

# **PROBATE FOR NEW JUDGES**

**PRESENTED BY**

***JUDGE RANDY KENNEDY***  
**CIRCUIT COURT, DIV. VII**  
**20th Judicial District at Nashville**

**AUGUST 21, 2014**

**TENNESSEE JUDICIAL ACADEMY**

**EMBASSY SUITES**  
**MURFREESBORO, TENNESSEE**

**Judge Randy Kennedy**  
**Seventh Circuit Court Judge for Nashville, Davidson County**  
**Metropolitan Courthouse**  
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## **BIOGRAPHY**

***RANDY KENNEDY*** is Judge of the Seventh Circuit Court for Davidson County, handling all probate, estate administration and conservatorship cases in Nashville. Appointed by Governor Phil Bredesen in 2003, Kennedy was elected in 2004 and reelected in 2006 and 2014. Kennedy served as Presiding Judge of the 20<sup>th</sup> Judicial District from 2005 through 2007.

Prior to taking the bench, Kennedy was in private practice for 26 years and most recently served as managing partner of Kennedy & Brown.

Kennedy formerly served as a member of the Metropolitan Council of Nashville/Davidson County, and on the Metro Charter Revision Commission from 1995 thru 2009.

A graduate of Middle Tennessee State University and the Nashville School of Law, Randy also attended the National Judicial College at the University of Nevada.

Judge Kennedy served as Vice-President of the Tennessee Trial Judges Association from 2009-2013, First Vice President of the Nashville Bar Association in 2012, and is a member of the Tennessee Bar Association. He is also a member of Harry Phillips American Inn of Court, a Fellow of the Nashville Bar Foundation, and the National College of Probate Judges.

Kennedy is an Instructor at the Nashville School of Law on Wills and Estates and a frequent lecturer on Probate practice.

Kennedy is married to Debbie Kennedy; and they have two children, one of whom is an attorney, and three grandchildren.

## INTRODUCTION

Welcome to the wonderful world of probate as seen through the eyes of a probate judge.

Some of you may have had the opportunity to handle a probate case as an attorney for an heir, a will beneficiary, or for a court appointed fiduciary during the administration of an estate.

Others may have experienced service as a guardian ad litem, an attorney ad litem or as the attorney of record in a conservatorship or a guardianship case.

Some of you may have never been exposed to any probate proceedings during the course of your legal careers.

Regardless of your level of experience in this arena, if you are going to be handling any probate cases some fundamental principles should be considered.

As a judge with probate jurisdiction, you are likely to be presented with one or more of the following types of cases:

1. PETITION FOR INTESTATE ADMINISTRATION
2. PETITION TO ADMIT A WILL TO PROBATE
3. PETITION FOR MUNIMENT OF TITLE  
(Opening Estates for a Limited Purpose)
4. SMALL ESTATE ACTION
5. PETITION TO ESTABLISH A CONSERVATORSHIP
6. PETITION TO ESTABLISH A GUARDIANSHIP
7. ADVERSARY PROCEEDINGS

In every one of these types of cases there are certain specific facts that must be examined by you before signing an Order or rendering a Judgment.

### BASIC TOOLS FOR DECEDENTS' ESTATES

All decedents' estates in Tennessee are governed in part by statutes set forth in Volume 6 of Tennessee Code Annotated. Consequently, you will want to keep these statutes on hand, and make frequent reference to them.

In addition, there are numerous other reference materials that should be a part of your Probate Tool Box. Among these are the following:

- A. Pritchard on Wills and Administration of Estates , by Robinson, Mobley and Hedrick
- B. Tennessee Probate by Albert Secor

- C. Tennessee Rules of Civil Procedure (TRCP)
- D. Local Rules of Court (LR) (for your particular judicial district)
- E. The Tennessee Rules of Professional Conduct (RPC)  
(LR and RPC can be found in hardback version with TRCP from West Publishing Co. These tools can also be found at [www.tncourts.gov](http://www.tncourts.gov).)
- F. Tennessee Law of Evidence

### OPENING AN INTESTATE ESTATE

Whenever you are asked to sign an order opening an intestate estate, you should require the Petitioner to present a sworn Petition in conformity with T.C.A. §30-1-117. (See Example **“Petition to Open Intestate Estate” Attachment No. 1**).

Among the mistakes that attorneys sometimes make is the submission of a Petition signed by an attorney that is not **“verified”** by the Petitioner. This is unacceptable and violates the statute.

Another common mistake found in petitions for estates without wills is failing to disclose **“. . .the names, ages, if known, and mailing addresses of each heir at law of the decedent.”** Likewise **“an estimate of the fair market value of the estate, to be administered. . .”** should be set forth in the initial pleading.

Although **“No notice of [a] probate proceeding shall be required except for probate in solemn form”** the trier of fact must be informed as to who may have an interest in the estate, and what property comprises the total estate.

Otherwise, the court will not have adequate information with which to determine who is best suited to serve as an Administrator, nor the amount of Bond, if any, that ought to be required of the Administrator.

Incidentally, while it is now perfectly acceptable to refer to an Administrator or Executor as the Personal Representative, these terms are not universally interchangeable. Because we are constantly dealing with a growing number of self-represented litigants, petitioners, as well as other heirs at law and will beneficiaries are likely to better understand the court’s rulings if we distinguish between the terms “administrator” and “executor” rather than simply referring to the proposed fiduciary as the “personal representative.”

Familiarity with other terms like administrator cum testamento annexo (or CTA), administrator ad litem, and administrator pendente lite is also essential to the court.

In any estate case, T.C.A. §30-1-201 limits the discretion of the court in waiving Bond, and states that the Clerk shall not issue letters of administration or letters testamentary unless one of the following events has occurred:

- A. Decedent died with a will that contains a provision waiving bond; or
- B. The proposed personal representative and the sole beneficiary are one and the same; or
- C. All beneficiaries are adults and all of them consent in writing to permit the personal representative to serve without bond; or
- D. The personal representative is a bank, exempted from bond, per T.C.A. §45-2-1005.

The foregoing statute says “**If bond is required, the bond shall not be less than the value of the estate of the decedent subject to administration. . .**” and case law appears to be silent as to a minimum value in estate assets for which no bond would be required.

So, if the total value of the assets passing through probate in an intestate estate is less than \$9,000, can the judge waive bond; maybe “yes,” and maybe “no.” Some of our trial courts interpret the statute to say that absent one of the four (4) exceptions set forth in the Bond statute, the court shall establish bond.

Clearly, this is the most prudent course of action.

However, bond policies that are issued by insurance companies in Tennessee insure the administrator in the minimum face amount of \$18,000. The statute in pertinent part also states, that the bond shall not be “... **more than double the value of the estate and the court may increase or decrease the amount at any time by order**” (*emphasis added*).

**Query:** In light of all of the foregoing, if an estate has only \$8,500 (arguably nominal assets) and none of the four statutory exceptions apply, can the trial judge set Bond at “\$0”, or “waive” the bond? Well, you certainly cannot set the bond at \$17,000! No such bond policy exists, and if you set the Bond at the minimum of \$18,000, it would appear that you may be violating the statute.

According to one local insurer, it has been determined that a bond policy in the face amount of \$25,000 costs approximately \$250 for one year and contains no renewal premium. That particular insurance company issues the policy for up to two years with the policy expiring thereafter. Frequently, when Petitioners present proof at the hearing to appoint an administrator, it is revealed that the actual extent of the decedent’s property is undetermined.

An unofficial survey of the some of the judges in the Greater Metropolitan Nashville area suggests that some of our judges who have probate jurisdiction strictly adhere to the notion that in the absence of applicable exceptions under T.C.A. §30-1-201, a Bond will be required no matter how small the estate.

Others take the position that if the total amount of liquid assets is under \$10,000, and no Heir at Law objects to a waiver, the Bond will be waived.

In addition to Bond requirements, other considerations that the court must make are the following:

1. **Who should be appointed as the Administrator?** There is a statutory order of preference that the court is required to examine. T.C.A. §30-1-106 provides that in intestate estates, there is an order of preference as follows:
  - A. If **the spouse** applies he/she shall be appointed.
  - B. If the surviving spouse does not apply, the administration shall be granted to the **next of kin**.
  - C. If neither the spouse nor the next of kin apply, then the administration shall be granted to a **creditor**.

However, “**fitness**” of the applicant should be considered by the court and “**may be of sufficient importance to justify a court in disregarding the statutory order of preference and appointing a suitable party**” William v. Stewart, 64 S.W.2d 194, 195 (Tenn. 1933).

An example of unfitness would be conviction of a felony by the proposed fiduciary. T.C.A. §40-20-115 states [t]he effect of a sentence in the penitentiary is to put an end to the right of the inmate to execute the office of executor, administrator, or guardian, fiduciary or conservator, and operates as a removal from office.” This statute, which became effective on July 1, 2013, could have a profound impact on the appointment of surviving spouses and other family members.

Other examples of conduct that might disqualify family members from service as an Administrator (or an Executor nominated by the Will of a decedent) are as follows:

- A. Proof of self-dealing by proposed fiduciary.
- B. Misuse of a Power of Attorney by proposed fiduciary signed by the decedent.
- C. Separate suit pending against proposed fiduciary.
- D. Outstanding money judgments against the proposed fiduciary.
- E. Lousy credit or a recent bankruptcy.

## 2. What is the applicable bond amount?

During the course of the hearing to appoint an administrator, if it is determined that the proposed administrator is uncertain as the value of the decedent’s property, the court may consider establishing a bond at anywhere from \$18,000 to \$25,000. In so doing, you may also elect to set a Bond Review Hearing at a later date to amend the amount of the Bond to account for any increase in asset values that may have been discovered or reported in the estate Inventory.

In any event in all bondable cases, the court should closely scrutinize the proposed fiduciary, and should set the initial bond based on the pleadings and testimony with a view toward setting the bond equal to the total of all personal property expected to be set forth in an Inventory.

You may exclude from the bond calculations (1) any real property owned by the decedent until such time as the estate is either declared insolvent, or an action is filed with the court asking that the Court approve the sale of the real property, and (2) any non-probate property or property known to have a designated beneficiary other than the estate.

Is it appropriate to exclude Real Property from valuation calculations in determining the initial Bond? Yes! The solely owned Real Property of a decedent, in an intestate (and in the estates of individuals who died with a valid will), vests immediately pursuant to T.C.A. §31-2-103 and T.C.A. §31-2-104, respectively. The Personal Representative is vested only with Personal Property.

Since “[t]he real property of an intestate decedent shall vest immediately upon death of the decedent in the heirs. . .” and “[t]he real property of a testate decedent vest immediately upon death in the beneficiaries named in the will, unless the will contains a specific provision directing the real property to be administered as part of the estate. . .” it would generally be improper to treat the real property as a probate asset for bond purposes when opening up either an intestate or a testate estate.

Subsequent to the entry of an Order Appointing Administrator (See Example of “**Order Appointing Administrator**” Attachment No. 2) or an Order Admitting Will to Probate, there are occasions when the court may be asked to approve the sale of real property.

Upon the filing of a Notice of Insolvency, a Petition to Partition, or a Petition to Approve The Sale of Real Property (by consent of all interested parties), the court may want to revisit the question of the amount of Bond to take into account the proceeds from the sale of the real property.

### 3. Will Inventory and/or Accounting(s) be Required?

The Inventory (for intestate estates and for estates with wills where the Inventory has not been waived by the decedent/testator ) is due within 60 days from the date of the Order Appointing Administrator (or Order Admitting the Will to Probate) pursuant to T.C.A. §30-2-301. (See Example of “**Inventory**” Attachment No. 3).

In all intestate estates, where the heirs at law have not consented to waive Annual Accountings and/or a Final Accounting (as well as in all testate estates where the decedent/testator has failed to waive the annual/final accounting) it is contemplated that the Personal Representative will file Annual Accountings and a Final Accounting pursuant to T.C.A. §30-2-601.

Failure to file accountings in a timely manner has serious repercussions. In most counties in Tennessee, it is the Clerk and Master of the Chancery Court or the Probate Court Clerk of the designated Probate Court whose duty it is to notify the fiduciary, the Attorney of Record, and the Court whenever a deadline has passed without an accounting having been timely-filed.

The court may take adverse action against the Personal Representative (Administrator or Executor) and the Attorney of Record for the estate for the failure of the Personal Representative to comply with his accounting obligation.

In extreme cases, a Show Cause Order may be issued by the Court which may result in findings of contempt against the Personal Representative, the Attorney of Record, and/or both, and may result in removal of the Personal Representative and other sanctions. (See Example of **“Show Cause Order” Attachment No. 4**).

#### **4. Is there additional or emergency relief to be granted?**

Occasionally, in both intestate and testate estates, the Petitioner will be seeking some extraordinary relief in addition to simply asking to open up an intestate estate, or to admit a will to probate.

Examples are endless, but among the most frequent accusations asserting that Extraordinary relief should be awarded against an alleged **“Bad Relative,”** are as follows:

- A. “My brother has taken my late dad’s car and won’t bring it back!”
- B. “My sister won’t allow us access to Mom’s house, checking account, bank lock box, jewelry, etc.!”
- C. “My cousin claims Uncle Jack gave him the boat and he’s moved it to his lake house!”
- D. “Billy Bob has Pop’s Last Will & Testament and he refuses to present it to probate!”

Should the court enter a Temporary Restraining Order (TRO) and/or a Show Cause Order requiring the alleged “Bad Relative” to appear and show cause why he/ she should not be required to permit the Personal Representative to enter the premises and conduct an inventory? Should the “Bad Relative” be required to immediately surrender possession of the decedent’s personal property in his/her possession to the Personal Representative?

In all cases, where the Petitioner seeks extraordinary relief, **be very careful!** Remember, while T.C.A. §30-1-117 does not require notice of the proceeding in most types of probate cases regarding decedents’ estates, this does not excuse notice requirements to the “Bad Relative” when extraordinary relief is being requested.



So, the first rule should be for you to determine whether proper notice and due process of the proceeding has been accomplished! If not, is Rule 65 of the TRCP being observed and followed? Finally, is this request for extraordinary relief the appropriate remedy for this situation at this time?

Rule 65.03 of TRCP states:

**“(1) When Authorized. The Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:**

**(A) specific facts in an affidavit or a verified complaint clearly shows that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party can be heard in opposition; and**

**(B) the applicant’s attorney (or Pro se applicant) certifies in writing efforts made to give notice and the reasons why it should not be required.” *Emphasis Added.***

### ADMITTING A WILL TO PROBATE

While there are a number of distinguishing factors when opening up a testate estate as opposed to an intestate estate; the good news for the court is that we generally start with the same statutory requirement for both. T.C.A. §30-1-117 applies to both estates with and without wills.

Among the specific elements that the judge will be looking for in the Petition to Admit Will To Probate (Example “**Petition To Admit Will**” **Attachment No. 5**) and at the Hearing are the following:

- A. Does the Petition contain all of the basic information required in petitions to open an otherwise intestate estate, and is it verified by the Petitioner?
- B. Does the Petition have attached to it either the Original (or Copies) of the testamentary instrument (will and any codicils) that Petitioner seeks to admit to Probate?

Note: Some petitioners (and sadly some lawyers) present only copies of wills at the hearing, or rely solely upon a copy that was attached to the Petition. They may attempt to persuade you that it is unnecessary to present the original testamentary instrument(s).

In these cases, the court should generally refuse to admit a copy of a will or codicil unless the Petitioner amends his petition to pursue the matter as a Petition to Establish a Lost Will pursuant to T.C.A. §32-4-106.

- C. Has the Petitioner accurately described bond, inventory, and accounting requirements, as set forth in the will and/or codicil?

- D. If the Petitioner is requesting waiver of bond, inventory and/or accountings, (and the will and or codicil does not in fact waive one or all of these requirements) have all residuary will beneficiaries either consented in writing or joined in the Petition to reflect that they waive one or more of these requirements?
- E. Is the Petitioner asking the Court to grant relief that is consistent with the testamentary wishes expressed by the decedent in the will and any codicils?

(i.e. Mary Sue was nominated as Executor but Petitioner asks to appoint Johnny as the Executor. Did Mary Sue die? Is Johnny nominated as an Alternate Executor?) What is Johnny's standing to serve as an Executor of this estate?)

- F. Does an examination of the copy of the Will (and Codicils, if any, and ultimately an examination of the original testamentary instrument ), satisfy all of the statutory and case law requirements to permit the court to admit it to probate?

Tennessee has been referred to as a Strict Compliance state. Recent case, In Re Estate of Thomas Grady Chastain, 401 S.W.3d 612 (Tenn. 2012), illustrate that failure to properly sign an attested will results in the will being invalid. In the Chastain case, the Supreme Court held **“that Decedent’s signature on the Affidavit [did] not cure his failure to comply strictly with the statutory formalities for executing an attested will.”** *Id.* at 620.

- G. Is the testamentary instrument an attested and/or formal will, or is it a holographic will?

**Note:** The statutory requirements for holographic wills at T.C.A. §32-1-105 requires only that **“the signature and all of the material provisions must be in the handwriting of the testator and the testator’s handwriting must be proved by two (2) witnesses.”**

See also In Re Estate of Ward, 2010 WL 2712530 (Tenn. Ct. App.) decision in which the court found the presence of more than one signature, the location of signatures, and the presence of both handwritten and typewritten sections in the instrument did not negate the validity of a holographic will.

- H. If the testamentary instrument is an attested or formal will, does the document contain a self-proving affidavit from the witnesses?
- I. Is the self-proving witness affidavit for an attested will or formal will properly notarized?

- J. If a formal or attested will is in question, and there are no self-proving witness affidavits, are we going to have live testimony from witnesses?

See also Estate of Stringfield, 283 S.W.3d 832 (Tenn.Ct. App. 2008). The Tennessee Court of Appeals found that T.C.A. §32-1-104 was not complied with and will is invalid when the names of the attesting witnesses were simply typed onto a will and the witnesses did not sign the will. This was so even though the witnesses initialed other pages of the will.

- K. If this is a holographic will, has the Petitioner produced witness affidavits to prove the handwriting and signature of the testator; or in the alternative, do we have live witnesses to testify in open court?
- L. Does the Order Admitting Will To Probate (See Example “**Order Admitting Will to Probate**” Attachment No. 6) accurately reflect the court’s ruling and properly reflect the findings of the court?

**Note:** If the Petitioner submits an Order to Admit the Will in Solemn Form but this proceeding was presented to you in Common Form; you cannot sign the Order!

- M. If the Petition seeks to have the will admitted in Solemn Form, has proper notice been given to all interested parties?

T.C.A. §30-1-117(b) states in pertinent part that “. . .[p]robate in solemn form. . .shall require notice in the manner provided by law to all persons interested.”

- N. Is there any heir at law or will beneficiary present who contests the will and does the appearance of any such person at the hearing who voices their objection to the will have to file a formal pleading in order for you to certify a will contest?

**Note:** If any person with standing appears at a hearing in which you are being asked to probate a will in **Solemn Form** the proceeding should stop and the court shall **certify** it as a **Will Contest**. If any person appears and contests a will being submitted to the court for probate in **Common Form**, the Court may go ahead and admit the will to probate in Common Form, and may then certify the matter as a Will Contest. No formal pleadings are required by the Court to Certify the matters as a Will Contest. A contestant’s Bond will be required pursuant to T.C.A. §32-4-101 However, the court has the discretion to appoint an Administrator Pendente Lite or Temporary Administrator so that the administration of the estate can proceed in an orderly and efficient manner.

## OPENING ESTATES FOR A LIMITED PURPOSE

You may also be called upon from time to time to open an estate for a limited purpose. Perhaps the most frequent type of limited purpose estate proceeding is the filing of a **Petition To Probate a Will For Muniment of Title**.

Pursuant to T.C.A. §32-2-111 “[r]egardless of the date of the person’s death and any limitation on the time for admitting a will for probate, any will when duly proven, whether of a resident or nonresident decedent, may be admitted to probate for the limited purpose of establishing a muniment of title to real estate and personal property, without the necessity of granting letters testamentary or otherwise proceeding with administration.”

Generally, Muniment of Title cases are brought when the heirs at law decide to either sell or refinance the real estate that was previously titled in the name of a deceased ancestor, and where there is no other estate property or estate debt with which to contend.

There will be other instances where estates are opened for only a limited purpose. Examples are: Cases where the decedent has died while a cause of action is pending against a third party, or where the surviving spouse or the next of kin wishes to pursue a wrongful death action on behalf of decedent.

On the other hand, you may also be asked approve the appointment of an Administrator ad Litem for the sole purpose of accepting service of process of a pending suit against the deceased or to open the estate so that a third party can pursue a cause of action against the decedent’s estate.

Each of these limited purpose actions should be approached cautiously in order to make sure that the proper person is appointed for the appropriate reason.

## SMALL ESTATE ACTION

The Small Estate Act permits both pro se and litigants represented by counsel to file an affidavit to administer an estate consisting solely of personal property provided the value of the property does not exceed \$50,000.

This process is available without regard to whether the decedent died intestate or testate. In fact, if the decedent died with a will, most probate courts will accept the will and place it in the clerk’s file but the court will not actually admit the will to Probate. Instead, the “Affiant” is simply charged with the duty and responsibilities described in T.C.A. §30-4-104, which includes distributing property according to the will, or if no will exists, the Affiant is to follow the laws of intestacy, and distribute to the heirs at law, after satisfying all creditors of the decedent.

An Order will be issued pursuant to T.C.A. §30-4-101, et seq., but no Letter Testamentary for the small estate with a will and no Letter of Administration for a small intestate estates will be issued under this type of proceeding.

While The Small Estate Act does contemplate Bond in the appropriate case there is no mandatory Notice to Creditors, or to The Bureau of TennCare in these types of cases. (See Example “Small Estate Affidavits” Attachment No. 11(a) and (b)).

PETITION TO ESTABLISH A CONSERVATORSHIP  
OR A GUARDIANSHIP

Of all the legal proceedings you may handle in the probate arena, this type of case may be the most challenging. Conservatorship cases impact our most fragile and vulnerable citizens and affect a growing segment of our society.

Consequently, I want to encourage you to become intimately familiar with T.C.A. §34-3-101, et seq., before you tackle one of these matters.

Likewise reading Conservatorship of Groves, 109 S.W.3d 317, (328 Tenn. Ct. App. 2003) wherein Justice Koch (then a Court of Appeals Judge) reminded us that “[a]dult persons have a right to exercise autonomous self-determination. They have the right to choose how they live, how they spend their money, and with whom they associate without undue governmental interference.”

When approaching a conservatorship, both the attorney and the judge are forewarned by the Groves decision that “[p]ersons who are the subject of a conservatorship face a substantial loss of freedom that resembles the loss of freedom following a criminal conviction.” *Id.* At 329 (internal citations omitted).

From the standard of Proof “Clear and Convincing” to the “Enumerated Powers,” this is complicated stuff!

Set forth below are some basic questions that the court will want to be able to answer in the trial of both Conservatorship and Guardianship cases.

FOR CONSERVATORSHIP AND GUARDIANSHIP CASES

1. HAS THE PETITIONER FOLLOWED T.C.A. §34-2-101 et seq. IN FILING HIS GUARDIANSHIP ACTION FOR THE MINOR OR, FOLLOWED T.C.A. §34-3-104 et seq. IN THE COMMENCEMENT OF HIS CONSERVATORSHIP ACTION FOR THE DISABLED ADULT? Each of these statutes reflects that the Petition must be sworn to and must contain certain basic information as well as the nature of the relief which is being sought.

2. DOES THE PETITION SEEK THE APPOINTMENT OR THE WAIVER OF THE APPOINTMENT OF A GUARDIAN AD LITEM (GAL)? While it is generally required that a GAL be appointed (and this court maintains an extensive list of lawyers willing and able to serve in that capacity), there are limited occasions when the court may choose to waive the appointment of a GAL. T.C.A. §34-1-107 sets forth with specificity the criteria for appointment (and duties of) a GAL. A non-exclusive list of those occasions when the court may waive the GAL are as follows:
- a. A permanently disabled minor child is about to turn 18 years of age at which time he will become a disabled adult. Petition alleges his parents wish to become co-conservators of his person and property. He has virtually no assets except his clothing and bedroom furniture and is either drawing or is going to apply for SSD benefits which will result in an income of less than \$10,000.00 per year. Since personal service of process is required to be had upon the respondent in all Conservatorship and all guardianship cases; if a GAL is waived, we require the parents to bring the disabled adult to court for the hearing.
  - b. Likewise, in contracts for songwriting and performing for minors whose parent(s) seek to remove the child's minority for that limited purpose, no GAL is required. However, the minor and her parent(s) are represented by an attorney in the negotiations and in court regarding establishment of the Contract and any Trust Fund that may be funded with advances by the publishing and/or management company and with regards to the minor's earnings. We require the minor to attend the hearing in these cases as well.
  - c. Emergency Conservatorship filings require the appointment of an attorney ad litem (AAL); but it is in the discretion of the trial judge whether to also appoint a GAL. Since the AAL is empowered to serve the respondent, we do not normally appoint a GAL in these cases.
  - d. A parent has died unexpectedly without a will nominating anyone to serve as Guardian for the person or property of his minor child(ren). If the surviving parent is also the custodial surviving parent; it is likely that we will waive the GAL appointment.
  - e. The court may always waive the appointment "*...if the court determines that waiver is in the best interest of the minor or person with a disability.*"

3. DOES THE PETITION SEEK THE APPOINTMENT OF A GUARDIAN, CONSERVATOR OVER THE PERSON, PROPERTY, OR BOTH?
  - a. Upon making this determination if the Petition only seeks to establish a guardianship/conservatorship over the person; it is unnecessary to require bond, Property Management Plan and Inventory, Annual Accountings and or Final Accountings (B, PMP, I, AA, FA).
  - b. However, an Annual Estate Status Report (SR) is always required if the Petition seeks the appointment of a fiduciary over the person.
  
4. IF THE PETITION SEEKS TO APPOINT A GUARDIAN/CONSERVATOR OVER THE PROPERTY OF THE INDIVIDUAL OR SEEKS A FIDUCIARY FOR BOTH PERSON AND PROPERTY, WHAT ELSE MUST BE EXAMINED?
  - a. If a GAL was appointed, did she file her Report and Recommendation at least three days prior to the hearing date. If so, did she find a lack of capacity and if so, who does she recommend be appointed?
  - b. Did she make specific recommendations regarding B, PMP, I, AA and FA? If so, what are those specific recommendations?
  - c. In your own examination of the reported assets and annualized income from all sources (if known) and from an examination of pleadings and the GAL report; should the Court require B, and if so how much? Should the court require or waive PMP, I, AA, and FA, or a combo of these?
  - d. Generally, the court requires Bond if the amount of liquid assets and income exceeds \$10,000. However in the case of conservatorships where there is an institutional representative payee (i.e., McKendree Manor receiving the SSI, SSD, monthly social security retirement) and no other liquid assets or income for the respondent, waivers are OK.
  - e. Where assets and income are over \$10,000 but under \$20,000.00, what do we do with regard to B, PMP, I, AA, and FA? It really is a case-by-case examination and may be waived. If the longtime Husband of the disabled lady who supplements her financial needs is seeking to be Conservator, or the mother of a child who has received a settlement in the amount of \$20,000.00 seeks to be Guardian, we may waive all requirements except for SR.

- f. In almost every case where the estate of the respondent exceeds \$20,000.00 B, PMP, I, AA, and FA are required. (Occasionally, the disabled adult will have executed an advance directive in which she has nominated an individual and expressly waived B. In that case, we may also waive B.) In all cases, a thorough examination of all applicable statutes is essential for both guardianship and conservatorship cases.
5. DOES THE PROPOSED ORDER EXPRESSLY SET FORTH ALL OF THE ENUMERATED POWERS THAT ARE TO BE TRANSFERRED FROM THE RESPONDENT TO THE CONSERVATOR?
- a. Tennessee law requires the court to specify which particular rights and powers are being removed from the respondent and vested in his conservator.
- b. Pursuant to T.C.A. §34-1-101 in all conservatorship proceedings, courts are required to impose in the “... *least restrictive manner...*” limitations upon the respondent.
- c. Consequently, we should remove no more rights than are necessary to protect the respondent as to his person, or property or both.
- d. Copies of attachment orders which are frequently utilized by 7<sup>th</sup> Circuit Court in all three types of traditional conservatorship proceedings can also be found on our Clerk’s website at (<http://circuit.clerk.nashville.gov/probate>). A great deal of additional information regarding conservatorships and guardianships is also available on the site.
6. HAS THE RESPONDENT AND ALL OTHER REQUIRED PERSONS BEEN PROPERLY NOTIFIED AND HAS PERSONAL SERVICE OF PROCESS BEEN OBTAINED?
- a. T.C.A. §34-1-106 declares that “The petition for the appointment of a fiduciary shall be served in accordance with the Tennessee Rules of Civil Procedure. The guardian ad litem appointed may serve the petition on the respondent.”
- b. This same statute also requires certified mail with return receipt requested notice on “*the closest relative or relatives of the respondent required to be named in the petition and to the person, if any, having care or custody of the respondent,*” and contains a 2013 amendment requiring the same form of notice to the “*institution, or residential provider with whom the respondent is living.*”



7. ARE THE FEES AND EXPENSE REIMBURSEMENTS BEING REQUESTED BY THE CONSERVATOR/GUARDIAN, HER ATTORNEY, THE GUARDIAN AD LITEM, AND/OR THE ATTORNEY AD LITEM NECESSARY AND REASONABLE? WHO SHOULD PAY THESE FEES AND EXPENSES?

- a. In many conservatorship or guardianship cases the question of compensation for the fiduciary is at issue. Some cases result in the appointment of family members who frequently waive compensation for services rendered. Likewise, many attorneys will determine in some cases that the assets or income of the respondent are such that pro bono representation is appropriate.
- b. In all cases where any compensation is sought to be paid from assets and/or income of the respondent, the court is going to require compliance with Local Rule of Court 39.14 as well as T.C.A. §34-1-112 for conservators and guardians.
- c. With regard to fees and compensation for attorneys serving in the role of Guardian ad litem or as attorney for the petitioner (as well as intervening petitioners' attorneys), a review of LR 39.14, T.C.A. §34-1-114 and applicable case law is appropriate.
- d. Attorneys ad litem are appointed to represent and advocate the interests of the respondent (see T.C.A. §34-1-106) as well as in Emergency Conservatorship proceedings (see T.C.A. §34-1-132). Consequently, in most cases where the appointment of a conservator is found to have been justified, the assets and income of the respondent will be the source for payment of the Attorney ad litem fees.
- e. If the Attorney ad litem is successful in setting aside the conservatorship or in its dissolution; the court may award these fees against another party (e.g., the petitioner or against a fiduciary who has breached his fiduciary duty).

8. IS THIS REALLY AN EMERGENCY CONSERVATORSHIP OR GUARDIANSHIP PROCEEDING?

If so, it is imperative that the petition be in compliance with T.C.A. §34-1-132 which states in pertinent part that ***“An emergency guardian or conservator may be appointed without notice to the respondent and the attorney ad litem only if the court finds upon a sworn petition that the respondent will be substantially harmed before a hearing on the appointment can be held.”*** (Emphasis added!)

- a. There are several unique features to this statute which became effective on July 1, 2013 which include the requirement that **an attorney ad litem shall be appointed**. The appointment of a guardian ad litem is solely in the court's discretion.
- b. The respondent must be served “*...[w]ithin 48 hours after the appointment.*”
- c. An initial hearing “*...[o]n the appropriateness of the appointment must be held within five (5) days after the appointment.*”

Attached is a copy of the points of interest which the Seventh Circuit Court utilizes in reference to any Emergency Conservatorship/Guardianship case that is presented to me, and I strongly recommend it to all judges and lawyers who may try one of these Emergency cases. (See “**Emergency Temporary Conservator/Guardian**” Attachment No. 7), (See “**Emergency Expedited Healthcare Fiduciary**” Attachment No. 8)

### ADVERSARY PROCEEDINGS

There are numerous types of adversary proceedings that you will encounter in probate jurisdiction.

Among the adversary proceedings that you may try are:

1. **Will Contests (SEE ATTACHMENT NO. 10)**  
T.C.A. § 32-4-101. Right to contest; certification; bonds  
et. seq.
2. **Exceptions to Claims (SEE ATTACHMENT 12)**  
T.C.A. § 30-2-314. Exceptions to claims; concurrent jurisdiction  
See *MBNA America v. Estate of Jones*, No. E2004-01614-COA-R3-CV, 2005 WL 1618759 (Tenn. Ct. App. 2005).
3. **Fee Disputes**  
T.C.A. § 34-1-112. Compensation and Salaries  
T.C.A. § 34-1-113. Payments from property of a minor or person with a disability  
T.C.A. § 34-1-114. Costs  
  
T.C.A. § 35-15-708. Compensation of trustees, trust advisors, and trust protectors  
T.C.A. § 35-15-709. Reimbursement of expenses  
  
TN Sup. Ct. Rules, Rule 8, RPC 1.5. Fees  
20<sup>th</sup> Judicial District, Davidson County, Local Rule 39.14 – Fees of Fiduciaries and Attorneys:

**4. Breach of Fiduciary Duty Actions**

T.C.A. § 35-15-801. Duty to administer trust [Uniform Trust Code]

T.C.A. § 35-15-801. Duty of Loyalty

T.C.A. § 35-15-803. Impartiality

et. seq.

T.C.A. § 30-2-602. Citation to appear and settle; contempt

T.C.A. § 66-3-301. Short title

This part may be cited as the “Uniform Fraudulent Transfer Act.”

See *Finley v. Finley*, 726 S.W.2d 923 (Tenn. Ct. App. 1986).

**5. Petitions to Recoup Assets**

See *In re Estate of Hendrickson*, No. M2008-01332-COA-R9-CV, 2009 WL 499495 (Tenn. Ct. App. 2009).

**6. Hearings on Objections to Inventories, Annual Accountings, and Final Accountings**

T.C.A. § 30-2-607. Exceptions [to Accountings]

T.C.A. § 30-2-608. Incomplete Inventory

FILED

2014 APR 11 AM 8:21

IN THE SEVENTH CIRCUIT COURT FOR THE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, TENNESSEE, AT NASHVILLE PROBATE DIVISION

*[Handwritten signature]*

IN RE: ESTATE OF JACK JUNIOR DAVIS, DECEASED.

) NO. 14P 611

PETITION FOR APPOINTMENT OF ADMINISTRATOR

Petitioner, Eric T. Davis, petitions this court for appointment as Administrator of the estate of Jack Junior Davis, and for issuance of Letters of Administration. In support of his petition, Petitioner states:

- 1. Jack Junior Davis died on March 30, 2014 at the age of 76, and his residence at the time of death was 1120 Springfield Highway, Goodlettsville, Davidson County, TN 37072.
2. The decedent's place of death was Goodlettsville, Davidson County, Tennessee.
3. The said decedent left surviving as heir at law, the person whose name and address appears below:

Table with 4 columns: NAME, RELATIONSHIP, AGE, RESIDENCE. Rows include Eric T. Davis (Son, Adult, 217 Scurlock Ct. Franklin, TN 37067) and Debra L. Davis (no issue, Daughter, Predeceased, DOD: 10-1-1998).

- 4. It is the Petitioner's belief that the decedent left no valid Last Will and Testament (Will).
5. Petitioner intends to proceed with administration of this estate as intestate; if a Will is discovered at a later date, Petitioner will bring this to the attention of the court.

6. The decedent was not enrolled in the TennCare program at the time of death.

7. Petitioner respectfully requests that the court cause the Notice to Creditors to be published.

**PREMISES CONSIDERED, YOUR PETITIONER PRAYS:**

1. That Petitioner, Eric T. Davis, be appointed Administrator.

2. That the clerk of the court be directed to administer the oath and otherwise qualify the Administrator and issue Letters of Administration.

3. That publication of notice be given to creditors of said estate requiring them to file their claims within the time and in the manner required by Tenn. Code Ann. § 30-2-306.

4. That the bond be waived pursuant to Tenn. Code Ann. § 30-1-201(a)(1)(B) because Petitioner is the only surviving heir-at-law.

5. That the filing of an Inventory be waived pursuant to Tenn. Code Ann. § 30-2-301(b)(4) because Petitioner is the only surviving heir-at-law.

6. That the filing of accountings be waived pursuant to Tenn. Code Ann. § 30-2-601 because Petitioner is the only surviving heir-at-law and Petitioner requests the waiver.

7. That the Petitioner be granted any other general or specific relief to which the estate may be entitled.

**IN WITNESS WHEREOF** the Petitioner has set his hand on this 10th day of April, 2014. Petitioner, Eric T. Davis, makes oath that the statements contained in the foregoing Petition are true to the best of his knowledge and belief.

  
\_\_\_\_\_  
Eric T. Davis

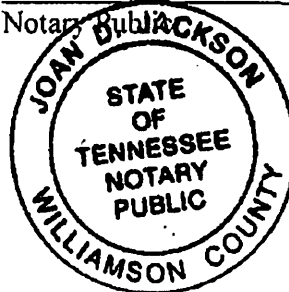
Copy

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

Sworn to and subscribed before me this 10th day of April, 2014.

Joan D. Jackson

Notary Public



My Commission Expires: 2-26-17

**APPROVED FOR ENTRY:**

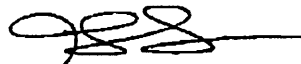
A handwritten signature in black ink, appearing to read "Julie F. Travis", written over a horizontal line.

Julie F. Travis, #030039  
Russ Cook and Associates, PC  
5141 Virginia Way, Suite 220  
Brentwood, TN 37027  
(615) 370-2444  
Attorney for Petitioner  
[julie@russcookpc.com](mailto:julie@russcookpc.com)

Copy

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the above Petition has been served on the below listed beneficiaries of the estate by U.S. First Class Mail, postage prepaid, this 10<sup>th</sup> day of April, 2014.

  
\_\_\_\_\_  
Julie E. Travis

Eric T. Davis  
217 Scurlock Ct.  
Franklin, TN 37067

FILED

APR 23 2014

RICHARD R. ROOKER, Clerk  
By [Signature] Deputy

IN THE SEVENTH CIRCUIT COURT FOR THE TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, TENNESSEE, AT NASHVILLE PROBATE DIVISION

IN RE: ESTATE OF JACK JUNIOR DAVIS, )  
DECEASED. )

NO. 14P- 611

ORDER

On this 27<sup>th</sup> day of April, 2014, before Probate Judge Randy Kennedy, upon the petition of Eric T. Davis that Letters of Administration be issued to the Petitioner:

It appearing from the affidavits or testimony provided that Jack Junior Davis died on March 30, 2014 in Goodlettsville, Davidson County, Tennessee, and that his place of residence at the time of his death was Davidson County, Tennessee.

It further appearing that the deceased died intestate; however, upon location of an original Last Will and Testament of the decedent, Petitioner shall submit the same to this Court for probate.

It further appearing that the Petitioner, being the decedent's son and sole heir-at-law, is an appropriate party to serve as decedent's Administrator and the requirements of bond, inventory and accountings shall be waived.

It is, therefore, **ORDERED** that the clerk of court of Davidson County, Tennessee is directed to issue Letters of Administration to Eric T. Davis to serve as Administrator of this estate without bond and without the requirement to file inventory, interim/final accountings, provided that Administrator will file a status report when requested by the Court, and that the

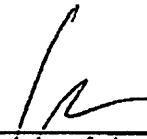


Copy



clerk of the court shall cause publication of notice to creditors pursuant to Tenn. Code Ann.

§ 30-2-306.

Entered this 23<sup>rd</sup> day of April, 2014.

  
\_\_\_\_\_  
Randall Kennedy John Mura  
Probate Judge

APPROVED FOR ENTRY:

  
\_\_\_\_\_  
Julie E. Travis, #030039  
Russ Cook and Associates, PC  
Attorney for Petitioner  
5141 Virginia Way, Suite 220  
Brentwood, Tennessee 37027  
(615) 370-2444  


Copy

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the above Order has been served on the below listed heir-at-law and beneficiary of the estate by U.S. First Class Mail, postage prepaid, this 10th day of April, 2014.



\_\_\_\_\_  
Julie F. Travis

Eric T. Davis  
217 Scurlock Ct.  
Franklin, TN 37067

Copy

In the Seventh Circuit Court of Davidson County, Tennessee  
(Probate Division)

FILED

JUN 26 2014

By *R. Rooker*

ESTATE INVENTORY

IN THE ESTATE OF:

DAVID ALLEN BYRD

DOCKET NO: 14P76

My Inventory of the Estate shows the deceased owned, in his/her name, the following property:

PERSONAL PROPERTY:

VALUE:

|  |                      |
|--|----------------------|
| 1. Cash on Hand                          | \$ 16,116.33         |
| 2. Money on Deposit                      | \$ 0.00              |
| 3. Stocks and Bonds                      | \$ 135,325.00        |
| 4. Household Furnishings                 | \$ 1,000.00          |
| 5. Interest in Business                  | \$ 0.00              |
| 6. Insurance Payable to Estate           | \$ 0.00              |
| 7. Notes and Debts Owed Deceased         | \$ 0.00              |
| 8. Farm Products, Livestock, Equipment   | \$ 0.00              |
| 9. Automobiles and Trucks                | \$ 500.00            |
| 10. Boats, Recreational Vehicles         | \$ 0.00              |
| 11. Jewelry, Collectibles                | \$ 0.00              |
| 12. Other Personal Property              | \$ 0.00              |
| <b>TOTAL VALUE OF PERSONAL PROPERTY:</b> | <b>\$ 152,941.33</b> |

REAL ESTATE:

VALUE:

|  |                                 |
|--|---------------------------------|
| 703 MAPLEWOOD LANE, NASHVILLE, TN 37216<br>(Address) | \$ 110,000.00 (APPRAISED VALUE) |
| (Address)  | \$                              |
| (Address)  | \$                              |
| <b>TOTAL VALUE OF ESTATE:</b>                        | <b>\$</b>                       |

The above is a full, true and perfect inventory of all the goods and chattels, rights and credits of this estate to the best of my knowledge and belief.

Sworn and subscribed before me this 20<sup>th</sup> day of June, 2014.

*Sherril Hamlett*  
Notary Public  
My Commission Expires: 9/9/2014

RICHARD R. ROOKER, Clerk

D.C.

*Richard Rooker*  
Signature of Administrator / Executor

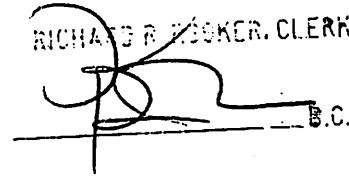
Approved for Recording  
*Richard Rooker*  
Probate Court Master

IN THE SEVENTH CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION

ED

2014 MAR 11 PM 2:29

RICHARD R. HOOKER, CLERK



DATE: January 03, 2014

IN RE: SHONTAVIA TONEA GREEN

Docket Number: 12P627

MARY CARTER  
2421 WOODALE LANE  
NASHVILLE, TN 37207

**SHOW CAUSE ORDER**

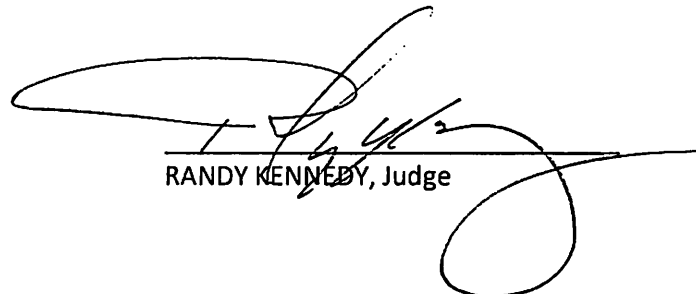
It appearing to the Court that MARY CARTER has failed to respond to the Notice issued by the Clerk by failing to file the required **Annual Status Report**, in accordance with Probate Case Management Order dated July 27, 2000 (Estates, Conservatorships, Guardianships, and Trusts) and T.C.A. §34-1-111 (Conservatorship/Guardianship).

It is, therefore, ORDERED that a hearing shall be held on June 4, 2014 at 10:00 AM in the Probate Courtroom, Historic Courthouse, 1 Public Square, Sixth Floor, Room 608, Nashville, TN 37201, to determine whether MARY CARTER should be held in contempt, whether a Successor should be appointed, or whether the case should be closed.

It is further ORDERED that MARY CARTER and his/her ATTORNEY OF RECORD shall attend the hearing to Show Cause why he/she/they should not be held in contempt and why costs should not be assessed against him/her/them.

All other interested parties are invited to attend, but their attendance is not required.

Entered this the 6 day of March, 2014.



RANDY KENNEY, Judge

SEVENTH CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

PROBATE DIVISION

STATE OF TENNESSEE

DAVIDSON COUNTY

20<sup>TH</sup> JUDICIAL DISTRICT

2014 MAR 13 AM 8:23

RICHARD R. ROOKER, CLERK

*[Signature]*  
B.C.

DOCKET NO. 12R627

RECEIVED BY D.C. 2014 MAR 14 AM 12:03

RE:

SHONTAVIA TONEA GREEN

SERVE:

MARY CARTER  
2421 WOODALE LANE  
NASHVILLE, TN 37207

Method of Service:  
Davidson Co. Sheriff  
Certified Mail

To the above named Defendant:

You are summoned to appear in the Probate Division, Seventh Circuit Court, Sixth Floor, Room 608, Nashville, TN 37201, at ~~10:00 a.m.~~ on the 4<sup>th</sup> day of June, 2014 and show cause why you should not be held in contempt for failing to file the required document as ordered by the Court.

**RICHARD R. ROOKER**

Circuit Court Clerk  
Davidson County, Tennessee

ISSUED: 3.13.14

By: *[Signature]*

Deputy Clerk

|                        |                                |
|------------------------|--------------------------------|
| PROBATE CLERK'S OFFICE | 1 Public Square                |
|                        | Historic Courthouse, Room 303  |
|                        | Address<br>Nashville, TN 37201 |

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

**RICHARD R. ROOKER**

Circuit Court Clerk

Received this summons for service this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
SHERIFF



To request an ADA accommodation, please contact Dart Gore at (615) 880-3309.

**RETURN ON PERSONAL SERVICE OF SUMMONS**

I hereby certify and return that on the 18 day of March, 2027, I:


served this Summons and Show Cause on \_\_\_\_\_ in the following manner:

failed to serve this Summons within 90 days after its issuance because \_\_\_\_\_

*May Carter*

**Is Not to be Found  
In my County**

*Does not reside -*

 **Trey Johnson**  
Sheriff/Process Server

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify and return that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I sent, postage prepaid, by registered return receipt mail or certified return receipt mail, a certified copy of the Summons and a copy of the Show Cause in Docket No. \_\_\_\_\_ to the defendant, \_\_\_\_\_. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I received the return receipt for said registered or certified mail, which had been signed by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Said return receipt is attached to this original Summons and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC or \_\_\_\_\_ DEPUTY CLERK  
MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON  
AUTHORIZED BY STATUTE TO SERVE PROCESS

**NOTICE**

**TO THE DEFENDANT(S):**

Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

ATTACH  
RETURN  
RECEIPT  
HERE  
(IF APPLICABLE)

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

I, Richard R. Rooker, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original Summons issued in this case.

RICHARD R. ROOKER, CLERK

(To be completed only if copy certification required.)

By: \_\_\_\_\_ D.C.

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY  
PROBATE DIVISION

2014 JUN 25 AM 11:51

IN RE:  
ESTATE OF  
CORNELIUS CHALMERS JR.

RICHARD R. ROOKER, CLERK

Docket No. 14P790

*[Handwritten Signature]* D.C.

---

SECOND ORDER TO ALLOW ACCESS TO SAFE DEPOSIT BOX  
AND TO ISSUE SHOW CAUSE TO BANK OF AMERICA

---

Victoria Taylor, affiant in the small estate of Cornelius Chalmers Jr., appeared in court on June 4, 2014, stating that Bank of America has refused to allow her access to the decedent's safe deposit box and refused to do a safe deposit box inventory without letters testamentary or letters of administration. This court issued an order directing Bank of America to follow Tennessee statutory requirements and allow the affiant of this small estate access to the safe deposit box co-owned by the decedent.

Victoria filed another notice and appeared in court on June 25, 2014, and stated that Bank of America continues to not allow her to access the safe deposit box until she gives notice to the co-owner of the safe deposit box. However, Bank of America refuses to give her contact information for that co-owner and refuses to give proper notice to the co-owner.

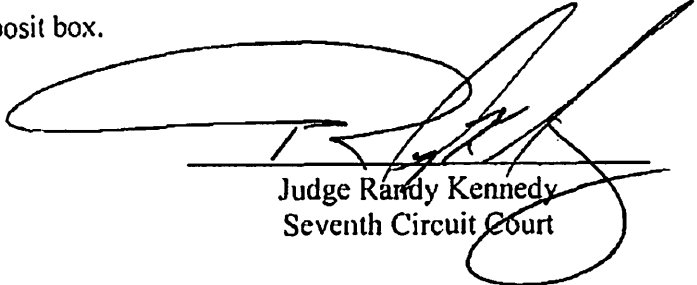
It is therefore **ORDERED, ADJUDGED AND DECREED** that Bank of America is ordered to immediately give notice to its own client, the co-owner of the safe deposit box of Cornelius Chalmers Jr., box number [REDACTED] that the box shall be opened and inventoried by the bank;

It is further **ORDERED, ADJUDGED AND DECREED** that Bank of America shall open and inventory the box, and provide to the affiant of the small estate of Cornelius Chalmers Jr. any property in the safe deposit box by no later than Friday, July 11, 2014;

It is further **ORDERED, ADJUDGED AND DECREED** that should Bank of America not comply by July 11, 2014, the bank and Angela Burr Adderly, Vice President and Banking Center Manager of the Hickory Plaza branch of the bank, shall appear in court on July 16, 2014, to show cause why they should not be held in civil contempt for its willful and deliberate refusal to recognize this Court's authority and why it has refused to comply with the June 4, 2014, order of this Court and this order, and why they should not be punished accordingly.

Copy

It is further **ORDERED, ADJUDGED AND DECREED** that Bank of America shall bring to the show cause hearing copies of all documentation reflecting ownership interests in and addresses for such owners, any lock box inventory that may have been prepared by the bank in connection with the foregoing safe deposit box, and all notices and/or communications sent to any individuals having an ownership interest in said safe deposit box.



Judge Randy Kennedy  
Seventh Circuit Court

**CERTIFICATE OF SERVICE**

I certify that I have delivered by United States postage the foregoing order on this, the \_\_\_\_\_ day of June, 2014, to the following persons and/or entities:

**Angela Burr Adderly**  
Vice President, Banking Center Manager  
Hickory Plaza Banking Center  
Bank of America  
5801 Nolensville Pike  
Nashville, TN 37211



FILED

IN THE SEVENTH CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION

2014 MAY 12 PM 4:06

IN RE: )  
)  
THE ESTATE OF )  
CLEOTA S. LACKEY, )  
Deceased, )  
)  
CRAIG LACKEY, )  
Petitioner. )

RICHARD R. ROOMER, CLERK

No. 14P 816 *Richard R. Roomer* D.C.

PETITION TO PROBATE WILL

Your Petitioner shows to the Court the following:

1. The Decedent. The decedent, Cleota S. Lackey, died on April 25, 2014, a resident and citizen of Davidson County, Tennessee, at the age of 90 years. The decedent's home address was 11 Burton Hills Blvd., Apt. 257, Nashville, Tennessee 37215.

2. Decedent's Will. Decedent left a Last Will and Testament dated February 19, 1973, which Petitioner believes is duly signed, declared, published and attested. The original Last Will and Testament is attached hereto as Exhibit A. Petitioner has searched and knows of no other wills or codicils signed by the decedent subsequent to the date of the document attached.

3. Will Witnesses. The attesting witnesses to the decedent's Will are Jancy Williamson and Wand Ford. An affidavit has been executed by each attesting witness regarding the signing of the Will, and the affidavit of each of them is attached to the Will.

4. Decedent's Heirs. Decedent has no surviving spouse and is survived by one (1) child. The decedent's sole heir at law is as follows:

Craig Lackey  
1806 Lakehurst Drive  
Nashville, TN 37206

5. Decedent's Beneficiaries. The beneficiary under decedent's Will is as follows:

Craig Lackey, Adult Son  
1806 Lakehurst Drive  
Nashville, TN 37206

6. Notice. The sole heir and beneficiary is the Petitioner.

7. Decedent's Property and Debts.

(a) Real Estate. Decedent owned no real property in Tennessee.

(b) Personal Property and Cash. Decedent owned personal property and cash which Petitioner believes to be less than \$2,000,000.

8. Petitioner's Identification and Request for Appointment. This Petition is filed by Craig Lackey, who is the decedent's son. Petitioner is willing to serve as Administrator, c.t.a. and alleges to be qualified to administer the decedent's estate according to law. Petitioner requests to be appointed Administrator, c.t.a. of the decedent's estate.

9. Waiver of Inventory, Accountings, and Bond. Petitioner, as sole heir and beneficiary of the estate hereby waives the requirements of inventory, accounting and bond.

PREMISES CONSIDERED, PETITIONER PRAYS:

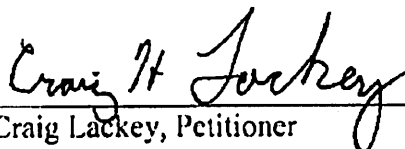
1. That the Will be admitted to probate and Petitioner be appointed to serve as Administrator, c.t.a., without bond.


2. That notice by publication be given to the creditors of the estate as required by T.C.A. §30-2-306 and notice be given to the Department of Revenue as required by T.C.A. §67-8-406.

3. That the Petitioner be allowed to distribute items of personal household property of decedent.

4. That the requirements of inventory and accountings be waived, but that the Petitioner file status reports as the Court requires.

5. That the Petitioner be granted such other, further and general relief as the Petitioner may be entitled to receive in the premises.

  
Craig Lackey, Petitioner

  
Linda R. Koon (#14929)  
Sherrard & Roe, PLC  
150 3<sup>rd</sup> Ave. South, Suite 1100  
Nashville, TN 37201  
(615) 742-4200  
Attorney for Petitioner

NOTICE

Notice is hereby given that a hearing on this Petition will be held on the 21<sup>st</sup> day of May, 2014, at 10:00 before Judge Kennedy, in Room 608, Metro Courthouse, 1 Public Square, Nashville, TN 37201. You are not required to attend this hearing.

STATE OF TENNESSEE )  
 )  
COUNTY OF DAVIDSON )

I, Craig Lackey, the above named Petitioner, being duly sworn, make oath that the statements in the foregoing Petition are true to the best of the Petitioner's knowledge, information and belief.

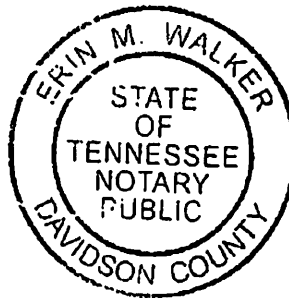
Craig H Lackey  
Craig Lackey, Petitioner

Sworn to and subscribed before me this 12<sup>th</sup> day of May, 2014.

Erin M. Walker  
NOTARY PUBLIC

My Commission Expires:

11-5-14




Copy

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Petition to probate the Will of Cleota S. Lackey was hand delivered to the following person on the 12<sup>th</sup> day of May, 2014.

Craig Lackey  
1806 Lakehurst Drive  
Nashville, TN 37206

  
\_\_\_\_\_  
Linda R. Koon (#14929)

Copy

**IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION**

2013 DEC -4 PM 4:57

IN RE: ESTATE OF THOMAS C. SECKMAN,  
DECEASED

RICHARD A. BECKER, CLERK

NO. 13P1947

*Richard A. Becker*  
D.C.

**PETITION TO PROBATE WILL**

Petitioner, JOHN P. SECKMAN, would respectfully show unto the Court:

1. THOMAS C. SECKMAN died in Davidson County, Tennessee on November 24, 2013 at the age of 83, a resident of Davidson County, Tennessee, leaving a Last Will and Testament dated April 19, 2013 wherein W. WARNER McNEILLY, III and MARY E. BECKER are the subscribing witnesses.

2. Petitioner is a resident of Davidson County, Tennessee and is named as Executor in Decedent's Last Will and Testament. Decedent's Last Will and Testament excuses the Executor from the requirement of posting bond and from the requirement of filing inventory and accountings.

3. The beneficiaries of the estate are the following:

John P. Seckman  
1815 Cedar Lane  
Nashville, TN 37212

Benjamin R. Seckman  
6017 Martingale Lane  
Brentwood, TN 37027

Thomas Coleman Seckman, Jr.  
1539 Velda Kay Lane  
Haslet, TX 76052

Raymond Clay Seckman  
2411 McIntyre Court.  
Franklin, TN 37069

Notice of this proceeding has been given to the above.

4. The decedent's heirs at law are:

John P. Seckman                      Son  
1815 Cedar Lane  
Nashville, TN 37212

Benjamin R. Seckman                Son  
6017 Martingale Lane  
Brentwood, TN 37027

Thomas C Coleman Seckman, Jr.    Son  
1539 Velda Kay Lane  
Haslet, TX 76052

Raymond Clay Seckman              Son  
2411 McIntyre Court.  
Franklin, TN 37069

Notice of this proceeding has been given to the above.

5. A copy of the original Will is attached hereto and attached to said copy of the Will is a copy of the Affidavit of the witnesses to the Will. Petitioner has the original Will in his possession and will file it with the Court prior to the hearing.

PREMISES CONSIDERED, Petitioner prays that:

1. The Last Will and Testament of THOMAS C. SECKMAN dated April 19, 2013 be admitted to probate.

2. JOHN P. SECKMAN be appointed Executor of the Estate of THOMAS

Copy

C. SECKMAN and that Letters Testamentary issue to JOHN P. SECKMAN as Executor without bond and without the requirement of filing inventory and accountings, which are excused by the Will.

Respectfully Submitted,

John P. Seckman  
JOHN P. SECKMAN, Petitioner

STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

JOHN P. SECKMAN, Petitioner, makes oath that the statements contained in the foregoing Petition are true to the best of his knowledge, information and belief.

John P. Seckman  
JOHN P. SECKMAN

Sworn to and subscribed before me, W. WARNER McNEILLY, III, by JOHN P. SECKMAN this 4<sup>th</sup> day of December, 2013.

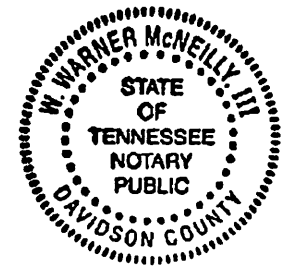
W. Warner McNeilly, III  
NOTARY PUBLIC

My Commission Expires:

9/11/17

PREPARED BY:  
WATKINS & McNEILLY, PLLC

By: W. Warner McNeilly, III  
W. Warner McNeilly, III, #012182  
214 Second Ave. North, Suite 300  
Nashville, TN 37201-1638  
(615) 255-2191  
Attorneys for Petitioner



My Commission Expires SEPT. 11, 2017

Copy

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been mailed this 4<sup>th</sup> day of December, 2013 to the following:

John P. Seckman  
1815 Cedar Lane  
Nashville, TN 37212

Benjamin R. Seckman  
6017 Martingale Lane  
Brentwood, TN 37027

Thomas C Coleman Seckman, Jr.  
1539 Velda Kay Lane  
Haslet, TX 76052

Raymond Clay Seckman  
2411 McIntyre Court.  
Franklin, TN 37069

  
W. Warner McNeilly, III

**NOTICE OF HEARING**

Notice is hereby given that a hearing on this Petition will be held on the 16<sup>th</sup> day of December, 2013, at 10:00 AM in the Seventh Circuit Court for Davidson County, Tennessee, 6th Floor, Metro Courthouse, 1 Public Square, Nashville, TN 37201. You are not required to attend this hearing.



Copy

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION

FILED  
FEB 12 2014  
RECEIVED  
Docket No. 177-170

IN THE MATTER OF THE ESTATE OF: )  
 )  
GAYLE REDING DAVIDSON LINDER, )  
Deceased. )

Docket No. 177-170

ORDER TO OPEN ESTATE

This cause came to be heard on the \_\_\_ day of \_\_\_\_\_, 2014 before the honorable Judge Randall Kennedy, Probate Judge for Davidson County, Tennessee, upon the Petition of **KENNETH WILLIAM LINDER**, the Petitioner, requesting that the court open the Estate of **GAYLE REDING DAVIDSON LINDER**, deceased, and that Letters Testamentary be issued to **KENNETH WILLIAM LINDER**. Based on an examination of the Petition, statements of counsel, and the entire record herein, the Court finds the following:

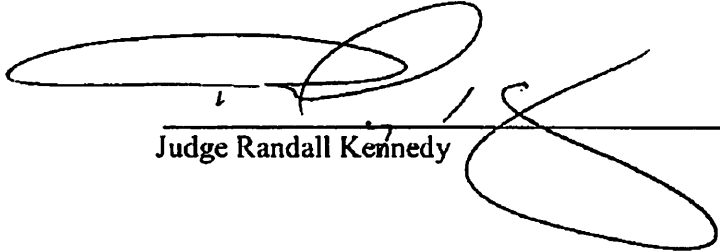
1. Decedent was a resident of Davidson County, Tennessee at the time of her death.
2. Decedent died on November 19, 2013, at the age of 67 years.
3. Decedent left a Last Will and Testament dated April 19, 2001 (the "Will") appointing **KENNETH WILLIAM LINDER** as Executor to serve without bond. The Will was witnessed by Dorothy J. Glaser and Chas C. Morrow. Their affidavit is attached to the Will attesting to the execution of the Will.
4. That the Decedent left an estate of sufficient size to be administered.
5. That it is most appropriate to appoint **KENNETH WILLIAM LINDER** as the Executor of this Estate to serve without bond, inventory or accountings.
6. All parties entitled to notice have received such notice of this hearing.

BASED ON THE FOREGOING, the Court orders the following:

1. That **KENNETH WILLIAM LINDER** is appointed as Executor of the Estate of **GAYLE REDING DAVIDSON LINDER** to serve without bond, Inventory on account <sup>Re</sup>
2. That if the estate is still open in twelve (12) months, an Annual Status Report be filed with the Court.
3. That all parties entitled to notice have received such notice of this hearing.

Notice shall be issued to creditors and the Tennessee Department of Revenue as required by T.C.A. Sections 30-2-306 and 67-8-406 respectively.

Entered this 12 day of Feb, 2014.

  
\_\_\_\_\_  
Judge Randall Kennedy

**APPROVED FOR ENTRY:**

**CALLAHAN WITHERINGTON, PLLC**

By: Elizabeth B. Hickman  
Elizabeth B. Hickman (#27976)  
209 10<sup>th</sup> Ave. South  
Suite 506  
Nashville, TN 37203  
(615) 673-4449  
Elizabeth@cwfirm.com

Copy

**CERTIFICATE OF SERVICE**

As evidenced by my signature below, I certify that a true and exact copy of the foregoing Order has been hand-delivered or forwarded by United States Mail, first class, with sufficient postage, on this, the 30<sup>th</sup> day of January, 2014, to the following parties:

Mr. Kenneth William Linder  
4309 Saunders Avenue  
Nashville, TN 37216

Ms. Teresa Diane George Anderson  
1615 Trinity Circle  
Lebanon, TN 37087-3123

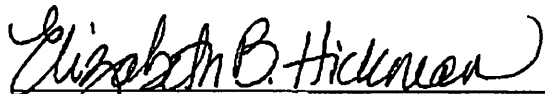
Mr. Donnie Roy Davidson Jr.  
600 Nix Lane  
Waverly, TN 37185-3526

Mr. Randall Scott Davidson  
4441 Roy Cole Road  
Springfield, TN 37172

Mr. Ronald Christopher George  
2843 Ridgewood Drive  
Christiana, TN 37037-6633

Ms. Ashley George  
1615 Trinity Circle  
Lebanon, TN 37087-3123

Ms. Christina Davidson  
1026 Brookhaven Drive  
Franklin, KY 42134

  
\_\_\_\_\_  
Elizabeth B. Hickman

# EMERGENCY TEMPORARY CONSERVATOR/GUARDIAN § 34-1-132

## SUBSECTION A:

### 1) PETITION FILED BY PERSON INTERESTED IN PERSON'S WELFARE

### 2) IMMEDIATELY COURT MUST:

- appoint attorney ad litem

### 3) NOTICE MUST BE GIVEN OF TIME/PLACE OF HEARING

- to respondent
- to any other person the court directs

### **EXCEPTION TO NOTICE REQUIREMENT** SUBSECTION B:

#### IF:

- 1) petition is sworn **AND**
- 2) court finds that respondent will be substantially harmed **before a hearing** on the appointment can be held

#### THEN:

- 1) court may appoint emergency guardian/conservator
- 2) does not have to give notice to respondent or attorney ad litem

#### BUT:

If court does appoint one without notice:

1) **WITHIN 48 HOURS of appointment:** Respondent must be given notice

2) **WITHIN 5 DAYS of appointment:** Hearing must be held on appropriateness of the appointment

**TIME LIMITS ARE MANDATORY** - FAILURE TO COMPLY VOIDS THE APPOINTMENT & REMOVES ALL POWERS GRANTED (SUBSECTION E)

### 4) **AT HEARING, IF COURT FINDS:**

1) **SUBSTANTIAL HARM:** compliance with procedures of normal conservatorship will **LIKELY** result in **SUBSTANTIAL** harm to respondent's health, safety, or welfare

2) **NO OTHER OPTION:** NO OTHER PERSON appears to have authority to act, is willing to act, or is acting in best interests of respondent in the circumstances  
this includes: acting as agent for healthcare, DPOAHC, living will

### 5) THEN COURT CAN:

- 1) Appoint an emergency guardian or conservator  
TIME LIMIT: authority may not exceed sixty (60) days  
POWER LIMIT: only the powers specified in the order.

THIS APPOINTMENT IS NOT A DETERMINATION OF INCAPACITY (SUBSECTION C)  
TEMPORARY GUARDIAN/CONSERVATOR CAN BE REMOVED BY COURT AT ANY TIME (SUBSECTION D)  
COURT MAY APPOINT GUARDIAN AD LITEM TO INVESTIGATE CIRCUMSTANCES (SUBSECTION D)  
IN ALL OTHER RESPECTS, CONSERVATOR/GUARDIAN STATUTES APPLY TO TEMPORARY G/C

### **§ 34-1-132**

(a) If the court finds that compliance with the procedures of this title will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person, including an agent acting under the Health Care Decision Act compiled in title 68, chapter 11, part 18, or a person acting under the Durable Powers of Attorney for Healthcare Act, compiled in chapter 6, part 2 of this title or a living will pursuant to title 32, chapter 11, appears to have authority to act, willingness to act, and is acting in the best interests of the respondent in the circumstances, then the court, on petition by a person interested in the respondent's welfare, may appoint an emergency guardian or conservator whose authority may not exceed sixty (60) days and who may exercise only the powers specified in the order. Immediately upon receipt of the petition for an emergency guardianship or conservatorship, the court shall appoint an attorney ad litem to represent the respondent in the proceeding. Except as otherwise provided in subsection (b), reasonable notice of the time and place of a hearing on the petition shall be given to the respondent and any other person as the court directs.

(b) An emergency guardian or conservator may be appointed without notice to the respondent and the attorney ad litem only if the court finds upon a sworn petition that the respondent will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency guardian or conservator without notice to the respondent, the respondent shall be given notice of the appointment within forty-eight (48) hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within five (5) days after the appointment.

(c) Appointment of an emergency guardian or conservator, with or without notice, is not a determination of the respondent's incapacity.

(d) The court may remove an emergency guardian or conservator at any time. The court may appoint a guardian ad litem to investigate the circumstances. An emergency guardian or conservator shall make any report the court requires. In other respects, the provisions of this title concerning guardians or conservators apply to an emergency guardian or conservator.

(e) The time periods set forth above in this section are mandatory and not directory. Failure to comply with those provisions shall void any emergency appointment and remove the authority previously granted to an emergency fiduciary.

## **EXPEDITED LIMITED HEALTHCARE FIDUCIARY § 34-1-133**

SUBSECTION A:

1) IF RESPONDENT IS **HOSPITALIZED** (*statute refers to definition in another statute*)

**AND PETITION FILED BY PERSON INTERESTED IN PERSON'S WELFARE**

2) **IMMEDIATELY COURT MUST:**

- appoint attorney ad litem

3) IF COURT FINDS:

1) **NO OTHER OPTION:** NO OTHER PERSON appears to have authority to act, is willing to act, or is acting in best interests of respondent in the circumstances

this includes: acting as agent for healthcare, DPOAHC, living will

NOTE: Court CAN vary time limits in statutes for guardianships/conservatorships for hearings in order to expedite this appointment

NOTE: Court CANNOT vary requirements necessary to determine need of the fiduciary

4) THEN COURT CAN:

1) Appoint an **expedited limited healthcare fiduciary**

TIME LIMIT: authority may not exceed sixty (60) days

POWER LIMIT: authority is for the limited purpose of

- consenting to discharge, transfer, and admission and

- consenting to any financial arrangements or medical care necessary to affect such discharge, transfer or admission to another healthcare facility

5) **HEARING MUST BE HELD WITHIN FIVE DAYS OF APPOINTMENT** (SUBSECTION B)

- to determine appropriateness of appointment

**TIME LIMITS ARE MANDATORY** - FAILURE TO COMPLY VOIDS THE APPOINTMENT & REMOVES ALL POWERS GRANTED (SUBSECTION E)

THIS APPOINTMENT IS NOT A DETERMINATION OF INCAPACITY (SUBSECTION C)

EXPEDITED LIMITED HEALTHCARE FIDUCIARY CAN BE REMOVED BY COURT ANY TIME (SUBSECTION D)

## **§ 34-1-133**

(a) If the respondent is under hospitalization in a hospital as those terms are defined in TCA title 68, chapter 11, part 2, and no other person, including an agent acting under the Healthcare Decision Act TCA title 68, chapter 11, part 8, a person acting under the Durable Powers of Attorney for Healthcare Act title 34, chapter 6, part 2 or a living will under TCA title 32, chapter 11, Part 1 appears to have the authority and willingness to act and is acting in the best interest of the respondent, the court on petition of a person interested in the respondent's welfare may appoint an expedited limited healthcare fiduciary whose authority is for the limited purpose of consenting to discharge, transfer, and admission and consenting to any financial arrangements or medical care necessary to affect such discharge, transfer or admission to another healthcare facility and whose authority may not exceed sixty (60) days. Immediately upon the receipt of the petition for an expedited limited healthcare fiduciary, the court shall appoint an attorney ad litem to represent the respondent in the proceeding. In expediting the appointment of an expedited limited healthcare fiduciary, the court may vary the time periods for hearings including but not limited to the minimum number of days before a hearing under TCA § 34-1-108 or the number of days before appointment of a guardian ad litem under TCA § 34-1-107 or other time periods, but shall not vary requirements as necessary to determine the respondent is in need of a fiduciary.

(b) The court shall hold a hearing on the appropriateness of the appointment within five (5) days of the appointment.

(c) Appointment of an expedited limited healthcare fiduciary is not a determination of the respondent's incapacity.

(d) The court may remove an expedited limited healthcare fiduciary at any time.

(e) The time periods set forth in this section are mandatory and not directory. Failure to comply with those provisions shall void any expedited appointment and remove the authority previously granted to the expedited limited healthcare fiduciary.

FILED

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

PROBATE DIVISION  
2014 JUN 11 PM 2:43

IN RE:

RICHARD R. ROOPER, CLERK

LAURA ALLEN HARPER

)  
*[Signature]* D.C.  
) NO: 14988  
)

KAY F. HAGER AND  
LEALAND DALE HAGER, SR.,  
CO-PETITIONERS.

)  
)  
)  
)  
)

PETITION FOR APPOINTMENT OF CONSERVATOR

Comes now the Petitioners in this cause, Kay F. Hager and Lealand Dale Hager, Sr., and file this Petition pursuant to T.C.A. § 34-13-101, et seq., to appoint a conservator for her mother, Laura Allen Harper, and would state and show as follows:

I. The Respondent and proposed ward, Laura Allen Harper, was born on January 18, 1928, and is eighty-six years of age. Her Social Security number is provided under seal. Her permanent residence is 1133 Harold Drive, Nashville, Davidson County, Tennessee 37214. She currently resides at Green Hills Health and Rehabilitation Facility which is located at 3939 Hillsboro Circle, Nashville, Tennessee 37215.

II. Petitioner and proposed co-conservator, Kay F. Hager, is Laura Allen Harper's daughter. Her birth date is March 11, 1951, and she is sixty-three years of age. Her Social Security Number is provided under seal. Her residence and mailing address is 505 Foothill Drive, Nashville, Tennessee 37214. She does not have felony and/or misdemeanor convictions. Petitioner and proposed co-conservator, Lealand Dale Hager, Sr., is Laura Allen Harper's son-in-law. His birth date is October 20, 1947, and he is sixty-six years of



age. His Social Security Number is provided under seal. His residence and mailing address is 505 Foothill Drive, Nashville, Tennessee 37214. He does not have felony and/or misdemeanor convictions.

III. Laura Allen Harper's closest living relative is her daughter, the Petitioner and proposed Conservator herein. Laura Allen Harper does not have a spouse. She has five additional children, William Allen Harper, 119 Glade Drive, Tullahoma, Tennessee 37388; Timothy Edward Harper, 940 Bert Bergan, Woodbury, Tennessee 37190; Leo James Harper, 511 Dunailie Drive, Nashville, Tennessee 37217; Sarah Lynn Ford, 4 Surrey Lane, Merrimack, New Hampshire 03054; and Sandra Joy Walsh, 2529 Paxton Street, Woodbridge, Virginia 22192-2414.

IV. Laura Allen Harper suffers from severe dementia such that she can no longer live independently and care for herself. She recently fell and broke both wrists from which she is making a recovery. She had lived in her home until she broke her wrists which precipitated a move from the hospital into a skilled nursing care home.

V. Laura Allen Harper's physician is J. D. Bryant, M. D. A copy of his Report of Physician is filed as Exhibit A hereto. The original Report of Physician will be available at the hearing of this matter. His report indicates that Laura Allen Harper needs a Conservator to handle her physical well being, financial affairs, consent to medical treatment, and consent to relocation.

VI. It is in the best interest of the proposed ward, Laura Allen Harper, that the Petitioners, Kay F. Hager and Lealand Dale Hager, Sr., be appointed co-conservators to manage the estate, financial affairs and the person of Laura Allen Harper as she is unable to do so as a result of physical and mental incapacity. A conservator is needed in order that Laura Allen Harper's business and personal affairs may be appropriately and legally attended for so long as she is unable to manage her own affairs.

VII. It would be in the best interest of Laura Allen Harper that the Court remove from her and transfer to her conservator all rights that the Court deems necessary or advisable for the care and protection of her person and property, including, but not limited to:

1. The right to give, withhold, or withdraw consent and make other informed decisions relative to medical and mental examinations and treatment;
2. The right to make end of life decisions:
  - a. To consent, withhold, or withdraw consent for the entry of a "Do Not Resuscitate" Order or the application of any heroic measures or medical procedures intended solely to sustain life and other medications;
  - b. To consent or withhold consent concerning the withholding or withdrawal of artificially provided food, water, or other nourishment or fluids;
3. The right to consent to admission to hospitalization, and to be discharged or transferred to a residential setting, group home, or other facility for additional care and treatment;

4. The right to consent to participate in activities and therapies which are reasonable and necessary for the habitation of the respondent;
5. The right to consent or withhold consent to any residential or custodial placement;
6. The power to give, receive, release, or authorize disclosures of confidential information;
7. The right to apply for benefits, public and private, for which the person with a disability may be eligible;
8. The right to dispose of personal and real property subject to statutory and judicial constraints;
9. The right to determine whether or not the respondent may utilize a Tennessee driver license for the purpose of driving;
10. The right to make purchases;
11. The right to enter into contractual relationships;
12. The right to execute instruments of legal significance;
13. The right to pay the respondent's bills and protect and invest the respondent's income and assets;
14. The right to prosecute and defend lawsuits; and
15. The right to execute, on behalf of respondent, any and all document to carry out the authority vested above.

VIII. Petitioners request the conservatorship to manage the property of Laura Allen Harper. Her only property consists of a small checking and savings bank account and her home located at 1133 Harold Drive, Nashville, Davidson County, Tennessee 37214. She receives a monthly Social Security check in the amount of \$1,569.00, per month and a pension check in the amount of \$207.60 for a total monthly income of \$1,776.60. The cost of her care at Green Hills Rehabilitation is approximately \$6,937.00 per month and can vary. In addition, she has other expenses such as for doctor's visit co-payments. Since her monthly Social Security income is not enough to pay for the cost of \$6,937.00, her house must be sold to pay for her care. Co-Petitioners seek court approval to sell real estate located at 1133 Harold Drive, Nashville, Davidson County, Tennessee 37214.

IX. Petitioner would request that the Co-Conservators appointed herein be allowed to file with the Court a proposed Property Management Plan within thirty days of appointment.

WHEREFORE, premises considered, Petitioners prays:

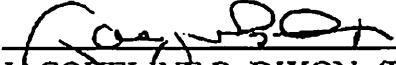
1. That process issue concerning this Petition, and that Laura Allen Harper be served with process as required by law.
2. That the Court appoint a *guardian ad litem* for Laura Allen Harper in this proceeding.

3. That Laura Allen Harper be declared a disabled person and that, after a hearing in this matter, the Petitioners, Kay F. Hager and Lealand Dale Hager, Sr, be appointed as her Co-Conservators to manage, supervise and protect her person and property.
4. That the Court require a Property Management Plan in this cause and authorize the Co-Conservators appointed herein to expend Laura Allen Harper's funds to pay all reasonable and necessary medical and living expenses on behalf of Laura Allen Harper, subject to any limitations imposed by the Court.
5. That the Court authorize the sale of Laura Allen Harper's house located at 1133 Harold Drive, Nashville, Davidson County, Tennessee 37214.
6. That the fees and expenses of the *guardian ad litem* and the costs of this cause be charged against the property of Laura Allen Harper.
7. For such other, further and general relief to which she may be entitled.

Respectfully submitted,

WEATHERLY, MCNALLY & DIXON, PLC

BY:

  
\_\_\_\_\_  
JACQUELINE B. DIXON (BPR #12054)  
Suite 2200, Fifth Third Center  
424 Church Street  
Nashville, Tennessee 37219  
(615) 986-3377

Copy

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of June 2014, a copy of the foregoing document has been sent via U.S. Mail, postage prepaid to:

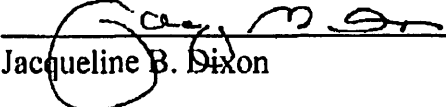
William Allen Harper  
119 Glade Drive  
Tullahoma, Tennessee 37388

Timothy Edward Harper  
940 Bert Bergan  
Woodbury, Tennessee 37190

Leo James Harper  
511 Dunailie Drive  
Nashville, Tennessee 37217

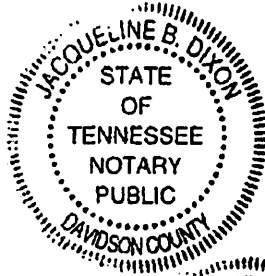
Sarah Lynn Ford  
4 Surrey Lane  
Merrimack, New Hampshire 03054

Sandra Joy Walsh  
2529 Paxton Street  
Woodbridge, Virginia 22192-3414

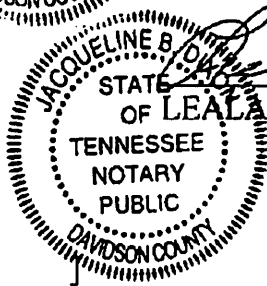
  
\_\_\_\_\_  
Jacqueline B. Dixon

cc: Kay F. Hager  
Lealand Dale Hager, Sr.

Copy



*Kay F. Hager*  
KAY F. HAGER



*Lealand Dale Hager, Sr.*  
LEALAND DALE HAGER, SR.

STATE OF TENNESSEE  
COUNTY OF DAVIDSON ]

Personally appeared before the undersigned notary public for the said County and State, the within named Kay F. Hager and Lealand Dale Hager, Sr., who acknowledged that they are the Petitioners named in the foregoing document and that the contents thereof were true and correct to the best of their knowledge, information and belief.

Witness my hand and official seal at Nashville, Tennessee on this the 16th day of May 2014.

*Jacqueline B. Dixon*  
NOTARY PUBLIC My Commission Expires  
MY COMMISSION EXPIRES: March 8, 2016

Copy

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
20TH JUDICIAL DISTRICT, SITTING AT NASHVILLE  
PROBATE DIVISION

2014 JUL -7 AM 8:33

IN THE MATTER OF:

LAURA ALLEN HARPER

}  
}  
}  
}  
}

No. 14P-988

RICHARD R. ADAMS, CLERK  
  
D.C.

---

REPORT AND RECOMMENDATION OF THE GUARDIAN AD LITEM

---

I.  
INTRODUCTION

This case is before the court on a Petition for Appointment of Conservator filed by Kay F. Hager, daughter of the Respondent Laura Allen Harper, and Lealand Dale Hager, Sr., son-in-law of the Respondent. The Petitioner alleges that the Respondent is in need of protection as to her person and property by reason of her diagnosis of dementia and asks that all rights of the Respondent as to her person or property be transferred to the Petitioners as Co-Conservators. The Petition further requests that the Court require a Property Management Plan and permit the sale of the Respondent's home.

By order of June 19, 2014, I was appointed Guardian ad litem to investigate and access the physical, mental and financial status of the Respondent; to determine if the proposed Co-Conservators Kay F. Hager and Lealand Dale Hager Sr. are the appropriate persons to be appointed; to review the Property Management Plan; and to summarize my findings to the Court in the form of a written Report and Recommendation.



II.  
INVESTIGATION

Upon my appointment I took the following steps:

1. I reviewed the Petition and accompanying documents provided to me from the Court file, specifically including the Report of Physician submitted by Dr. J. D. Bryant.
2. I spoke by telephone with the Petitioner Kay F. Hager.
3. I spoke by telephone with Jacqueline B. Dixon, the attorney for the Petitioners.
4. I met personally with the Respondent at Skyline Madison in the Senior Care ward and also spoke with her son Leo Harper, who was there visiting his mother.
5. There was no Proposed Property Management Plan, so I was unable to review one.

III.  
FACTUAL FINDINGS

Ms. Laura Allen Harper is an eighty-six year old woman who currently is at Skyline Madison in the Senior Care ward. I met personally with Ms. Harper for about 20 minutes. I explained who I was and why I was visiting her, I delivered a copy of the Petition and Notice of Hearing to her, and I explained in detail the contents of the Petition and Notice and their significance. Ms. Harper had absolutely no understanding of why I was there or what was happening. I spoke to her son Leo at some length and he confirmed that she really had no real awareness of her surroundings and tended to talk nonsense.

According to Dr. Bryant's Report of Physician filed with the Court as an exhibit to the Petition, Ms. Harper suffers from senile degeneration of the brain, and in Dr. Bryant's opinion she is in need of a Conservator to act on her behalf for her physical well-being, financial affairs, medical treatment and consent to relocation.

I respectfully submit that in my opinion Ms. Harper is a disabled person within the meaning of the statute and that she is in need of a conservatorship.

According to Ms. Hager the Respondent has an income of about \$1,700 per month from Social Security and a small pension through her deceased husband from the Sisters of Mercy. Ms. Hager plans to apply for veteran's benefits, which would generate another \$1,100 per month or so. The only other assets the Respondent has are an account with \$18,000 or \$19,000 in it and her home, located at 1133 Harold Drive, Nashville, Tennessee 37214.


IV.  
RECOMMENDATION

I respectfully recommend the following:

1. That the Court find that the Respondent is a disabled person within the meaning of the applicable statutes;
2. That the Court appoint a Conservator for the Respondent's person and property;
3. That the Petitioners Kay F. Hager and Lealand Dale Hager Sr. be appointed Co-Conservators of the person and property of the Respondent;
4. That the rights listed in the Petition be transferred from the Respondent to the Co-Conservators;
5. That the Court approve the sale of the real estate owned by the Respondent so that she may be properly maintained in her current facility at Skyline Madison or at whatever other facility becomes her residence;
6. That bond be set in an amount sufficient to secure the assets of the Respondent;
7. That a Property Management Plan be submitted by the Co-Conservators;
8. That timely accountings be submitted by the Co-Conservators;

9. That an annual Status Report be submitted by the Co-Conservators;
10. That the Guardian ad litem be dismissed and discharged from any further participation in this matter.

RESPECTFULLY SUBMITTED:

  
\_\_\_\_\_  
JOHN D. KITCH, BPR #4569  
OF COUNSEL  
CORNELIUS & COLLINS LLP  
511 Union Street, Suite 1500  
P.O. Box 190695  
Nashville, Tennessee 37219  
(615) 244-1440/fax 254-9477  
jdkitch@cornelius-collins.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has transmitted a true and accurate copy of the foregoing document to Jacqueline B. Dixon, Suite 2260, Fifth Third Center, 424 Church Street, Nashville, Tennessee 37219, William Allen Harper, 119 Glade Drive, Tullahoma, Tennessee 37388, Timothy Edward Harper, 940 Bert Bergen, Woodbury, Tennessee 37190, Leo James Harper, 511 Dunailie Drive, Nashville, Tennessee 37217, Sarah Lynn Ford, 4 Surrey Lane, Merrimack, New Hampshire, 03054, and Sandra Joy Walsh, 2529 Paxton Street, Woodbridge, Virginia 22192-3414 by postage prepaid mail this 30<sup>th</sup> day of July, 2014.

  
\_\_\_\_\_

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION

FILED  
JUL 16 2014  
BY DAVID R. FRICKER, Clerk  
P. H. [Signature] Deputy

IN RE: )  
 )  
 LAURA ALLEN HARPER )  
 )  
 )  
 KAY F. HAGER AND )  
 LEALAND DALE HAGER, SR., )  
 PETITIONERS. )

NO: 14P988 \_\_\_\_\_

ORDER APPOINTING CO-CONSERVATORS

This cause came on for hearing on July 16, 2014, before the Honorable Randy Kennedy, Judge of the Seventh Circuit Court, Probate Division for Davidson County, Tennessee, upon the Petition to Appoint a Conservator for Laura Allen Harper, an adult over the age of eighteen years, heretofore filed in this cause by the Petitioners, Kay F. Hager and Lealand Dale Hager, Sr.; the report of <sup>RK</sup> ~~J. D. Bryant~~ <sup>Jahnkitch</sup> M. D.; the report of the Guardian ad Litem, ~~[Name]~~ <sup>RK</sup>; the statements of counsel and the Guardian ad Litem; the statement of Petitioner; and, the entire record in this cause, from all of which the Court finds, by clear and convincing evidence, that the Respondent, Laura Allen Harper, is fully and completely disabled, incapable of managing her estate, and that Kay F. Hager and Lealand Dale Hager, Sr. should be appointed as Co- Conservators for the person and estate of Respondent, Laura Allen Harper.

The foregoing being the finding of the Court, and the Court having so ruled,

It is, therefore, ORDERED, ADJUDGED and DECREED that the Respondent, Laura Allen Harper, is hereby adjudicated a disabled person, incapable of managing her person and estate, and is in need of a conservator to manage her person and estate.

It is further ORDERED, ADJUDGED and DECREED that Kay F. Hager and Lealand Dale Hager, Sr. shall be, and hereby are, appointed the Co-Conservators of the person and estate of the Respondent, Laura Allen Harper.

It is further ORDERED, ADJUDGED and DECREED that the following rights shall be removed from the Respondent, Laura Allen Harper, and these rights shall become vested in the Co-Conservators appointed herein, Kay F. Hager and Lealand Dale Hager, Sr.:

1. The right to give, withhold, or withdraw consent and make other informed decisions relative to medical and mental examinations and treatment;
2. The right to make end of life decisions:
  - a. To consent, withhold, or withdraw consent for the entry of a "Do Not Resuscitate" Order or the application of any heroic measures or medical procedures intended solely to sustain life and other medications;
  - b. To consent or withhold consent concerning the withholding or withdrawal of artificially provided food, water, or other nourishment or fluids;
3. The right to consent to admission to hospitalization, and to be discharged or transferred to a residential setting, group home, or other facility for additional care and treatment;
4. The right to consent to participate in activities and therapies which are reasonable and necessary for the habitation of the respondent;
5. The right to consent or withhold consent to any residential or custodial placement;
6. The power to give, receive, release, or authorize disclosures of confidential information including, but not limited to, information governed by the Health Insurance Portability and Accountability Act of 1996 (a/k/a known as HIPAA), 42 U.S.C. 1320d and C.F.R. 160-164 regarding the use and disclosure of any of the Respondent's identifiable financial information, health information and/or other medical records;
7. The right to apply for benefits, public and private, for which the person with a disability may be eligible;
8. The right to dispose of personal and real property subject to statutory and judicial constraints;
9. The right to determine whether or not the respondent may utilize a Tennessee driver license for the purpose of driving;
10. The right to make purchases;
11. The right to enter into contractual relationships;
12. The right to execute instruments of legal significance;
13. The right to pay the respondent's bills and protect and invest the respondent's income and assets;
14. The right to prosecute and defend lawsuits; and

15. The right to execute, on behalf of respondent, any and all document to carry out the authority vested above.

It is further ORDERED, ADJUDGED and DECREED that Kay F. Hager and Lealand Dale Hager, Sr., are authorized to gather Respondent's assets, but cannot dissipate said assets prior to the filing of an Inventory and Property Management Plan as set forth below.

Notwithstanding the provisions of the preceding paragraph, it is further ORDERED, ADJUDGED and DECREED that Kay F. Hager and Lealand Dale Hager, Sr., are authorized to immediately begin paying Respondent's usual bills, including but not limited to her daily living expenses.

It is further ORDERED, ADJUDGED and DECREED that the Co-Conservators appointed herein, Kay F. Hager and Lealand Dale Hager, Sr., shall be and hereby are authorized to change the personal checking and savings accounts of Respondent to a conservatorship account.

Upon filing for the Inventory and Property Management plan, it is further ORDERED, ADJUDGED and DECREED that the Co-Conservators appointed herein, Kay F. Hager and Lealand Dale Hager, Sr., shall be and hereby are authorized to pay all expenses necessary for the Respondent's maintenance, support and medical care.

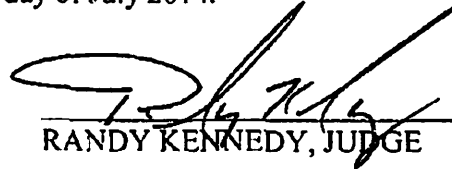
It is further ORDERED, ADJUDGED and DECREED that the Co-Conservators, Kay F. Hager and Lealand Dale Hager, Sr., are required to post a bond in the amount of \$ 200,000 and will be required to file an Inventory and a Property Management Plan within forty-five days of July 16, 2014, an accounting within six months of said appointment, and annual accountings thereafter with the Court.

Copy

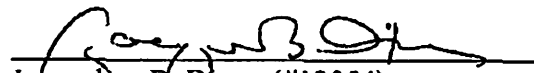
It is further ORDERED, ADJUDGED and DECREED that the costs of this cause shall be taxed to Respondent, Laura Allen Harper.

It is finally ORDERED, ADJUDGED and DECREED that execution may issue to enforce any of the provisions of this Order.

Entered this 16 day of July 2014.

  
\_\_\_\_\_  
RANDY KENNEDY, JUDGE

APPROVED FOR ENTRY:

  
\_\_\_\_\_  
Jacqueline B. Dixon (#12054)  
WEATHERLY, MCNALLY & DIXON, PLC  
Jacqueline B. Dixon (#12054)  
Fifth Third Center, Suite 2260  
424 Church Street  
Nashville, Tennessee 37219  
(615) 986-3377  
(615) 635-0018 - fax  
jdixon@wmdlawgroup.com  
Attorney for Kay F. Hager and Lealand Dale Hager, Sr.

Copy

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of July 2014, a copy of the foregoing document has been sent via U.S. Mail, postage prepaid to:

William Allen Harper  
119 Glade Drive  
Tullahoma, Tennessee 37388

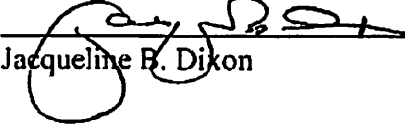
Timothy Edward Harper  
940 Bert Bergan  
Woodbury, Tennessee 37190

Leo James Harper  
511 Dunailie Drive  
Nashville, Tennessee 37217

Sarah Lynn Ford  
4 Surrey Lane  
Merrimack, New Hampshire 03054

Sandra Joy Walsh  
2529 Paxton Street  
Woodbridge, Virginia 22192-3414

John Kitch, Esq.  
(Via hand delivery)

  
\_\_\_\_\_  
Jacqueline B. Dixon

cc: Kay F. Hager and Lealand Dale Hager, Sr.

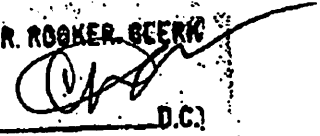


Copy

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
20TH JUDICIAL DISTRICT, SITTING AT NASHVILLE  
PROBATE DIVISION

FILED  
2014 APR 28 AM 10:00

RICHARD R. ROOKER, CLERK



D.C.

IN RE: ]  
] ]  
GUARDIANSHIP OF ]  
MARY CATHERINE CLAVERIE ]  
Minor child ]  
] ]  
ROY CLAVERIE and ]  
JULIE ANN CLAVERIE, ]  
Petitioners ]

No. 14P - 704

---

PETITION FOR THE ESTABLISHMENT OF GUARDIANSHIP

---

Come your Petitioners, Roy Claverie and Julie Anne Claverie, pursuant to Tenn. Code Ann. § 34-1-101, *et seq.* and Tenn. Code Ann. § 34-2-101 *et seq.*, and would submit to the Court the following:

1. The minor child Mary Catherine Claverie is the natural child of the Petitioners, was born March 15, 2002, and resides at 6220 Robin Hill Road, Nashville, Davidson County, Tennessee 37205.

2. The Petitioners, Roy Claverie and Julie Anne Claverie, are the natural parents of the minor child Mary Catherine Claverie. They are 42 years old and 43 years old respectively and reside at 6220 Robin Hill Road, Nashville, Davidson County, Tennessee 37205.

3. The Petitioners are the proposed guardians of the minor child, are the closest relatives of the minor child and as natural parents are the present custodians of the minor child. The Petitioners waive service of process and any other notifications as they are the only Interested Parties to this proceeding.

4. The Petitioners seek appointment of guardians for the estate of the minor child in that there is an annuity held by AXA Equitable, valued at approximately \$60,000, payable to the minor child Mary Catherine Claverie. The minor child has no other income and this annuity is all of the minor's property, other than miscellaneous personal property.

5. The usual monthly expenses of the minor child are simply those connected with normal activities and there are no extraordinary expenses. These expenses have been paid by the Petitioners as natural parents of the minor child.

6. The plan for management of the minor child's property is simply to invest the funds for the benefit of the minor child when she reaches majority.

7. The Petitioners request that the Court waive the appointment of a Guardian ad litem in accordance with Tenn. Code Ann. § 34-1-105(a)(2)(A) as the Petitioners are the natural parents of the minor child.

#### PREMISES CONSIDERED, PETITIONER PRAYS:

1. That service of process be waived as the Petitioners are the natural parents, the closest relatives, and the custodians of the minor child and are the only Interested Parties to this proceeding;

2. That the appointment of a Guardian ad litem be waived as the Petitioners are the natural parents of the minor child;

3. That at the hearing of this cause, Petitioners be appointed the guardians of the estate of the minor child with such powers and authority as the Court deems appropriate;

4. That bond be set in an amount deemed sufficient by the Court;

5. For such other relief that the Court may deem appropriate.

Copy

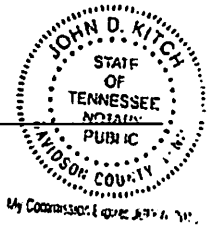
DATE: 4/29/14

[Signature]  
ROY CLAVERIE

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned authority, the within named Roy Claverie, with whom I am personally acquainted (or who provided satisfactory proof of identity), and who, after being duly sworn, did swear, state or affirm that he had read the foregoing document for the purposes therein contained and acknowledged that it is true based on his personal knowledge.

[Signature]  
NOTARY PUBLIC



My commission expires: July 6, 2015

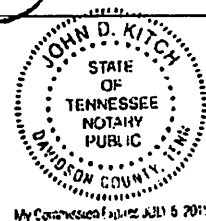
DATE: 7/24/14

[Signature]  
JULIE ANNE CLAVERIE

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned authority, the within named Julie Anne Claverie, with whom I am personally acquainted (or who provided satisfactory proof of identity), and who, after being duly sworn, did swear, state or affirm that she had read the foregoing document for the purposes therein contained and acknowledged that it is true based on her personal knowledge.

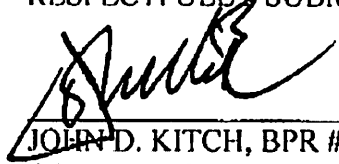
[Signature]  
NOTARY PUBLIC



My commission expires: July 6, 2015

Copy

RESPECTFULLY SUBMITTED:



---

JOHN D. KITCH, BPR #4569  
CORNELIUS & COLLINS, LLP  
511 Union Street, Suite 1500  
P.O. Box 190695  
Nashville, Tennessee 38219  
615-244-1440/fax 2549477

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE  
(PROBATE DIVISION)

EVELYN HUNEYCUTT, )  
VIRGINIA GROVES and )  
BILLY GROVES, )  
 )  
Contestants/Respondents, )  
 )  
vs. )  
 )  
KATHERINE MADDEN, )  
 )  
Petitioner/Defendant, )  
 )  
IN THE MATTER OF THE )  
ESTATE OF HOWARD GROVES, )  
 )  
 )  
Deceased. )

NO. 13P-2058

FILED  
APR 11 2014  
P. HOOKER Clerk  
D. D. D.

ORDER CERTIFYING WILL CONTEST

This matter is before the Court on the Petition of Evelyn Huneycutt, Virginia Groves and Billy Groves (hereafter "Contestants") praying that they be allowed to contest the probate in solemn form of a paper writing dated January 30, 2013, filed with this Court by Katherine Madden (hereafter "Defendant") and purporting to be the Last Will and Testament of Howard Groves (hereafter "Decedent"). Based upon a review of the pleadings in this matter, the Court record as a whole and with no objections from the Defendant, the Court finds the following:

1. Decedent, was a resident of Nashville, Davidson, County, Tennessee at the time of his death.

2. A hand written document purporting to be the holographic Last Will and Testament of the Decedent dated January 30, 2013, was filed with this Court in solemn form on March 7, 2014 by Defendant.

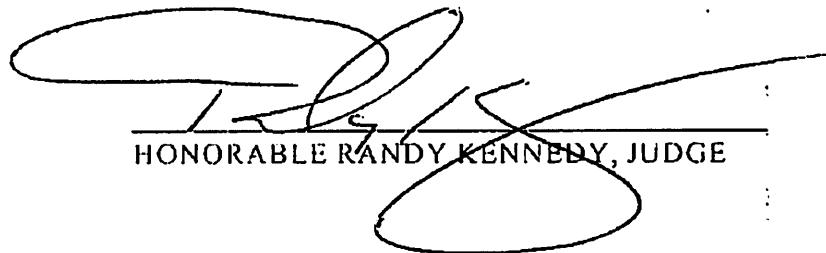
3. The Contestants have standing to contest the handwritten document dated January 30, 2013 as the holographic Last Will and Testament of Decedent.

4. The Contestants have posted bond as required by Tenn. Code Ann. §32-4-101.

5. The counsel for the parties have agreed to confer on the preference for a bench or jury trial, dates to be included in a scheduling order, including a date for a status conference.

Based upon these findings, the Court orders the determination of the validity of the hand written document purported to be the Last Will and Testament of Howard Groves, Decedent, dated January 30, 2013, be certified to the Probate Court of Davidson County, Tennessee for determination.

Entered this the 11 day of April, 2014.




HONORABLE RANDY KENNEDY, JUDGE

Copy

APPROVED FOR ENTRY:

**SOBEL, POSS & MOORE**

By: 

**A. Michelle Poss, BPR # 19547**

**M. Ben Moore, II, BPR # 22201**

201 Fourth Avenue, North

Suite 1450

Nashville, Tennessee 37219

(615) 242-4477-Office

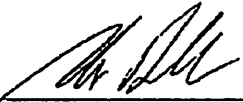
(615) 242-4475-Facsimile

[michelleposs@spmlawfirm.com](mailto:michelleposs@spmlawfirm.com)

[benmoore@spmlawfirm.com](mailto:benmoore@spmlawfirm.com)

*Attorneys for Contestants*

**DODSON, PARKER, BEHM & CAPARELLA, P.C.**

By: 

**Harlan Dodson, Esq., BPR #2368**

**Margaret L. Behm, Esq., BPR #5123**

1310 6<sup>th</sup> Avenue, North

Nashville, Tennessee 37208

(615) 254-2291-Office

*Attorneys for Katherine Madden*

Copy

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of this Order has been mailed to the following persons:

**Gary Micheels**  
1101 Grundy Street  
Nashville, Tennessee 37203

**Karen Townsend**  
1101 Grundy Street  
Nashville, Tennessee 37203

**Harlan Dodson, Esq.**  
**Margaret L. Behm, Esq.**  
**Dodson, Parker, Behm & Caparella, P.C.**  
1310 6<sup>th</sup> Avenue, North  
Nashville, Tennessee 37208

*Attorney for Katherine Madden*

**Michael M. Castellarin, Esq.**  
**Moody, Whitfield & Castellarin**  
95 White Bridge Rd.  
Suite 509  
Nashville, Tennessee 37205

on this 11 day of April, 2014.



**M. Ben Moore, II**



In the Seventh Circuit Court of Davidson County, Tennessee  
(Probate Division)

FILED  
2014 JAN 14 PM 12:59  
RICHARD B. ROOKER, CLERK  
*[Signature]*  
D.C.

SMALL ESTATE AFFIDAVIT  
T.C.A. §30-4-101, et. seq.

DOCKET NUMBER: 14766

ESTATE OF: CYNTHIA ANN CARMAN

Your Affiant, ANN CARMAN, would respectfully show unto the Court as follows:

That the deceased, age 57, died on the 2ND day of AUGUST 2013, in DAVIDSON County, State of Tennessee, and that his/her last residence was:  
602 SHADY LANE, NASHVILLE, TN 37206

- The decedent left no Will.
- The decedent left a Will and the Will has been deposited with the Clerk of this Court, and a copy has been filed to support this Affidavit.

The decedent left the following unpaid debts at the time of his/her death:

| CREDITOR                | ADDRESS                 | AMOUNT      |
|-------------------------|-------------------------|-------------|
| ANN CARMAN (FUNERAL EX) | 602 SHADY LN, NASHVILLE | \$ 11871.93 |
| _____                   | _____                   | \$ _____    |
| _____                   | _____                   | \$ _____    |
| _____                   | _____                   | \$ _____    |
| _____                   | _____                   | \$ _____    |

(IF OTHER DEBTS, ATTACH A SEPARATE SHEET)

The decedent died owning the following property (list all personal property which includes cash, bank accounts, notes receivable, automobiles, stocks and bonds and life insurance payable to the estate, mechanical equipment, household furnishings, etc.)

Do Not List Jointly Owned Property

| ITEM                  | LOCATION / POSSESSION / BANK ACCT # (if applicable) | VALUE      |
|-----------------------|---|------------|
| BANK ACCOUNT/CHECKING | ██████████ BANK OF AMERICA                          | \$ 1383.29 |
| BANK ACCOUNT/SAVINGS  | ██████████ BANK OF AMERICA                          | \$ 28.82   |
| _____                 | _____   | \$ _____   |
| _____                 | _____   | \$ _____   |
| _____                 | _____   | \$ _____   |

(IF OTHER PERSONAL PROPERTY, ATTACH SEPARATE SHEET)

TOTAL PERSONAL ESTATE: \$ 1412.11

The following are the names and addresses of all next of kin of the deceased:

| <u>NAME</u>      | <u>ADDRESS</u>                          | <u>RELATIONSHIP</u> | <u>AGE</u> |
|------------------|---|---------------------|------------|
| DUSTIN GRISSETT  | 1516 OAKLAND ACRES DR, MADISON TN 37115 | SON                 | 31         |
| BRANDON GRISSETT | EAST DALE, NASHVILLE TN                 | SON                 | 29         |
| CHELSEA GRISSETT | DICKERSON RD, NASHVILLE TN (RAVENWOOD)  | DAUG                | 20         |
|                  |   |                     |            |
|                  |   |                     |            |
|                  |   |                     |            |
|                  |   |                     |            |

Your Affiant is willing to collect and preserve all assets for the Estate, pay all creditors and distribute the remainder in accordance with the terms of the Will or according to the laws of descent and distribution of the State of Tennessee, pursuant to T.C.A. §30-4-101.

This 14 day of JANUARY, 20 14.

ANN CARMAN  
NAME OF AFFIANT

602 SHADY LANE  
ADDRESS

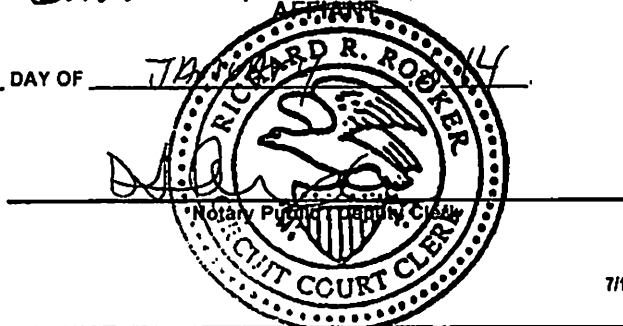
NASHVILLE                      TN                      37206  
CITY                                      STATE                      ZIP

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

Personally appeared before me, Notary Public/Deputy Clerk, the said Ann CARMAN, and after being sworn, deposes and says, subject to the penalty for perjury, that the Affidavit is not false or misleading and that s/he is mindful of all the duties imposed upon her/him.

Ann M Carman  
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME, THIS 14<sup>th</sup> DAY OF JANUARY, 2014.



Commission Expires: \_\_\_\_\_

Copy

**FILED**  
IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
PROBATE DIVISION

2013 NOV 27 PM 1:55

In Re Estate of:  
Howard W. Bonner

Doyle R. Bonner  
Docket Number: 13P-1923

**SMALL ESTATE AFFIDAVIT**

COMES NOW Deborah R. Bonner (hereinafter "the Petitioner"), by and through her undersigned counsel, and would show unto the Court as follows:

1. That Howard H. Bonner (hereinafter "the Decedent") died on December 16, 2012 at the age of fifty-three (53).
2. That a Certified Copy of the Decedent's Certificate of Death is attached hereto as Exhibit "A."
3. That, *at the time of his death*, the Decedent was a resident of Nashville, Davidson County, Tennessee and resided at 23 North Hill Street.
4. That the name, relationship, and mailing address of the Petitioner is as follows:

| <u>NAME</u>       | <u>RELATIONSHIP</u> | <u>MAILING ADDRESS</u>                             |
|-------------------|---------------------|--|
| Deborah R. Bonner | Adult Sister        | 23 North Hill Street<br>Nashville, Tennessee 37210 |

5. That the Petitioner has made a thorough search for wills and codicils signed by the Decedent and has not discovered a Will.
6. That the Petitioner asserts that the Decedent died intestate.

7. That the Decedent died owning the following property:

| <u>Item</u>   | <u>Location and Possession</u>  | <u>Value</u>       |
|---|---|--------------------|
| <b>Check</b><br>Payor: Lincoln National Life Insurance Co.<br>Payee: The Estate of Howard Bonner<br>C/O Deborah R. Bonner Est Rep | In possession of<br>Deborah R. Bonner<br>23 North Hill Street<br>Nashville, Tennessee 37210 | \$ 5,402.69        |
| <b>Checking Account</b><br>Last Four of Account#11159<br>Bank: Bank of America  | In possession of<br>Deborah R. Bonner<br>23 North Hill Street<br>Nashville, Tennessee 37210 | Under<br>\$25.00   |
|   | <b><u>TOTAL</u></b>   | <b>\$ 5,427.69</b> |

8. That, upon information and belief, the Decedent's total personal estate is approximately Five Thousand Four Hundred Twenty Seven Dollars and Sixty-Nine Cents (\$5,427.69).

9. That the name, address, and relationship to the Decedent of the devisees, legatees, and/or heirs entitled to receive any of the Decedent's property are as follows:

| <u>Name</u>    | <u>Relationship</u> | <u>Address</u>   |
|----------------|---------------------|--|
| Mya Bonner     | Adult Daughter      | 2925 Baby Ruth Lane, Apartment 317<br>Antioch, Tennessee 37013 |
| Narkieta Jones | Adult Daughter      | 5817 Oakleaf Drive<br>Stone Mountain, Georgia 30087            |

10. That the above-identified individuals are the legatees, devisees, and next of kin of the Decedent and are entitled to notice of this probate proceeding. The original, notarized Waivers as executed by the above-identified heirs-at-law and next-of-kin are collectively attached hereto as Exhibit "B."

11. That the Decedent was not enrolled in the Tennessee TennCare program at the time of his death.

12. That the Petitioner has advised and served a copy of this Small Estate Affidavit on all persons having an interest in the Decedent's estate.

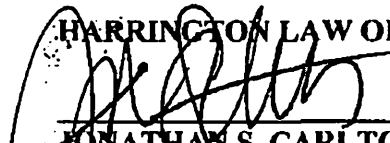
13. That Ms. Bonner does not wish to publish to creditors.

14. That, as evidenced by her signature below, *subject to the penalty for perjury*, this Affidavit is not false or misleading and that the Petitioner is mindful of all duties imposed upon her pursuant to *Tenn. Code Ann. § 30-4-101*.

15. That the Petitioner is willing to collect and preserve all assets for the Decedent's Estate, pay any creditors, and distribute the remainder in accordance with the laws of descent and distribution of the State of Tennessee pursuant to *Tenn. Code Ann. § 30-4-101*.

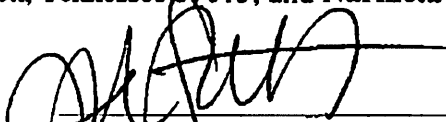
  
DEBORAH R. BONNER

Respectfully submitted,

  
HARRINGTON LAW OFFICE  
JONATHAN S. CARLTON #29768  
Attorney for the Petitioner, Deborah R. Bonner  
Historic Germantown  
1215 Seventh Avenue North  
Nashville, Tennessee 37208-2605  
Telephone: (615) 320-9977  
Facsimile: (615) 320-9929

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of November, 2013, I have provided a copy of this document, by U.S. Mail, Postage Paid, to the following individuals: **Mya Bonner**, 2925 Baby Ruth Lane, Apartment 317, Antioch, Tennessee 37013; and **Narkieta Jones**, 5817 Oakleaf Drive, Stone Mountain, Georgia 30087.

  
JONATHAN S. CARLTON

---

OATH

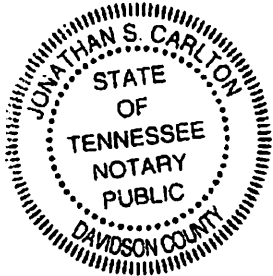
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STATE OF TENNESSEE     )  
  )  
COUNTY OF DAVIDSON    )

I, Deborah R. Bonner, as the Petitioner, make oath that I have read the foregoing Petition and that the contents thereof are true to the best of my knowledge, information, and belief.

Deborah R. Bonner  
DEBORAH R. BONNER

SWORN to and subscribed before me this the 15<sup>th</sup> day of November, 2013.



[Signature]  
NOTARY PUBLIC  
My Commission Expires: September 9, 2014

Copy

SEVENTH CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

FILED

2014 JAN 27 AM 10:25

IN THE ESTATE OF:

CRAIG A. MILLARD

RICHARD R. ROOKER, CLERK  
No. 13P1881

*[Signature]* B.C.

LEROY MILLARD  
19 RILLINGTOBN DR.  
BELLA VISTA, AR 72714

NOTICE OF CLAIM FILED

Pursuant to Tennessee Code Annotated 30-2-313(a), you are hereby notified that the following claim has been filed in this office against this estate:

| Claimant:   | Amount:     | Date Filed:      |
|-------------|-------------|------------------|
| CAPITAL ONE | \$16,737.41 | January 27, 2014 |

Exceptions to Claims must be written and filed in triplicate. Please contact your attorney for legal information.

RICHARD R. ROOKER, CLERK

*[Signature]* D.C.

SHEPPARD, JENNIFER  
2122 21ST AVE., SOUTH  
NASHVILLE, TN 37212

Copy

In the Seventh Circuit Court of Davidson County, Tennessee  
(Probate Division)

CLAIM FORM

FILED

2014 JAN 27 AM 10:25

RICHARD R. ROOKER, CLERK

To file a claim you must:

1. Submit this Notarized affidavit and two (2) copies
2. Submit evidence to support the claim, plus two (2) copies (statement, open account voucher, etc.)
3. Submit a check payable to CIRCUIT COURT CLERK in the amount of \$11.00 and return to CIRCUIT COURT CLERK, Probate Division, 1 Public Square, Room 303, P.O. Box 196300 Nashville, TN 37219-6300.

CAPITAL ONE

Creditor  
CAPITAL ONE

Claim against the estate of  
CRAIG A MILLARD

7601 PENN AVE SOUTH, SUITE A650

Address  
MINNEAPOLIS, MN 55423  
City, State, Zip

Docket Number <sup>13P1381</sup> ~~13P-1861~~

| Date             | Item & Nature of Claim  | Amount       | Credit | Unpaid Balance |
|------------------|---|--------------|--------|----------------|
| JANUARY 22, 2014 | See attached claim detail for claim basis. There is no security interest unless noted on attached claim detail. | \$ 16,737.41 | \$ 0   | \$ 16,737.41   |
|                  |   |              |        |                |

THE TOTAL AMOUNT OF THIS CLAIM IS \$ 16,737.41

I (or we) make oath that the above claim is correct, just and valid obligation of the estate of

CRAIG A MILLARD, deceased, that neither

the undersigned, nor any other person in my or our behalf has received payment therefore, in whole or in part, except as is credited above, and no security has been received therefore, except as stated above.

This 22 day of Jan., 2014

*[Signature]*

Nia T. Knauer  
Authorized Representative

State of Minnesota  
County of Hennepin

Signed and sworn to (or affirmed) before me on 1/22/14 (date) by \_\_\_\_\_ name(s) of person(s) signing).

Nia T. Knauer  
Authorized Representative

RICHARD R. ROOKER, Clerk

CAPITAL ONE

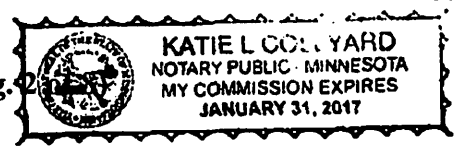
7601 PENN AVE SOUTH, SUITE A650

MINNEAPOLIS, MN 55423

Address  
(855) 234-1142  
Phone

\_\_\_\_\_  
or  
*[Signature]*  
Signature of Notary Public

My Commission Expires 1/31/17





Copy

**CERTIFICATE OF MAILING**

I, the undersigned, hereby certify that a true and correct copy of the foregoing was sent via U.S.

Mail to:

LEROY MILLARD  
19 RILLINGTOBN DR  
BELLA VISTA, AR 37212

On JAN 22 2014.

By: 

Ben P. Olson

Copy

## Claim Detail



CL547579

IN RE THE ESTATE OF: CRAIG A MILLARD

CASE NUMBER: 13 P 1801

PER REFERENCE NO: CL547579

Claim detail is as follows:

██████████

**CAPITAL ONE**

**\$16,737.41**

**UNSECURED.**

**THE DECEDENT PURCHASED GOODS AND/OR SERVICES IN THE AMOUNT OF \$16,737.41,  
EVIDENCED BY ACCOUNT NUMBER ██████████.**

ATTACHMENT NO. 12 (Pg. 4 of 8)

Claim Balance: \$ 16,737.41

**CAPITAL ONE REFERS TO EITHER CAPITAL ONE N.A. OR CAPITAL ONE BANK USA,  
N.A.**

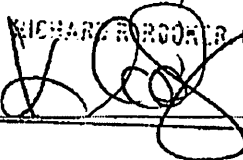
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IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE (PROBATE DIVISION)

2014 FEB 19 AM 10:49

IN RE: THE ESTATE OF  
CRAIG A. MILLARD,  
Decedent.

RICHARD R. BOONER, CLERK No. 13P-1881



B.C.

NOTICE OF EXCEPTION

Comes now Leroy Millard, Personal Representative for the Estate of Craig A. Millard, pursuant to T.C.A. §30-2-314 and would hereby except to the Claim filed against the estate by Capital One in the amount of \$16,737.41. Personal Representative would submit that he has no knowledge or information regarding the alleged debt. Personal Representative would submit that the filed Claim is not a valid debt of the Decedent and he demands strict proof thereof.

Respectfully submitted,



Jennifer Sheppard, BPR# 74699  
Martin Heller Potempa & Sheppard, PLLC  
2122 21<sup>st</sup> Avenue South  
Nashville, TN 37212  
(615) 800-7096 office  
(615) 810-7104 facsimile

Attorney for Personal Representative

Sworn to and subscribed before me this 18<sup>th</sup> day of February, 2014.

  
NOTARY PUBLIC



My commission expires: \_\_\_\_\_

Copy

Certificate of Service

I hereby certify that a true and exact copy of the foregoing has been forwarded via U.S. Postal Service, postage prepaid, to the following persons this 18 day of February, 2014:

Janet Horan  
28 Elizabeth Drive  
Bella Vista, AR 72715

Leroy Millard  
19 Rillington Drive  
Bella Vista, AR 72714

Richard Millard  
16605 E. 29th Terrace South  
Independence, MO 64055

Capital One  
7601 Penn Ave. South, Suite A-650  
Minneapolis, MN 55423

  
Jennifer Sheppard

Copy

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE (PROBATE DIVISION)

IN RE: THE ESTATE OF )  
CRAIG A. MILLARD, ) No. 13P-1881  
Decedent. )

FILED  
MAR 26 2014  
*[Signature]*

**ORDER OF EXCEPTION AND DISMISSAL OF CLAIM**

This cause came to be heard on the 26<sup>th</sup> day of March, 2014 in front of the Honorable Randy Kennedy, Seventh Circuit Court Judge for Davidson County, Tennessee upon the Claim filed by Capital One and the Exception to same filed by the Personal Representative for the Estate of Craig Millard. From the filed documents and for other good cause shown the Court finds that Capital One has failed to appear in Court today and therefore the claim filed against the Estate is dismissed.

**IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED** the claim filed by Capital One in the amount of \$16,737.41 is hereby dismissed.

**IT IS SO ORDERED.**

ENTERED THIS 26 DAY OF March, 2014.

*[Signature]*  
HONORABLE RANDY KENNEDY

**APPROVED FOR ENTRY:**

*[Signature]*  
Jennifer Sheppard, BPR# 24699  
Martin Heller Potempa & Sheppard, PLLC  
Attorney for the Estate  
2122 21<sup>st</sup> Avenue South  
Nashville, TN 37212  
(615) 800-7096 office  
(615) 800-7104 facsimile

Copy

Certificate of Service

I hereby certify that a true and exact copy of the foregoing has been forwarded via U.S. Postal Service, postage prepaid, to the following persons this 20 day of March, 2014:

Janet Horan  
28 Elizabeth Drive  
Bella Vista, AR 72715

Leroy Millard  
19 Rillington Drive  
Bella Vista, AR 72714

Richard Millard  
16605 E. 29th Terrace South  
Independence, MO 64055

Capital One  
7601 Penn Ave. South, Suite A-650  
Minneapolis, MN 55423

  
Jennifer Sheppard