

FILED
STATE OF MISSISSIPPI
LAFAYETTE COUNTY
2023 AUG 31 AM 11:34

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

ROBERT SULLIVANT SR.

PLAINTIFF

CHANCERY CLERK

v.

ROBERT SULLIVANT JR.

DEFENDANT

BY DC _____

CAUSE NO. 2021-CV-612 (W)

ROBERT SULLIVANT JR.

THIRD PARTY PLAINTIFF

v.

**ROBERT SULLIVANT SR. and
EVELYN STEVENS**

THIRD PARTY CO-DEFENDANTS

ORDER

THIS CAUSE is before the Court on Dr. Frank Perkins' Motion to Quash the subpoena for deposition that was served on him at the behest of Robert Sullivan Jr. The Subpoena noted Dr. Frank Perkins' address at 3521 Lakeland Dr., Ste 1060, Flowood, MS and "COMANDED" him to appear at the Lafayette County Chancery Courthouse in Oxford Mississippi. at 1:00 p, on June 22, 2023. (doc 112).

Dr Perkins was appointed as an expert to examine Robert Sullivan, Sr by the agreement of the parties. The Court heard the Counter-Complaint filed by Robert Sullivan, Jr; and the Motion to Appoint Conservator by Robert Sullivan Sr. Dr. Perkins Medical Affidavit was filed with the Court. He testified in open court regarding this matter, and Robert Sullivan Jr. had the opportunity to question/cross-examine him therein.

On May 17, 2023, in which the Court found by clear and convincing evidence that Robert Sullivan, Sr. is incapable of managing his affairs and appointed Sherry Wall as his conservator. The Court entered an Order of May 18, 2023, holding that Mr. Sullivan, Sr. had the testamentary capacity to execute a will for his estate.

The subpoena did not comply with the Mississippi Rules of Civil Procedure nor the Mississippi Rules of Evidence; the deposition was not to take place where Dr Perkins was located, nor did it provide for or tender compensation of Dr. Perkins to prepare and have his deposition taken. Moreover, it has not been shown that the deposition was within the scope of discovery, but on issues the Court has already heard and resolved.

Accordingly, the Motion to Quash is GRANTED.

SO ORDERED, ADJUDGED, AND DECREED, this the 31st day of August, 2023.



HON. ROBERT Q. WHITWELL, CHANCELLOR

Prepared by:

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