consistent with a Major Vascular Neurocognitive Disorder without Behavioral Disturbance. This is evidenced by impairments in memory, language, and visiospatial/executive function as demonstrated in testing and clinical impression during his interview. He has an awareness and ability to voice his wishes and needs but due to his impaired cognitive function does not have the capacity to consistently execute those wishes and needs. There are lucid intervals in his illness that enable him to inform those assisting with his affairs of his wishes, but due to the nature of his illness he cannot consistently provide that direction nor appropriately engage or execute contracts. He will be best served by a neutral, independent conservator to manage his finances with his direction and a family member or concerned party who he is agreeable with helping to manage his person.

**SUMMARY / RECOMMENDATION**

This Evaluation was Conducted (Check all that Apply):	<input checked="" type="checkbox"/> In Person <input type="checkbox"/> Via Audiovisual Telemedicine <input type="checkbox"/> At Hospital / Medical Office <input type="checkbox"/> At the Patient's Residence
	<input type="checkbox"/> Other: _____
If via Telemedicine, who assisted you with the evaluation? (Name, Designation)	Your Mississippi License Number: <b>25109</b>

Diagnosis	Did you perform a physical exam on the patient? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Did any concerns result from the physical exam? <input type="checkbox"/> Yes: _____ <input type="checkbox"/> No <input type="checkbox"/> N/A
	Based on the foregoing evaluation:	<input checked="" type="checkbox"/> I DO <input type="checkbox"/> I DO NOT believe this patient is a person incapable of managing his / her own person under § 93-20-301 or financial affairs under §93-20-401, and is in need of a Guardian and / or Conservator (check all that apply): <input type="checkbox"/> Guardian (Person) <input type="checkbox"/> Conservator (Financial Affairs) <input checked="" type="checkbox"/> Both
		I find that the patient is in need of treatment <input type="checkbox"/> Temporarily <input checked="" type="checkbox"/> Permanently <input type="checkbox"/> Other: _____
	I recommend the Court require re-evaluation in:	<input type="checkbox"/> 60 days <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Other: _____

**Summary of Diagnosis:** Major Vascular Neurocognitive Disorder without Behavioral Disturbance

I, Frank Perkins, MD, the above named examiner, certify that this patient's **examination** was completed on (date) 01/17/2023  
at (time) 1400, and that this **evaluation and recommendation** was completed on (date) 01/27/2023 at (time) 1500.

I hereby certify that that the facts stated above, and the information contained in this report, are true to the best of my knowledge and belief.

Signature



Printed Name

Frank Perkins MD

Date

1/27/2023

1 CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

2

3

4 ROBERT SULLIVANT, SR. PLAINIFF

5 VS. CAUSE NO. CV-2021-612

6 ROBERT SULLIVANT, JR. DEFENDANT

7

8 \*\*\*\*\*

9 TRANSCRIPT OF THE MOTIONS 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 9TH DAY OF MAY, 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

24

25 Present and Pro Se:

26

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

1 right.

2 BY MR. SWAYZE ALFORD:

3 Q. Dr. Perkins, were you appointed by court  
4 order in this matter to do an Independent Medical  
5 Examination on Mr. Robert Sullivant, Sr.?

6 A. I was.

7 Q. And did you do that?

8 A. I did.

9 Q. Do you remember when that occurred?

10 A. I evaluated him on the 17th of January of  
11 this year, and then I finalized a report on I  
12 believe it was the 27th.

13 Q. All right. Let me hand you a medical  
14 affidavit and ask you if you recognize that.

15 A. Yes, this is my report that I formulated  
16 in this matter.

17 Q. And so when you are court ordered to do  
18 the Independent Medical Examination for an  
19 individual under the GAP Act, can you tell the Court  
20 how you go about doing that?

21 A. So I begin off with having just a verbal  
22 conversation with the individual and doing what is  
23 considered a psychiatric evaluation, which is a  
24 standardized process for which that we do.

25 And then I follow that with any  
26 appropriate testing that would be necessary to help  
27 clarify diagnosis and level of impairment that  
28 someone might have.

29 If that individual -- if either the court



1 order or the individual raises other issues during  
2 my interview, such as testamentary capacity, I may  
3 ask those questions at that time as well.

4 Q. So in that evaluation of Mr. Sullivant in  
5 January, did you make those determinations or  
6 evaluations on testamentary capacity then?

7 A. I did.

8 Q. And what was your opinion about his  
9 testamentary capacity?

10 A. That at that time he did -- he did retain  
11 the capacity to form testament.

12 Q. And what were the reasons that you went  
13 into that with Mr. Sullivant, Sr.?

14 A. So from a forensic psychiatric standpoint,  
15 which is where mental health and the law interact,  
16 where we have been trained and where I have been  
17 taught is the things that we pay attention to is due  
18 to mental illness or dementia or any cognitive  
19 impairment is there an impairment in the ability to  
20 know who ones natural heirs are, what the assets  
21 that they hold are, what would happen without a will  
22 in place, and who they want to formulate the will.

23 It is less important about the why that  
24 they want to formulate the will, as long as they  
25 don't have a psychotic disorder that would make  
26 their reasonings outside of reality.

27 So it is most important that they have the  
28 capacity to know the facts of what a testament or a  
29 will would be, and then have -- do they have the

1 in January?

2 A. Correct.

3 Q. And just to be clear, this is not  
4 something you and I even talked about?

5 A. Correct.

6 Q. Now, coming forward to today and talking  
7 about Mr. Sullivant and his testamentary capacity,  
8 have you had a chance to talk with him again today?

9 A. Yes. We met for 20 to 30 minutes this  
10 morning before coming over to the courthouse.

11 Q. And, again, in your opinion, he has the  
12 testamentary capacity to execute a will to devise  
13 his property where he wants it to go?

14 A. He does. He does. He'll -- if given  
15 freeform speech, he will spiral off and kind of go  
16 down rabbit holes and kind of miss the topic of the  
17 conversation.

18 But with redirection, he is still able to  
19 demonstrate capacity and retention of the ability to  
20 identify those prongs of testamentary capacity.

21 Q. And, again, in your opinion, he is aware  
22 of what his estate is?

23 A. Yes. Yes.

24 Q. And he can articulate and express to you  
25 how he wants that estate to be devised by a will?

26 A. Yes.

27 Q. You put in your report, I believe, you  
28 know, that he does have an awareness and an ability  
29 to voice his wishes and needs, I think, was

1 something you stated?

2 A. I did.

3 Q. So in terms of knowing what he wants and  
4 how to express that, he can do that?

5 A. Yes.

6 Q. What you said was that he needs --  
7 sometimes he needs somebody to help carry out what  
8 he wants to do?

9 A. Correct. Correct.

10 Q. And as it relates to his will, he was able  
11 to express that awareness and that desire? He was  
12 able to express that to you?

13 A. Yes, sir.

14 Q. Do I understand, it's in your report --  
15 and Judge Whitwell has already appointed a  
16 conservator.

17 But your opinion was a conservator but one  
18 that was independent?

19 A. Correct.

20 Q. And someone that would be neutral?

21 A. Correct.

22 Q. I think you heard Judge Whitwell appoint  
23 Chancery Clerk, Sherry Wall, in that capacity.

24 And I'm assuming you would agree that that  
25 is somebody who is neutral and independent and they  
26 could do --

27 A. Very common appointee, the chancery clerk.  
28 Very common.

29 MR. SWAYZE ALFORD: Tender the

1 witness, Your Honor.

2 HONORABLE ROBERT Q. WHITWELL: Okay.  
3 Cross-examination, Mr. Sullivant, Jr.?

4 MR. ROBERT SULLIVANT, JR.: Excuse  
5 me, sir?

6 HONORABLE ROBERT Q. WHITWELL: I  
7 said, cross-examination --

8 MR. ROBERT SULLIVANT, JR.: All  
9 right. Thank you.

10 HONORABLE ROBERT Q. WHITWELL: -- Mr.  
11 Sullivant, Jr.

12 That's the only way I know how to  
13 distinguish you.

14 MR. ROBERT SULLIVANT, JR.: I know.  
15 I just couldn't hear you. I'm sorry.

16 Well, first, I would like to say that  
17 having Dr. Perkins here as a witness was a  
18 complete surprise to me.

19 It wasn't mentioned anywhere in the  
20 motion that he would be a witness, so I  
21 haven't really had a chance to prepare to  
22 cross-examine him, but I did have some  
23 questions I did want to ask him.

24 As a matter of fact, I tried to  
25 depose Dr. Perkins, but he was very  
26 uncooperative in the -- in the deposition  
27 process.

28 And that was one of the other things  
29 I was going to amend or wanted to postpone

1 the trial was for the conservatorship, but  
2 since I had filed that emergency petition,  
3 I didn't think that would be needed.

4 But I have attempted to depose  
5 Dr. Perkins because I found his report to  
6 be a little bit unusual, and I wanted to  
7 ask him some more about it. And I was  
8 denied that opportunity.

9 He did contact Mr. Alford, and he  
10 would not contact me but said I had to  
11 contact Mr. Alford in order to depose him,  
12 which I think that is improper.

13 So I'm really caught today without  
14 any basis to ask these questions.

15 HONORABLE ROBERT Q. WHITWELL: You've  
16 had his report; have you not?

17 MR. ROBERT SULLIVANT, JR.: I have  
18 his report right here.

19 HONORABLE ROBERT Q. WHITWELL: And  
20 you have had it for some time?

21 MR. ROBERT SULLIVANT, JR.: I have  
22 had it for some time, but I didn't come  
23 prepared today knowing that he would be  
24 here.

25 I wanted to ask him questions about  
26 it, but I didn't come here today -- it  
27 wasn't in a motion, and this was a  
28 complete surprise to me.

29 But I will go ahead and ask some

1 direction when he started going down that road  
2 because that was not important to me to know.

3 Q. So it wasn't -- so you decided at that  
4 point that his reason why just wasn't important, so  
5 you steered the conversation or the examination in a  
6 different direction?

7 A. I steered the examination towards the  
8 prongs of testamentary capacity because he doesn't  
9 have a psychotic illness, so I wasn't concerned  
10 about his reasonings why. It was just a matter of  
11 whether he could.

12 Q. And how did you reach the conclusion that  
13 he did not have a psychotic disease or illness?

14 A. During my IME.

15 Q. All right. When I did contact you, do you  
16 recall me trying to call you and -- at all to --

17 A. My staff was sending me messages. And the  
18 way that I have interacted in all courts was having  
19 the other party go through the retaining attorney  
20 that retained me to schedule things.

21 Q. Really?

22 A. Uh-huh (Indicating yes).

23 Q. Okay. So, therefore, you just didn't feel  
24 the need to respond to me at all?

25 A. I did not. It was not that I didn't need  
26 to respond to you, it was that the most appropriate  
27 road by which to schedule a deposition with me was  
28 through Mr. Alford.

29 Q. Okay. So is that, as you understand it,

# EXHIBIT D

-----  
From: **Hale Freeland** <[hale@freelandmartz.com](mailto: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](mailto:salford@swayzealfordlaw.com)>, <[roabter@steelandbarn.com](mailto:roabter@steelandbarn.com)>, Errol Castens <[errol@freelandmartz.com](mailto: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)(D), 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.

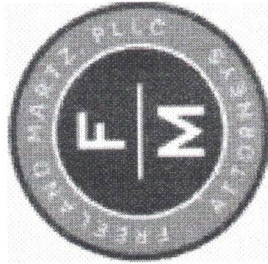
Hale

----- Forwarded message -----

**From:** Reed Martz <[reed@freelandmartz.com](mailto:reed@freelandmartz.com)>  
**Date:** Fri, Apr 28, 2023 at 10:41AM  
**Subject:** Re: Sullivant v Sullivant  
**To:** Robert Sullivant <[robert@steelandbarn.com](mailto: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](mailto:reed@freelandmartz.com) | [freelandmartz.com](http://freelandmartz.com)



02587





Robert Sullivant <robert@steelandbarn.com>

## Rules of Evidence

Hale Freeland <hale@freelandmartz.com>  
To: Robert Sullivant <robert@steelandbarn.com>  
Cc: Errol Castens <errol@freelandmartz.com>

Mon, Jun 12, 2023 at 8:00 AM

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,

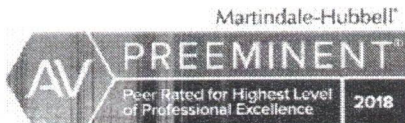
Hale

[Quoted text hidden]

--



**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 Sullivan <robert@steelandbarn.com>

**Fwd: 02587-Conservatorship of Robert Sullivan, Sr.**

Hale Freeland <hale@freelandmartz.com>

Mon, Jun 12, 2023 at 8:00 AM

To: Robert Sullivan <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.

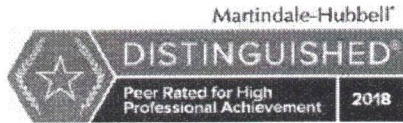
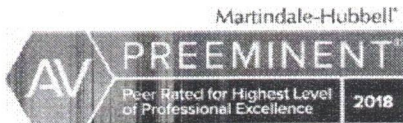
Hale

[Quoted text hidden]

--



**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 Sullivan &lt;robert@steelandbarn.com&gt;

---

**deposition**

---

**Robert Sullivan** <robert@steelandbarn.com>  
To: fperkins@preciseforensicservices.com

Wed, Mar 1, 2023 at 5:48 PM

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 Sullivan Sr v Sullivan 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 Sullivan, Jr.  
512-739-9915

# EXHIBIT E

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

FILED  
CLERK OF COURT  
2023 JUN 13 AM 9:07  
CHANCERY COURT  
LAFAYETTE COUNTY, MISSISSIPPI  
JR

ROBERT SULLIVANT, SR.,  
PLAINTIFF,

v.

ROBERT SULLIVANT, JR.,  
DEFENDANT.

CASE NO. 2021-612(W)

ROBERT SULLIVANT JR.,  
THIRD-PARTY PLAINTIFF,

v.

ROBERT SULLIVANT SR.,  
and EVELYN STEVENS,  
THIRD-PARTY DEFENDANTS.

---

## DEFENDANT AND THIRD-PARTY PLAINTIFF ROBERT SULLIVANT JR'S OBJECTION TO THE MOTION TO QUASH FILED BY DR. FRANK PERKINS

---

Comes now, defendant and third-party plaintiff Robert Sullivan Jr, and hereby submits the following objection to the Motion to Quash filed by the court appointed expert witness in this matter, Dr. Frank Perkins. It is highly irregular and quite suspicious that the court appointed expert witness in this matter, who's deposition JR is entitled by statute to take, is filing a motion to quash.

As an initial matter, the *Motion to Quash* filed by Attorney Freeland must be stricken. As Mr. Freeland is aware, his involvement in this action is highly improper as he participated in a consultation for this case with JR and is in possession of confidential and privileged information regarding such. (*Bates No. 003*). It is absolutely improper for Mr. Freeland to become an adversary to JR in this action and he should be barred from representing Dr. Perkins in any fashion as it relates to this matter due to this overt conflict of interest.

**SCANNED**

Dr. Perkins' Motion makes clear that he is under the mistaken impression that he is the expert witness for *Mr. Alford* and not a neutral, court appointed expert. Hence, the irrelevant reference to Miss. R. Civ. Proc. 26 in paragraph 6 on Perkins' Motion. Dr. Perkins has refused to return correspondence from JR for months, and he admitted on the record at the hearing on May 8th that this is because it is Mr. Alford who "retained him". If Dr. Perkins is being paid by a retainer from Mr. Alford, it is not for his neutral testimony in this matter and must be for some other reason.

Dr. Perkins does not cite a single actual authority to support his Motion to Quash. Instead, he attempts to intentionally mislead JR and the court by referencing authority that does not exist or is completely irrelevant. He then attempts to claim that he has a privileged relationship with Mr. Alford and his client. Again, Dr. Perkins is not the expert witness for Mr. Alford. No privileged relationship can exist between a neutral court appointed expert witness and one party to the case at the expense of the other. It is obvious that the duties of a court appointed expert witness would come in direct conflict with such a relationship, which apparently has still become the case here. It is clear that Dr. Perkins does not consider himself neutral and believes that he works only for Mr. Alford.

Finally, Attorney Freeland has unnecessarily, unprofessionally, and unethically interjected himself into these proceedings under false pretenses of law in an attempt to harass and intimidate JR. Mr. Freeland's Motion is an overt and illegal abuse of the legal process. Mr. Freeland has no right to enter this case, quash a lawfully issue subpoena from this court, quote non-existent and irrelevant law in support thereof, and drag one of the parties to a hearing over two hours away on the exact same day he refuses to provide his client for deposition.

### **RESPONSE TO MOTION TO QUASH**

Sullivant Jr. provides the following direct responses to the Motion to Quash.

1. JR is not required per any statute or controlling law to inquire as to Dr. Perkins availability for the deposition and Dr. Perkins has previously admitted that he will not respond to correspondence from JR and has been further elusive when JR attempts to reach him. Accordingly, this is a bad faith argument. M.R.C.P 30(b)(1) requires that Dr. Perkins be

given “reasonable notice” of his deposition. Since Dr. Perkins is certainly on notice with over two weeks prior to the deposition, this notice is more than reasonable and comports with all relevant Mississippi Law.

2. This assertion is moot, and Dr. Perkins fails to explain why his unannounced and surprise testimony at a hearing precludes JR from taking his deposition. It does not. M.R.E 706(b)(2) clearly states that a court appointed expert witness “*may be deposed by any party*”, and the courts have consistently held to this... “Under the rule, the court-appointed expert may be deposed” *In re Miss. Rules of Evidence*, No. 89-R-99002-SCT, at \*73 (Miss. June 16, 2016); See also *Stewart v. Stewart*, 309 So. 3d 44 (Miss. Ct. App. 2020); *Hudspeth v. State Highway Com'n*, 534 So. 2d 210 (Miss. 1988).
3. It is agreed that this is what is stated in the notice.
4. This point is again moot as no statute or law precludes JR from deposing Dr. Perkins and in fact, the relevant Mississippi statutes explicitly allow for it. Dr. Perkins being called to testify at a hearing unexpectedly and JR being allowed exercise his right to ask questions is not even close to the same thing under the law as conducting a deposition for which JR can prepare and ask questions relative to his claims. Dr. Perkins does not get to make final determinations on what is and is not relevant to JR’s claims.
5. First, Dr. Perkins willingness to testify is not a factor. He has been lawfully subpoenaed by JR and has not raised a credible legal reason why he, or any other court appointed expert witness should be allowed to quash a lawfully issued subpoena. He provides no caselaw or authority to support this position, which is completely misguided and supported by irrelevant law. Second, Dr. Perkins is again a *court appointed* expert witness. Therefore, he does not set his own fees in this case, and this is a matter of established law. Miss. R. Evid. 706(c) governs his *reasonable fees* in this matter and it explicitly states that “[t]he expert is entitled to a reasonable compensation, *as set by the court.*” Dr. Perkins’ frivolous and transparent attempt to try and price JR out of deposing him should be noted as well.

Rule 706 also provides that the expert "*may be deposed by any party.*" *Stewart v. Stewart*, 309 So. 3d 44, 72 (Miss. Ct. App. 2020).

6. Here, Dr. Perkins erroneously cites Miss. R. Civ. P 26(C)(E)(i), stating that "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."

As a neutral court-appointed expert, Dr. Perkins' testimony is governed by MRE 706 and NOT Miss. R. Civ. Proc. 26. Nowhere in Miss. R. Civ. Proc. 26 are court appointed expert witnesses discussed, and Rule 26 cites to MRE 702, 703, and 705, and specifically omits Rule 706 governing expert testimony. Mr. Freeland, being a seasoned attorney, should certainly know the difference in procedure as it relates to a party's expert, and a court appointed expert. They are indeed governed by completely different statutes and Rule 26 is not applicable here.

The advisory committee has also stated the following in regard to Rule 706 – "The essence of Rule 706 is contained in subdivision (a). Subdivision (a) provides specifically for the appointment of an expert either on the motion of a party or on the judge's own motion. It also provides for input by the parties into the selection process. *Under the rule, the court-appointed expert may be deposed.* Any party, including the party calling the expert, may cross-examine him. This rule was amended in 1988 in *Hudspeth v. State Highway Commission of Mississippi*, 534 So. 2d 210 (Miss. 1988)." See *In re Miss. Rules of Evidence*, No. 89-R-99002-SCT, at \*73 (Miss. June 16, 2016).

The subdivisions in Miss. R. Civ. Proc. 26 which cite to the rules of evidence, cite only to the rules related to a *party's* expert witness (MRE 702, 702, 705) and intentionally do not include Rule 706 governing court appointed experts.

Dr. Perkins argues his motion as though he is the expert witness for Mr. Alford. By citing Rule 26 above, which governs the taking of depositions from an *opposing party's expert*, not a *court appointed* expert, Dr. Perkins must be reminded that he is not Mr. Alford's expert witness.

Therefore, his testimony pertaining to this matter is governed by Mississippi Rule of Evidence 706, and his subpoena is governed by Rule 45. There is no consideration in Rule 26 related to a court appointed expert witness. Rule 26 guidelines on witnesses specifically refer to Mississippi Rules of Evidence 702, 703 and 705, but omits rule 706 pertaining to expert witnesses and it does so for a reason; because the testimony of experts who are *court appointed* is not governed whatsoever by Rule 26.

In their Notice of Motion to JR, sent via email on June 8<sup>th</sup>, 2023, Dr. Perkins also attempts to cite “Miss. R. Civ. Proc. 16(b)(1)”, which does not even exist. (*Bates No. 002*).

7. As has been pointed out above, Dr. Perkins, as a matter of law, does not set his own fees in this case and accordingly JR could not have possibly inquired to him as to what they may be. Dr. Perkins would not have the authority to set his own fees in this case. It is also clearly evident from Miss. R. Evid 706(c)(2), which is the correct statute to apply here, that JR does not have to tender payment prior to the deposition and Dr. Perkins cites no authority to the contrary...

“The compensation is payable as follows: in any other civil case, by the parties in the proportion and *at the time that the court directs* - and the compensation is then charged like other costs.” *Miss. R. Evid 706(c)(2)*.

8. Dr. Perkins cannot argue that he has a privileged relationship with Mr. Alford when he is a court appointed expert witness. Clearly, the neutrality of Dr. Perkins has been severely compromised. There is also no medical privilege, as Dr. Perkins was not appointed to keep his results and opinions confidential as a private physician, and he knows this. He is an expert witness and is required, pursuant to Miss. R. Evid. 706(b)(1), to “advise the parties of *any findings* the expert makes.” The term “any findings” is unambiguous, it means *any* findings. Dr. Perkins cannot claim that his conversations and notes are privileged and confidential under any scenario when he is a court appointed expert witness. Dr. Perkins was not retained by Mr. Alford, he was retained by the Court, and that is where his duty lies, to the court, and *both parties*, not just to Mr. Alford and his client.



The fact that Dr. Perkins also set this motion to be heard on the exact same date as his deposition and two hours from the venue of this case is the epitome of bad faith and is obvious harassment. It should of great concern that the expert witness appointed to testify neutrally and truthfully, is actually now engaging in gamesmanship with the court and on behalf of one party. Dr. Perkins should be held in contempt of court for failing to obey a lawfully issued subpoena if he fails to appear for this deposition. If Dr. Perkins does not wish to be deposed or have to take a day off from his practice to testify, then he should not offer himself to the court as a neutral expert. He does not get to negate his legal responsibilities in this matter because he has a job, no matter how important or time consuming that job is. This is not a valid reason to quash *any* subpoena, let alone one directed at a court appointed expert. These types of tactics are beneath a supposedly neutral expert witness utilized by the court and should not be taken lightly.

The emails attached hereto demonstrate nothing less than intimidation and harassment of JR with no legal basis or justification. Mr. Hale condescendingly asks JR to explain to the court why he “he feels entitled to have [Perkins] appear for free.” (*Bates No. 004*). This is in fact Mr. Freeland’s mistake in analyzing the incorrect statute and concluding that Perkins sets his own fees in this matter and that JR must pay them directly to Dr. Perkins in advance. (*Bates No. 002*). It is Mr. Freeland who in facts fails to explain his erroneous position... that his client is entitled to quash his lawfully subpoenaed deposition when he is a court appointed expert witness and is required, by law, to be deposed by any party who wishes to do so. In blatantly undermining Mississippi law, Mr. Freeland is trying to collect fees of at least \$4,000 directly from JR to be paid to his client, and this is an overt violation of Rule 706(c)(2), stating that *the court* sets the fees for the expert, and the expert is paid at the time that the *court determines*.

Mr. Freeland than proceeds to demand documentary evidence that JR is not available for the hearing date and time set by Mr. Freeland without an Order of Setting nor ever conferring with JR, . (*Bates No. 005*). JR was available to depose Dr. Perkins in the afternoon. Mr. Freeland set the hearing for the morning when JR is not available. JR is under absolutely no obligation to disclose the details of his personal life to a non-party attorney in this matter, whose appearance in this case is illicit to begin with.

The Motion presented by Dr. Perkins is brought by an attorney who is in possession of privileged information related to JR. It also deliberately miscites Mississippi Law pertaining to


expert testimony and provides exactly zero support in the law or case history for this court to grant his request. Mr. Freeland's motion is an illicit and transparent abuse of process.

Dr. Perkins has been properly noticed and lawfully served with a clerk issued subpoena from this court to testify at deposition. He has no excuse anywhere within the law to not attend this deposition and his motion is completely void of any citations other than false ones. Under these circumstances, the court must enforce its rules, the rules of procedure, and the rules of evidence against Dr. Perkins under penalty of contempt. Dr. Perkins clearly does not want to be deposed and his efforts to avoid deposition should be concerning.

Dr. Perkins has been testifying as an expert long enough to know the rules and the fact that he wants to quash a subpoena begs the question, why? He volunteered to be an expert witness in this matter, compensated by the court, and on the court's terms. He agreed to all of the rules governing his involvement in this matter, and now that he has done his work for Mr. Alford, he wants to be excused from answering any further questions. He also asking that this court ignore black letter law and the plain language in the applicable statutes, in favor of Mr. Freeland's malicious and improper motion, which applies an inapplicable statute and a completely incorrect legal analysis of the issue. This would be improper and highly prejudicial to JR, not to mention that it would directly conflict with the plain language of MRE 706 and the foregoing Mississippi caselaw.

WHEREFORE, in accordance with the foregoing, the *Motion to Quash* presented by Dr. Perkins should be stricken as it is authored by an attorney who entered this matter as an adversary to JR with an overt conflict of interest having previously consulted with him on this case. In the alternative, if the court does hear this Motion, it should be denied as meritless and without basis in any Mississippi law.

Dated: June 13, 2023.


/s/   
Robert Sullivan Jr.  
*Defendant/Third-Party Plaintiff*

**CERTIFICATION**

I, Robert Sullivant Jr. hereby certify that on June 2 2023, a copy of the foregoing RESPONSE TO DR. FRANK PERKINS MOTION TO QUASH, was served on the below attorneys of record for Dr. Frank Perkins and the plaintiff/third-party defendant in this matter via US Mail and Email.

FREELAND MARTZ PLLC.,  
J. Hale Freeland  
302 Enterprise Drive, Suite A I  
Oxford, MS 38655  
Phone 662.234.1711 I  
Fax 662.234.1739  
[hale@freelandmartz.com](mailto:hale@freelandmartz.com)  
*Attorney For Frank Perkins*

Swayze Alford  
1221 Madison Avenue  
Oxford, MS 38655  
*Attorney for Plaintiff Robert Sullivant, Sr.*

/s/   
Robert Sullivant Jr.

**Exhibit A**

Robert Sullivant &lt;robert@steelandbarn.com&gt;

**Deposition for Dr. Perkins**

Thu, Jun 8, 2023 at 10:39 AM

**Swayze Alford** <salford@swayzealfordlaw.com>  
To: Robert Sullivant <robert@steelandbarn.com>  
Cc: Lacey Whitaker <lacey@swayzealfordlaw.com>

Robert,

I had court today and was at the courthouse and happened to learn that you had filed a deposition subpoena for Dr. Perkins. I did not recall receiving a notice from you so I looked in my email and junk email to be sure that I had not overlooked the notice that is required by the Rules of Civil Procedure. I know that the U.S. Mail moves slowly but I have not received anything in the mail either. If you sent a notice to me, please let me know. It does not appear that a notice was filed with the court. I did review the deposition subpoena which states that the deposition will be taken in Oxford. Dr. Perkins may not object to coming to Oxford, but the Rules of Civil Procedure state that the deposition shall be taken in the county where the deponent is present.

Also, I would like to discuss with you the relevance of Dr. Perkins's testimony at this point. It seems that the issues to which he would testify have been addressed by the Court. Maybe this is something that we can discuss tomorrow.  
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:**

This message and any files transmitted with it are confidential and also contain legally privileged or proprietary information and protected by the attorney-client privilege, work product immunity or other legal rules. If you are not the named addressee, intended recipient and/or received this message by mistake you are not permitted to use, copy, forward or disclose it, in whole or in part, without the express consent of the sender. If you have received this email in error please notify the sender or system manager, and delete the foregoing message. E-mail transmissions cannot be guaranteed to be secure as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender does not accept liability for any errors or omissions in the contents of this message which arise as a result of e-mail transmission.

**001**



Robert Sullivant <robert@steelandbarn.com>

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

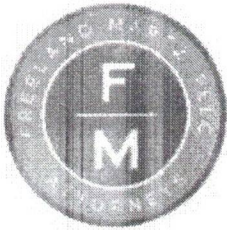
Errol Castens <errol@freelandmartz.com>

Thu, Jun 8, 2023 at 5:06 PM

To: rsullivantjr@gmail.com, "robert@steelandbarn.com" <robert@steelandbarn.com>

*what cant  
is this?* *wrong case #*

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 Sullivan (Laf 2021-612 (W)) Our file 02587

Gentlemen,

*does not exist*

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

*002*



Robert Sullivan <robert@steelandbarn.com>

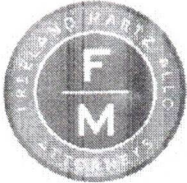
Sullivan v Sullivan

Reed Martz <reed@freelandmartz.com>  
To: Robert Sullivan <robert@steelandbarn.com>

Fri, Apr 28, 2023 at 10:41 AM

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

003



Robert Sullivan <robert@steelandbarn.com>

Rules of Evidence

Hale Freeland <hale@freelandmartz.com>  
To: Robert Sullivan <robert@steelandbarn.com>  
Cc: Errol Castens <errol@freelandmartz.com>

Mon, Jun 12, 2023 at 8:00 AM

Mr Sullivan,  
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,

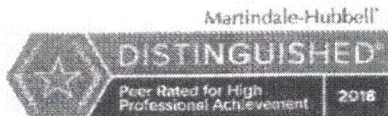
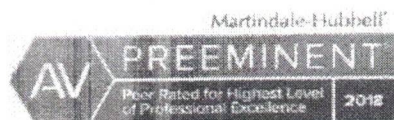
Hale

[Quoted text hidden]

--



**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 Sullivan <robert@steelandbarn.com>

**Fwd: 02587-Conservatorship of Robert Sullivan, Sr.**

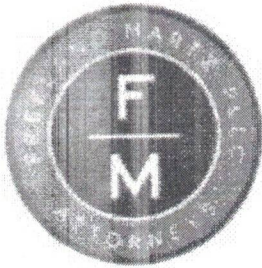
Hale Freeland <hale@freelandmartz.com>  
To: Robert Sullivan <robert@steelandbarn.com>  
Cc: Errol Castens <errol@freelandmartz.com>, Swayze <salford@swayzealfordlaw.com>

Mon, Jun 12, 2023 at 8:00 AM

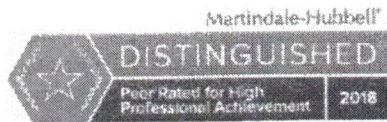
Mr. Sullinant,

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]  
--



**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>

### Rules of Evidence

Hale Freeland <hale@freelandmartz.com>

Mon, Jun 12, 2023 at 2:47 PM

To: Robert Sullivant <robert@steelandbarn.com>

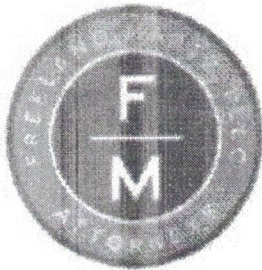
Cc: Swayze <salford@swayzealfordlaw.com>, Errol Castens <errol@freelandmartz.com>

Mr Sullivant,

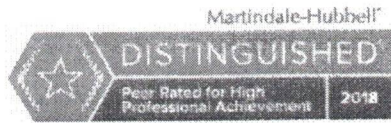
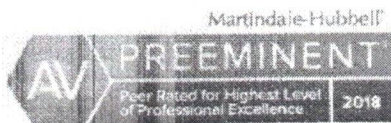
We will present the motion to quash at 9:30 am in Pittsboro unless you provide me something more than "I have an appointment" that might be more important than a hearing regarding the deposition of Dr. Perkins and our motion to quash. Dr. Perkins will not appear at your deposition as you have not complied with the prepersist for deposing him as set forth in the motion to quash and will not appear until that motion is heard and considered by the court. .

Hale

Hale  
[Quoted text hidden]



**J. Hale Freeland**  
Admitted in MS, TN, and MO  
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T 662.234.1711 | Toll Free 844.671.1711  
hale@freelandmartz.com | www.freelandmartz.com



006