

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

IN THE MATTER OF:
DONNIE WAYNE ADAIR

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2022 FEB 28 4:44

IN THE PROBATE COURT

MOTION FOR REMOVAL

2022CP3700157

CASE NUMBER: 2022GC3700-003

A formal proceeding concerning the above matter was commenced on FEBRUARY 22, 2022. The undersigned hereby moves for removal of this action to the Circuit Court and asserts that this action is removable because it involves the following:

OCONEE PROBATE
FEB 22 2022 AM 9:42

- ☐ Probate of Will
- ☐ Appointment of Personal Representative
- ☐ Construction of Will
- ☐ Title to property in which the Estate of a decedent asserts an interest
- ☐ Internal or external matter involving a trust (excluding "special needs trusts")
- ☐ Action in which there is a right to trial by jury and in which the amount in controversy is at least \$5,000
- ☐ Action concerning gifts under the SC Uniform Gifts to Minors Act
- ☒ Action questioning the construction of a power of attorney and/or the agent's conduct concerning the filed power of attorney

This Motion is made no later than ten (10) days from FEBRUARY 22, 2022, the date on which all responsive pleadings were filed. By copy of this Motion, the undersigned is giving notice to interested persons as required by law.

Executed this 22ND day of FEBRUARY, 2022.

Signature: 

Print Name: ASHLEY M. RICE, PROBATE JUDGE

Address: PO BOX 471
WALHALLA, SC 29691

Telephone (Work): 864.364.5271

(Home): N/A

(Cell): N/A

Email: arice@oconeesc.com

Relationship to Decedent/Estate: N/A

ORDER FOR REMOVAL

- ☒ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
 - ☒ Jurisdiction is retained as to all other matters involving this case.
 - ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.
- ☐ The Motion for Removal is hereby GRANTED. This action shall be removed to the Circuit Court.
 - ☐ Jurisdiction is retained as to all other matters involving this case.
 - ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.
- ☐ It is hereby ORDERED that the Motion for Removal is DENIED because _____.

Executed this 22ND day of FEBRUARY, 2022.

CERTIFIED TRUE COPY

PROBATE COURT
OCONEE COUNTY, S.C.

A handwritten signature in black ink, appearing to read "Ashley M. Rice", is written over a horizontal line.

ASHLEY M. RICE, Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

Jirair Baghdassarian
matter of Donnie Wayne Adair
Plaintiff(s)
vs.

Judy Tupolo

Defendant(s)

Submitted By: Transferred by
Address: Probate Court

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2022-CP-37-00157

SC Bar #: _____

Telephone #: _____

Fax #: _____

Other: _____

E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

Non Jury

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Certificate Attached)

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ General (130) ☐ Breach of Contract (140) ☐ Fraud/Bad Faith (150) ☐ Failure to Deliver/ Warranty (160) ☐ Employment Discrim (170) ☐ Employment (180) ☐ Other (199) _____	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20 ____-NI-_____ ☐ Notice/ File Med Mal (230) ☐ Other (299) _____	Torts - Personal Injury ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Assault/Battery (370) ☐ Slander/Libel (380) ☐ Other (399) _____	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499) _____
Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599) _____	Administrative Law/Relief ☐ Reinstate Drv. License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture—Consent Order (850) ☐ Other (899) _____	Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Confession of Judgment (770) ☐ Petition for Workers Compensation Settlement Approval (780) ☐ Incapacitated Adult Settlement (790) ☐ Other (799) _____	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Comm. (990) ☐ Employment Security Comm (991) ☐ Other (999) _____
Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☒ Other (699) <u>Guardianship</u> <u>Conservatorship</u> <u>from Probate Court</u> ☐ Sexual Predator (510) ☐ Permanent Restraining Order (680) ☐ Interpleader (690)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) ☐ Pre-Suit Discovery (670)		

Submitting Party Signature:

By Probate Court - No Fee

Date:

2/28/2022

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

Jirair Baghdassarian
matter of Donnie Wayne Adair
Plaintiff(s)
vs.

Judy Tupolo

Defendant(s)

Submitted By: Transferred by
Address: Probate Court

IN THE COURT OF COMMON PLEAS

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Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
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- ☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____

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- ☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____-NI-_____
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☐ Other (299) _____

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☐ Judicial Review (810)
☐ Relief (820)
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☐ Forfeiture—Consent Order (850)
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Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
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Compensation Settlement
Approval (780)
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Motion to Quash Subpoena in an
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☐ Pre-Suit Discovery (670)

Submitting Party Signature: By Probate Court - No Fee

Date: 2/28/2022

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

IN THE MATTER OF:
DONNIE WAYNE ADAIR

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2022 FEB 28 4:44

IN THE PROBATE COURT

MOTION FOR REMOVAL

2022CP3700157

CASE NUMBER: 2022GC3700-003

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OCONEE PROBATE
FEB 22 2022 AM 9:42

- ☐ Probate of Will
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- ☐ Construction of Will
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Executed this 22ND day of FEBRUARY, 2022.

Signature: 

Print Name: ASHLEY M. RICE, PROBATE JUDGE

Address: PO BOX 471
WALHALLA, SC 29691

Telephone (Work): 864.364.5271

(Home): N/A

(Cell): N/A

Email: arice@oconeesc.com

Relationship to Decedent/Estate: N/A

ORDER FOR REMOVAL

- ☒ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
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- ☐ It is hereby ORDERED that the Motion for Removal is DENIED because _____.

Executed this 22ND day of FEBRUARY, 2022.

CERTIFIED TRUE COPY

PROBATE COURT
OCONEE COUNTY, S.C.

A handwritten signature in black ink, appearing to read "Ashley M. Rice", is written over a horizontal line.

ASHLEY M. RICE, Probate Court Judge

STATE OF SOUTH CAROLINA

2022CP3700157
IN THE PROBATE COURT

COUNTY OF

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

APPLICATION FOR RESTRAINT OR PERFORMANCE
OF PERSONAL REPRESENTATIVE

IN THE MATTER OF:

(Decedent)

Living

Donnie Wayne Adair
2022 FEB 28 P 4:44

CASE NUMBER: 2022 ES3700-003

OCONEE PROBATE
FEB 22 2022 PM 3:09

The undersigned states as follows:

I request a Temporary Order of ☒ RESTRAINT ☐ PERFORMANCE of Judy TUPOLO
Personal Representative in this Estate, because (please set out your specific demands; attach additional sheets if
necessary):

The request for restraint relates primarily to
the health care power of attorney, and, if possible, also
the financial power of attorney granted by the above
mentioned Donnie Wayne Adair to the agent Judy Tupolo.
See documents attached.

Executed this 8th day of Feb, 20 22.

Signature: [Signature]

Print Name: Jirair H Baghdassarian

Address: 2580 La Caral Ave
Las Vegas, NV, 89121

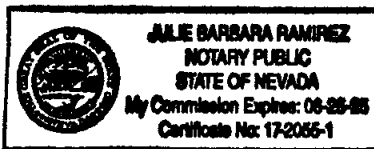
Telephone (Work): _____

(Home): _____

(Cell): (702) 689 1459

Email: jirairh@hotmail.com

Relationship to Decedent/Estate: _____



Attorney: NA

Address: _____

Telephone: _____

Email: _____

SWORN to before me this 11th day of
February, 20 22 by Jirair Maurice Baghdassarian.

[Signature]

Notary Public for South Carolina NEVADA, CLARK COUNTY
My commission expires: 06-25-2025.

TEMPORARY ORDER OF RESTRAINT/PERFORMANCE

IT IS HEREBY ORDERED that the following conditions be imposed on _____, the Personal Representative in the above Estate.

RESTRICTIONS:

PERFORMANCE DUTIES:

Executed this _____ day of _____, 20_____.

_____, Probate Court Judge

ORDER FOR HEARING

IT IS ORDERED that a hearing on this matter be set for:

DATE: _____

TIME: _____

PLACE: _____

Pursuant to SCPC 62-3-607(b), the Applicant is ordered to give Notice of this hearing by serving a copy of this Application, Temporary Order, and Order for Hearing upon the Personal Representative by ***one of the following methods**: (1) Personal Delivery, (2) Acceptance of Service, or (3) Delivery by one of the methods above to the Agent of a non-resident Personal Representative, if one has been appointed to receive service of process.

An Affidavit of Service or Proof of Delivery (FORM 120PC) confirming service as outlined above shall be filed with the Court prior to or at the time of the hearing.

In addition to service upon the Personal Representative and/or his/her agent, the Attorney of Record for the Personal Representative, if any, or his/her Agent shall be notified by ordinary mail or personal delivery. An Affidavit of Service or a Proof of Delivery (FORM 120PC) confirming service in this manner shall be filed with the Court prior to or at the time of the hearing.

* In that this proceeding is one for restraint without prior notice to the Personal Representative, the other methods of service listed on the FORM 120PC may not be used without obtaining prior written Court approval.

Executed this _____ day of _____, 20_____.

_____, Probate Court Judge

A

OCONEE PROBATE
FEB 22 2022 PM 3:08

HISTORY REGARDING ABUSE OF POWER — JUDY TUPOLO Donnie Wayne Adair — Deprived of Personal Freedoms

Judy Tupolo has been abusing her power of attorney status as an agent. Donnie Adair, the principal, has told me he is not happy with the situation. There are witnesses highly suspecting financial and emotional abuse. Moreover, she placed Donnie Adair in an assisted living facility, where he is not allowed to talk to anyone without her permission. I was able to talk to him by phone on Sunday January 23rd. During the conversation he seemed lucid and alert and capable of many basic decisions. He told me he is able to perform his activities of daily living by himself if someone will help him move things around. During the conversation he made me understand that someone is listening to the conversation and that the power of attorney, Judy, is on the other line, and that he is not allowed to talk to me nor to anyone anymore by orders of Judy. He expressed that personal freedom has been taken away from him and that he feels he is being treated like a "slave". I requested to speak to the person in charge and they confirmed that Donnie Adair is not allowed to talk to anyone by order of the power of attorney.

THEFT OF DONNIE ADAIR ASSETS by Judy Tupolo

Adair expressed also that he is not happy in the facility, and that he wishes to leave if he has other reasonable options. He told me also that his social security has been mostly used up by Judy and that he has no money, a situation which is weird because his Association's account, according to several witnesses had over \$100 000 USD, not long ago, and was all taken by Judy. Other things has been disappearing on his property as well.

QUESTIONS RE LEGAL AND MEDICAL POWER OF ATTORNEY - How free is Donnie Adair?

i told him that for us to do so he needs to revoke the power of attorney and sign himself out of the facility. He was willing to cooperate on this matter and receive legal and friendly advice from advocates who care about him. Donne Adair, has not been declared incompetent. According to South Carolina Law, power of attorneys are only related to financial and/ or medical decisions. All I saw is a financial power of attorney that she has received. Some had expressed that they saw a medical power of attorney as well. I cannot certify that she has it or not. I do not even know if or when she received it. If she is allegedly claiming that Donnie Adair is incompetent, then it would be a contradiction to receive a medical power of attorney from someone who is already incompetent. We do not know when nor how she receive the medical one, if she did receive it. According to witnesses, Judy received a financial power of attorney appointment from Donnie in July 2020, when he was recovering from a stroke and was barely able

to speak. It is not sure how capable was he at that time to understand the nature and purpose of what he did.

ADAIR'S RIGHT TO REVOKE POWER OF ATTORNEY

Explanation of why Judy Tupolo does not allow him to speak to his friends.

My conversation with him shows he was not very aware of the presence of any of the above mentioned documents. Adair has the right to revoke the document instantaneously. He simply needs advocacy to understand his options. Judy seems to know that, and I see no other reason why would she prevent him from receiving advocacy to understand his options, except personal benefit rather than the benefit of the principal.

WHAT THE LAW SAYS - Donnie Adair has not been declared legally incompetent by a probate court. Neither financial nor medical power of attorneys have any power over the personal life of a principal, even if he was declared incompetent. Moreover, even for medical treatment, according to SC probate law code section 62-5-504 (3), the principal has the right to refuse medical treatment as long as he is legally competent. Legal competency is only decided by probate court and medical opinion is not enough on this matter. In fact the same law section 62-5-504 (4) states :
"YOU HAVE THE **RIGHT TO REVOKE THIS DOCUMENT, AND TERMINATE YOUR AGENT'S AUTHORITY, BY INFORMING EITHER YOUR AGENT OR YOUR HEALTH CARE PROVIDER ORALLY OR IN WRITING.**"

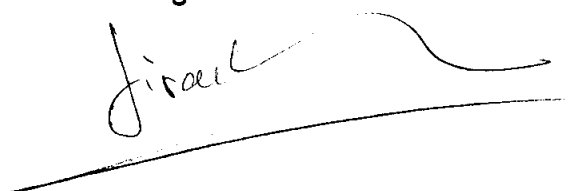
In addition, we would like to mention that Judy Tupolo has access to Don Adair's properties. His books were placed on a property that is object for dispute between Donnie Adair and the heirs of Marilyn Adair. The property, includes a trailer containing all his books and publications. We have seen his publications sold on Facebook and on a website that Judy and her daughter claim since she took control of all his business including his association. You can find the books being sold on the following link: <https://salemgadsda.org/>. These books are supposed to cost tens of thousands of dollars. Who is profiting from the sales and how come Adair does not seem to know about it. But most importantly if these books are on the property, we suspect that they me object of probate investigation and that they should not be sold till the court decides how to

manage them and to whom they belong. The probate court case number is 2018ES3700703.

WE REQUEST THE COURT TO ORDER TEMPORARY RESTRAIN OF RIGHTS

In sum, Adair is being deprived of his constitutional civil rights of freedom without any court order justifying that. This makes the action taken by Judy and the facility as unethical, illegal and even criminal. Adair is not happy of the situation. He is well aware where he is, why is he there and what would be the consequences of leaving the facility. Adair is being imprisoned in a facility against his will. He is being deprived from social contact that Judy does not approve of. Witnesses have been lately seriously suspecting emotional and financial abuse. Adair wishes to have advocacy from his friends and to receive legal consult. This is being deprived from him as he is being held as a hostage in a facility. We kindly request the court to order temporary restrain of rights of any type of personal representation that Judy Tupolo has acquired, so that the matter would be investigated more thoroughly and so that Donnie Adair would be able to have temporary freedom to access advocacy and legal advice.

Sincerely
Jirair M Baghdassarian.

A handwritten signature in cursive script, appearing to read 'Jirair', is written over a horizontal line.

DRWN - \$25⁰⁰

FILED OCON
ANNA
REGISTER

PETITIONER'S
EXHIBIT

B



Doc ID: 005726170017 Type: DEE

BK 2588 PG 148-164

001348

STATE OF SOUTH CAROLINA } 2020 JUL 27 P 3:42
COUNTY OF OCONEE } DURABLE POWER OF ATTORNEY

KNOW ALL MEN by these presents that I, **DONNIE WAYNE ADAIR**, of the State and County aforesaid, have made, constituted and appointed, and by these presents do make, constitute and appoint **JUDY TUPOLO** as my true and lawful Agent to act for me and in my name, place and stead, for my use and benefit, and as my act and deed, to do and execute, or to concur with persons jointly interested with myself therein in the doing and executing, with the full power to have and to exercise the following powers in a fiduciary capacity, without authorization of any court and in addition to any other rights, powers, or authority granted by statute or general rule of law. By executing this Durable Power of Attorney, I do hereby specifically revoke any powers of attorney previously executed by me.

No person who may act in reliance upon the representations of my Agent for the scope of authority granted to the agent shall incur any liability as to me or to my estate as a result of permitting the agent to exercise this authority, nor is any such person who deals with my Agent responsible to determine or ensure the proper application of funds or property.

In general, I hereby give and grant to my Agent full power and authority to do and perform all and every act and thing whatsoever necessary to be done in the premises, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my Agent by this power may do.

PURSUANT TO SOUTH CAROLINA CODE SECTION 62-8-203, MY AGENT SHALL HAVE THE FOLLOWING GENERAL POWERS AND AUTHORITY, AS FOLLOWS, TO WIT:

I. POWERS OF AGENT, GENERALLY

- (1) demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;
- (2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record an instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor, even though they are associated with the agent to advise or assist the agent in the performance of the agent's administrative duties and to act upon their recommendation without independent investigation and, instead of acting personally, to employ one or more agents to perform an act of administration, whether or not discretionary;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with a representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means, access the principal's files electronically, and obtain the principal's user names and passwords; and

(10) do any lawful act with respect to the principal and all property related to the principal.

PURSUANT TO SOUTH CAROLINA CODE SECTIONS 62-8-204 through 62-8-217, MY AGENT SHALL HAVE THE FOLLOWING POWERS AND AUTHORITY, AS FOLLOWS, TO WIT:

II. REAL PROPERTY:

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(D) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

- (A) selling or otherwise disposing of them;
- (B) exercising or selling an option, right of conversion, or similar right with respect to them; and
- (C) exercising any voting rights in person or by proxy;
- (8) change the form of title of an interest in or right incident to real property; and
- (9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

III. TANGIBLE PERSONAL PROPERTY

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

- (1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;
- (2) sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or, otherwise dispose of tangible personal property or an interest in tangible personal property;
- (3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
- (4) release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;
- (5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:
 - (A) insuring against liability or casualty or other loss;
 - (B) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) moving the property from place to place;

(E) storing the property for hire or on a gratuitous bailment; and

(F) using and making repairs, alterations, or improvements to the property;

(6) change the form of title of an interest in tangible personal property; and

(7) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose.

IV. STOCKS AND BONDS

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

V. COMMODITIES AND OPTIONS

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

VI. BANKS AND OTHER FINANCIAL INSTITUTIONS

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(7) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(8) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(9) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(10) consent to an extension of the time of payment with respect to commercial

paper or a financial transaction with a financial institution.

VII. OPERATION OF ENTITY OR BUSINESS

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

- (1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;
- (2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;
- (3) enforce the terms of an ownership agreement;
- (4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;
- (5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;
- (6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;
- (7) with respect to an entity or business owned solely by the principal:
 - (A) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;
 - (B) determine the:
 - (i) location of its operation;
 - (ii) nature and extent of its business;
 - (iii) methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;
 - (iv) amount and types of insurance carried; and

(v) mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(C) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(D) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform another act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

VIII. INSURANCE AND ANNUITIES

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the

amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

IX. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

"Estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment. Subject to South Carolina Code Section 62-8-201, this power of attorney authorizes my Agent to:

(1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or

payment from an estate, trust, or other beneficial interest;

(2) demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(6) conserve, invest, disburse, or use anything received for an authorized purpose; and

(7) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

X. CLAIMS AND LITIGATION

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept a compromise;

(6) waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon whom process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

XI. PERSONAL AND FAMILY MAINTENANCE

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(A) individuals legally entitled to be supported by the principal; and

(B) the individuals whom the principal has customarily supported or indicated the intent to support;

(2) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) provide living quarters for the individuals described in subsection (1) by:

(A) purchase, lease, or other contract; or

(B) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in item (1);

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in subsection (1);

(6) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Section 1320d, as amended, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

(7) continue a provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subsection (1);

(8) maintain credit and debit accounts for the convenience of the individuals described in subsection (1) and open new accounts;

(9) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations; and

(10) enter into financial arrangements and agreements for the admission and care of the principal with an assisted living facility, nursing home, hospital, rehabilitative or respite facility, in home or other care providers, including hiring and firing home health care and other providers of services to the principal.

The authority with respect to Personal and Family Maintenance is neither dependent upon, or limited by, the authority that an agent may or may not have with respect to gifts pursuant to South Carolina Code Section 82-8-217.

XII. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE

"Benefits from government programs or civil or military service" means a benefit, program, or assistance provided under a statutory or regulation including Social Security, Medicare and Medicaid. Subject to South Carolina Code Section 62-8-201 this power of attorney authorizes my Agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in Section 62-8-213(a)(1), and for shipment of their household effects;

(2) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(3) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(5) receive the financial proceeds of a claim described in item (4) and conserve, invest, disburse, or use for a lawful purpose anything so received.

XIII. RETIREMENT PLANS

"Retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) an individual retirement account under Internal Revenue Code 26 U.S.C. Section 408, as amended;

(2) a Roth individual retirement account under Internal Revenue Code 26 U.S.C. Section 408A, as amended;

(3) a deemed individual retirement account under Internal Revenue Code 26 U.S.C. Section 408(q), as amended;

(4) an annuity or mutual fund custodial account under Internal Revenue Code 26 U.S.C. Section 403(b), as amended;

(5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code 26 U.S.C. Section 401(a), as amended;

(6) a plan under Internal Revenue Code 26 U.S.C. Section 457(b), as amended; and

(7) a nonqualified deferred compensation plan under Internal Revenue Code 26 U.S.C. Section 409A, as amended.

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) select the form and timing of payments under a retirement plan, including election of survivor benefits, and withdraw benefits from a plan;

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) establish a retirement plan in the principal's name;

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

XIV. TAXES

Subject to Section 62-8-201, this power of attorney authorizes my Agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements pursuant to Internal Revenue Code 26 U.S.C. Section

2032A, as amended, closing agreements, and any power of attorney required by the Internal Revenue Service, including Form 2848 or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

XV. POWERS SPECIFICALLY GRANTED TO AGENT

(a) Unless I have initialed the specific authority listed below, my Agent, under this power of attorney, may NOT do any of the following on my behalf or with my property and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

DWA (1) create, amend, revoke, or terminate a trust, pursuant to South Carolina Code Section 62-7-602A;

DWA (2) make a gift (subject to the provisions of South Carolina Code Section 62-8-217);

DWA (3) create or change rights of survivorship;

DWA (4) create or change a beneficiary designation;

DWA (5) delegate authority granted under the power of attorney;

DWA (6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

DWA (7) exercise fiduciary powers that the principal has authority to delegate;

DWA (8) disclaim property, including a power of appointment;

DWA (9) access a safe deposit box or vault leased by the principal;

DWA (10) exercise a power of appointment in favor of someone other than the principal;

DWA (11) reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or other beneficial interest; or

DWA (12) deal with commodity futures contracts and call or put options on stocks or stock indexes.

XVI. LIMITATION ON AGENT'S AUTHORITY

Only an agent who is an ancestor, spouse, or descendant of the principal, may exercise authority under this power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

THIS POWER OF ATTORNEY SHALL NOT BE AFFECTED BY MY PHYSICAL DISABILITY OR MENTAL INCOMPETENCY WHICH RENDERS ME INCAPABLE OF MANAGING MY OWN ESTATE.

IN WITNESS WHEREOF, I have hereunto placed my Hand and affixed my Seal
this 27 day of July, A. D. 2020.

Donnie Wayne Adair [SEAL]
DONNIE WAYNE ADAIR

2020 JUL 27 3:42

FILED
ANNAPOLIS, MARYLAND
REGISTER OF DEEDS

THIS POWER OF ATTORNEY was, on the day and date written above, signed, sealed, published and declared by the Principal, **DONNIE WAYNE ADAIR**, a person known to us to be mentally competent upon the execution thereof, and aware of the import of the document; that we, at his request, have hereunto subscribed our names as witnesses in his presence and in the presence of each other.

Emma W. Davis

Loi Stephens

STATE OF SOUTH CAROLINA

]

PROBATE

]

COUNTY OF OCONEE

]

PERSONALLY APPEARED, the undersigned Witness, and made oath that she saw the within named Principal, **DONNIE WAYNE ADAIR**, sign, seal, and as his act and deed deliver the within written instrument for the uses and purposes therein mentioned, and that she, with the other witness above subscribed, witnessed the execution thereof.

Emma W. Davis

Sworn to before me this

27 day of July, 2020

Loi Stephens [LS]
Notary Public of South Carolina

My Commission Expires: 2/22/2029

2022 CP 3700/57

STATE OF SOUTH CAROLINA

COUNTY OF _____

2022 FEB 28 P 4:44

IN THE MATTER OF:

Donnie Wayne ADAIR
an alleged incapacitated individual.

OCONEE PROBATE

FEB 22 2022 PM 3:09

PROBATE COURT USE ONLY

IN THE PROBATE COURT

CASE NUMBER 2022 -GC-3700-003

related to the application

MOTION TO PROCEED IN FORMA PAUPERIS

I, Jirair Baghdassarian, being duly sworn, state that I am the Petitioner in the above-captioned matter and that I do not have the funds available to pay the filing fee in this case. I hereby request that the Court consider my below Affidavit of Indigency and allow that my Petition be filed without the requirement of a filing fee. I understand that if my Motion is granted the Court may still assess the fee at a later time, if funds are available for payment.

AFFIDAVIT OF INDIGENCY

1. Are you presently employed?



Yes



No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

2. Include employment information for your spouse, if applicable.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If spouse is not currently employed, state the name and address of last employment, date of termination of employment, and amount of salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

The case does not relate to me. I am doing this as an act of benevolence for Donnie Wayne Adair because he has no one, or family, to advocate for him. Thank you for understanding.

ENTERED
aw
COMPUTER

3. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	DATE OF BIRTH	RELATIONSHIP	AMOUNT OF SUPPORT

4. Have you and/or the alleged incapacitated individual (the A.I.I.) received within the past twelve (12) months any money from any of the following sources?

	<u>YOU</u>	<u>A.I.I.</u>
a. Business, profession or from self-employment?	☐ Yes ☐ No	☐ Yes ☐ No
b. Rent payment, interest or dividends?	☐ Yes ☐ No	☐ Yes ☐ No
c. Pensions, annuities or life insurance payments?	☐ Yes ☐ No	☐ Yes ☐ No
d. Gifts or inheritances?	☐ Yes ☐ No	☐ Yes ☐ No
e. Any other sources (including SS/SSI/Medicaid)?	☐ Yes ☐ No	☐ Yes ☐ No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each and by whom during the past twelve months.

SOURCE OF MONEY	RECEIVED BY	AMOUNT

5. Do you and/or the alleged incapacitated individual own cash, or have any money in a checking or savings account? ☐ Yes ☐ No

If the answer is "yes" state the total amount of the cash and owner: \$_____

6. Do you and/or the alleged incapacitated individual own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishing and clothing)?

☐ Yes ☐ No

If the answer is "yes," describe the property and the state the appropriate value of the items owned and who owns it:

PROPERTY	AMOUNT	OWNER(S)

7. What kind of motor vehicle do you and/or the alleged incapacitated individual own?

Year:_____ Make:_____ Model:_____

Is it paid for? ☐ Yes ☐ No

If not, what is the monthly payment? \$_____

8. How much do you owe (on liens, mortgages, other encumbrances or debts)? \$ UA.

I do solemnly swear that the above information is true and accurate and that my assets and debts have been fully reported without exception, whether they are assets which I control, assets that any person is holding in trust for me, assets to which I am entitled or expect to receive, and that there are no assets other than what is reported in this Affidavit, all said information confirming that I do not have funds available to pay the filing fee in the above matter.

Executed this 11th day of February, 2022.

SWORN to before me this 11th day of February, 2022.

Signature: Jirair H. Baghdassarian
Print Name: Jirair H. Baghdassarian
Address: 9580 La Caza Ave
Las Vegas, NV, 89121
(702) 889-1459
Email: jirairb@hotmail.com

by Jirair Maurice Baghdassarian, only.

Print Name: Julie Barbara Ramirez Preferred Telephone: _____

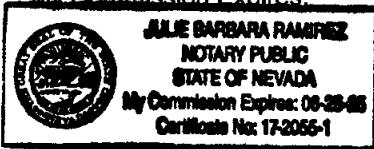
Notary Public for: Nevada, CLARK COUNTY Secondary Telephone: _____

(State)

My Commission Expires: 06-25-2025

(Date)

Relationship to the
alleged incapacitated
individual: Friend.



ORDER TO PROCEED IN FORMA PAUPERIS

This Court has considered the above Motion, Affidavit, and all other supporting documents. The Motion is hereby ☐ GRANTED ☒ DENIED. If the Motion is granted, the filing fee may still be assessed at the hearing or at a later time.

IT IS SO ORDERED.

[Signature], Judge of Probate

22nd day of February, 2022
Walhalla, South Carolina

FILED OCONEE COUNTY SC
MELISSA C. BURTON
CLERK OF COURT
2022 FEB 28 P 4:44

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
) Case Number: 2022-CP-37-00157
)

Jirair Baghdassarian,

)
)
) Plaintiffs,
)
)

vs.

**ORDER APPOINTING
GUARDIAN AD LITEM**

Judy Tupolo as PR for Donnie W. Adair,

)
)
) Defendants.
)
)

PRESIDING JUDGE:

R. SCOTT SPROUSE

DATE OF HEARING:

JULY 11, 2022

PLAINTIFFS' ATTORNEY:

PRO SE

DEFENDANTS' ATTORNEY:

TREY MERCK

COURT REPORTER:

WEBEX

This action is before the Court pursuant to the filing of a Summons and Complaint by the Plaintiff alleging that the Defendant, as Power of Attorney for Donnie Wayne Adair, has engaged in improper conduct and should be removed as Power of Attorney. The case was originally brought in the Probate Court of Oconee County, but was removed to the Circuit Court by Order of the Honorable Ashley M. Rice, dated February 22, 2022. The action was removed on the ground that the construction of the Power of the Attorney and/or the actions of the Power of Attorney were in question. Apparently, no conservatorship action has been filed in the probate court.

This Court held a virtual hearing on July 11, 2022. Prior to the hearing, the Defendant obtained legal counsel, who filed a Motion to Dismiss, along with supporting documents. The Court allowed the Plaintiff time to respond to the Defendant's filings since he had not been served with same in a timely manner.

Upon review of the filings, it appears that serious allegations are being made regarding the competency, status, and care of Donnie Wayne Adair, who is in an assisted living facility. The Court determines that a Guardian *ad litem* is necessary in this case to fully investigate the matter and issue a report to the Court. Accordingly, Tjay Bagwell, of the Oconee County Bar, is appointed Guardian *ad litem* for Donnie Wayne Adair pursuant to Rule 17 of the South Carolina Rules of Civil Procedure. He shall investigate this matter and issue a written report to the Court within thirty (30) days from receipt of this order. The Defendant shall execute all necessary releases for Bagwell to inspect any medical, financial or other records belonging to Donnie Wayne Adair. Should Bagwell need additional time to complete his report, he may petition the Court for same. A hearing in this matter shall be scheduled once the Guardian *ad litem*'s report is received by the Court.

AND IT IS SO ORDERED!

SIGNATURE PAGE TO FOLLOW



Oconee Common Pleas

Case Caption: Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,
defendant, et al
Case Number: 2022CP3700157
Type: Order/Appointment Of Guardian Ad Litem

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	C/A No.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	MEMORANDUM IN OPPOSITION
	)	TO MOTION FOR TEMPORARY
vs.	)	RESTRAINT
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, W. Trey Merck, undersigned counsel for the Defendant, in the above matter, and files this *Memorandum*. Plaintiff has filed a *Motion for Temporary Restraint* against Defendant, as Power of Attorney, and Defendant's undersigned attorney files this document in opposition to the requested relief.

BRIEF STATEMENT OF FACTS

Judy Tupolo has faithfully served as the agent for Donnie Way Adair involving the financial, legal and health care decisions related to the principal through a Durable Power of Attorney and a Durable Health Care Power of Attorney. Both of these documents were executed on July 27, 2020, and the Durable Power of Attorney was recorded. Plaintiff, who was just an acquaintance of Mr. Adair, has filed this action to have Ms. Tupolo removed as agent. Plaintiff's formal allegations are vague and not credible. We are before the Court on Plaintiff's *Motion for a Temporary Restraining Order* and Defendant's *Motion for a More Definite Statement*.

ARGUMENTS

1. PLAINTIFF DOES NOT HAVE STANDING TO BRING THIS CASE AND REQUEST THIS JUDICIAL RELIEF, AND PLAINTIFF HAS THE BURDEN TO PROVE HE HAS STANDING

This action is strictly governed by the South Carolina Uniform Power of Attorney Act as set out in *S.C. Code of Laws Ann. § 62-8-101, et seq.*

As such, Defendant must prove that he has standing to bring an action under this Act by proving that he belongs to one of the following classifications:

SECTION 62-8-116. Judicial relief.

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

- (1) the principal or the agent;
- (2) a guardian, conservator, or other fiduciary acting for the principal;
- (3) a person authorized to make health care decisions for the principal;
- (4) the principal's spouse, parent, or adult descendant;
- (5) an individual who would qualify as a presumptive heir of the principal;
- (6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;
- (7) a governmental agency having regulatory authority to protect the welfare of the principal;

(8) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(9) a person asked to accept the power of attorney.

(b) Upon motion by the principal, the court shall dismiss a petition filed pursuant to this section if the court determines that dismissal is in the best interest of the principal.

I will address each of the above sub-sections, as follows:

(1) the principal or the agent;

Plaintiff is not the principal or the agent. Donnie Wayne Adair is the principal, and Judy Tupolo is the agent.

(2) a guardian, conservator, or other fiduciary acting for the principal;

A guardian or conservator has not been appointed, and Judy Tupolo is the only fiduciary.

(3) a person authorized to make health care decisions for the principal;

Only Judy Tupolo has been authorized to make health care decisions for Mr. Adair (through the Durable Health Care POA).

(4) the principal's spouse, parent, or adult descendant;

Plaintiff is none of these - he is not a relative.

(5) an individual who would qualify as a presumptive heir of the principal;

Plaintiff is not a presumptive heir.

(6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

Donnie Wayne Adair has no assets with a designated beneficiary, and his Will does not name Plaintiff as a beneficiary.

(7) a governmental agency having regulatory authority to protect the welfare of the principal;

Plaintiff is not a governmental agency.

(8) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

Plaintiff is not the principal's caregiver. Plaintiff has simply appeared from nowhere in an attempt to gain control over the principal's life for financial, proprietary or religious reasons and not based on what is best for the principal. Plaintiff has never visited Mr. Adair and does not live in the area, therefore this does not constitute sufficient interest in his welfare.

Judy Tupolo has cared for Mr. Adair under difficult circumstances, therefore she has demonstrated sufficient interest in the principal's welfare.

(9) a person asked to accept the power of attorney.

Plaintiff has not been asked to accept the power of attorney.

2. PLAINTIFF HAS NOT PROPERLY PROSECUTED HIS MOTION BY FAILING TO FOLLOW PROCEDURE AND PRESENT AFFIDAVITS AND EVIDENCE IN SUPPORT OF HIS MOTION

In order to support a motion for relief, especially a motion for temporary relief, a Plaintiff is required to present affidavits and other evidence in support of his or her motion. Instead, Plaintiff has caused subpoenas to be issued for witnesses in order to take testimony from them. The witnesses include Donnie Wayne Adair (the principal) and a manager from the nursing home (of which he is no longer a resident).

3. PLAINTIFF'S COMPLAINT IS VAGUE, OFFERS NO SPECIFIC ALLEGATIONS TO SUPPORT HIS REQUEST FOR RELIEF AND SHOULD BE DISMISSED.

There are no specific allegations in the Plaintiff's Complaint - it contains vague allegations against Defendant. This is why Defendant filed her *Motion for a More Definite Statement*. Plaintiff should be required to be more specific in his allegations, or, if he does not have specific and credible information, his action should be dismissed.

4. DONNIE WAYNE ADAIR IS INCAPACITATED.

The medical records we have on Mr. Adair show that his dementia has gotten worse over time and appear to indicate, that at least by May 2022, he has become incapacitated, therefore any use of Mr. Adair as a witness in this hearing should not be allowed.

CONCLUSION

Plaintiff's action should be dismissed. In the event it is not dismissed outright, I request an allowance for enhanced redaction of any personal information on Mr. Adair and a Protective Order.

July 12, 2022

s/ W. Trey Merck

W. Trey Merck, Attorney-at-Law

SC Bar No. 13641

119 S. Main Street, Suite B

Six Mile, South Carolina 29682

Phone: (864) 883-6060; Fax: (843) 305-3324

email: trey@treymercklaw.com

Attorney for Defendant, Judy Tupolo
as Power of Attorney

NOTICE OF MOTION SCHEDULING

March 01, 2022



Motion "MOFREE - Motion/Temporary Order of Restraint" for Case: 2022CP3700157 - Jirair Baghdassarian VS Judy Tupolo as Personal Representative , defendant, et al has been added to the following Motions Roster:

128 - Backup Motion Roster Week of March 28, 2022

This hearing of this motion has been scheduled for 3/31/2022 at 11:30 AM.

BACKUP NONJURY MOTION ROSTER//WEEK OF MARCH 28, 2022//THE HONORABLE R LAWTON MCINTOSH, PRESIDING//The case referenced in the notice has been scheduled for a virtual hearing. Go to: www.sccourts.org/calendar/ - Click "Circuit" on the appropriate hearing date Scroll to find and Click on Judge McIntosh's "Virtual Courtroom" (see instructions for virtual hearings outlined in paragraph (c)(10) of Supreme Court's Order Dated 8/27/2021)** All Attorneys and Pro Se Litigants will need to appear at the scheduled time.

If your Motion needs to be held in person, has been resolved, settled or needs to be withdrawn, please notify Amanda Watkins by email at the following address (awatkins@oconeesc.com).

Mail Notice To:

Jirair Baghdassarian
2580 La Cara Ave

Las Vegas, NV 89121

Court Info:

Common Pleas
205 W. Main Street

Walhalla, SC 29691-9691

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(864) 638-4280

Respectfully,



COPY

Melissa C. Burton
Clerk of Court

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CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com™.

OFFICIAL USE

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Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
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☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

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Sent To

Jirair Baghdassarian

2580 La Cara Ave.

Street and Apt. No., or PO Box No.

Las Vegas, NV 89121

City, State, ZIP+4®

2022CP3700157

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

9069 4096 1000 0822 6102

2022 MAR -8 P 4: 34

FILED OCONEE COUNTY SC
 MELISSA C. BURTON
 CLERK OF COURT

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jirair Baghdassarian
 2580 La Cara Ave.
 Las Vegas, NV 89121
 2022CP3700157



9590 9402 6540 1028 0974 02

2. Article Number (Transfer from service label)

7019 2280 0001 9604 6306

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☒ Addressee

B. Received by (Printed Name)

Jirair Baghdassarian

C. Date of Delivery

2022 MAR -8 P 4: 34

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

1 Mail
 1 Mail Restricted Delivery
 508

Domestic Return Receipt

2022 MAR -8 P 4: 34

FILED OCONEE COUNTY SC
 MELISSA C. BURTON
 CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	C/A No.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	NOTICE OF APPEARANCE
	)	(with Certificate of Mailing)
vs.	)	
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, W. Trey Merck, undersigned counsel for the Defendant, in the above matter, and gives notice of his representation of her in this matter.

July 6, 2022

s/ W. Trey Merck
W. Trey Merck, Attorney-at-Law
SC Bar No. 13641
119 S. Main Street, Suite B
Six Mile, South Carolina 29682
Phone: (864) 883-6060; Fax: (843) 305-3324
email: trey@treymercklaw.com

Attorney for Defendant, Judy Tupolo
as Power of Attorney

CERTIFICATE OF MAILING

The undersigned counsel for Defendant certifies that he has served a copy of *Notice of Appearance (with Certificate of Mailing)* by placing a copy in first-class mail addressed to the Plaintiff as follows:

Jirair Maurice Bashdassarien
2580 La Cara Ave
Las Vegas, Nevada 89121

July 6, 2022

s/ W. Trey Merck
W. Trey Merck, Attorney-at-Law
SC Bar No. 13641
119 S. Main Street, Suite B
Six Mile, South Carolina 29682
Phone: (864) 883-6060; Fax: (843) 305-3324
email: trey@treymcklaw.com

Attorney for Defendant, Judy Tupolo
as Power of Attorney

2022 CP 3700/57

STATE OF SOUTH CAROLINA

COUNTY OF _____

2022 FEB 28 P 4:44

IN THE MATTER OF:

Donnie Wayne ADAIR
an alleged incapacitated individual.

OCONEE PROBATE

FEB 22 2022 PM 3:09

PROBATE COURT USE ONLY

IN THE PROBATE COURT

CASE NUMBER 2022 -GC-3700-003

related to the application

MOTION TO PROCEED IN FORMA PAUPERIS

I, Jirair Baghdassarian, being duly sworn, state that I am the Petitioner in the above-captioned matter and that I do not have the funds available to pay the filing fee in this case. I hereby request that the Court consider my below Affidavit of Indigency and allow that my Petition be filed without the requirement of a filing fee. I understand that if my Motion is granted the Court may still assess the fee at a later time, if funds are available for payment.

AFFIDAVIT OF INDIGENCY

1. Are you presently employed?



Yes



No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

2. Include employment information for your spouse, if applicable.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER

If spouse is not currently employed, state the name and address of last employment, date of termination of employment, and amount of salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE

The case does not relate to me. I am doing this as an act of benevolence for Donnie Wayne Adair because he has no one, or family, to advocate for him. Thank you for understanding.

ENTERED
aw
COMPUTER

3. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	DATE OF BIRTH	RELATIONSHIP	AMOUNT OF SUPPORT

4. Have you and/or the alleged incapacitated individual (the A.I.I.) received within the past twelve (12) months any money from any of the following sources?

	<u>YOU</u>	<u>A.I.I.</u>
a. Business, profession or from self-employment?	☐ Yes ☐ No	☐ Yes ☐ No
b. Rent payment, interest or dividends?	☐ Yes ☐ No	☐ Yes ☐ No
c. Pensions, annuities or life insurance payments?	☐ Yes ☐ No	☐ Yes ☐ No
d. Gifts or inheritances?	☐ Yes ☐ No	☐ Yes ☐ No
e. Any other sources (including SS/SSI/Medicaid)?	☐ Yes ☐ No	☐ Yes ☐ No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each and by whom during the past twelve months.

SOURCE OF MONEY	RECEIVED BY	AMOUNT

5. Do you and/or the alleged incapacitated individual own cash, or have any money in a checking or savings account? ☐ Yes ☐ No

If the answer is "yes" state the total amount of the cash and owner: \$_____

6. Do you and/or the alleged incapacitated individual own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishing and clothing)?

☐ Yes ☐ No

If the answer is "yes," describe the property and the state the appropriate value of the items owned and who owns it:

PROPERTY	AMOUNT	OWNER(S)

7. What kind of motor vehicle do you and/or the alleged incapacitated individual own?

Year:_____ Make:_____ Model:_____

Is it paid for? ☐ Yes ☐ No

If not, what is the monthly payment? \$_____

8. How much do you owe (on liens, mortgages, other encumbrances or debts)? \$ UA.

I do solemnly swear that the above information is true and accurate and that my assets and debts have been fully reported without exception, whether they are assets which I control, assets that any person is holding in trust for me, assets to which I am entitled or expect to receive, and that there are no assets other than what is reported in this Affidavit, all said information confirming that I do not have funds available to pay the filing fee in the above matter.

Executed this 11th day of February, 2022.

SWORN to before me this 11th day of February, 2022.

Signature: Jirair H. Baghdassarian
Print Name: Jirair H. Baghdassarian
Address: 9580 La Cima Ave
Las Vegas, NV, 89121
(702) 889-1459
Email: jirairb@hotmail.com

by Jirair Maurice Baghdassarian, only.

Print Name: Julie Barbara Ramirez Preferred Telephone:

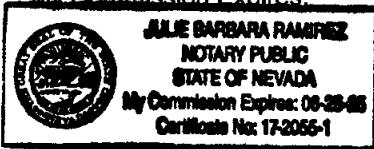
Notary Public for: Nevada, CLARK COUNTY Secondary Telephone:

(State)

My Commission Expires: 06-25-2025

(Date)

Relationship to the
alleged incapacitated
individual: Friend.



ORDER TO PROCEED IN FORMA PAUPERIS

This Court has considered the above Motion, Affidavit, and all other supporting documents. The Motion is hereby ☐ GRANTED ☒ DENIED. If the Motion is granted, the filing fee may still be assessed at the hearing or at a later time.

IT IS SO ORDERED.

[Signature], Judge of Probate

22nd day of February, 2022
Walhalla, South Carolina

FILED OCONEE COUNTY SC
MELISSA C. BURTON
CLERK OF COURT
2022 FEB 28 P 4:44

To Whom it May Concern:

My name is Rawle Watkins Jr, ND and an senior officer on the board of the General Association of Davidian Seventh Day Adventists (GADSDA) in located in the Salem, SC area since 2019. Our headquarters in Salem/Tamassee is named Mount Carmel Center according to our beliefs and constitution.

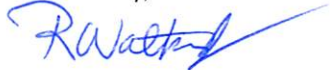
Jirair Baghdassarian and Trevor Bingham and other individuals involving themselves in this case have no affiliation or association with Mt. Carmel Center, in Tamassee, SC. We are also known as the "Salem Association" because of our location in the Salem, SC area. These individuals are from different Davidian factions that are in direct opposition with Mt. Carmel Center, in purpose, belief, and mission.

Sis Judy Tupolo a retired Major of the U.S. Air Force has been a faithful member of Salem Mt. Carmel Davidian Association since 2002. She is a devoted member, and they are attacking her since she has been taking care of Brother Don Adair since 2019, who was the VP of the Salem Davidian Association for 47 years. They also are attacking her because until recently she was the executive officer for the Salem Association who was "on the ground" at our headquarters.

Their main goal and objectives are to take control of Salem Association due to the fact that the copyright for many unique Shepherd's Rod publications and books, which are worth a substantial amount of money, is solely in possession of the Salem Association. They think they will get them if they have Bro Adair. Therefore, those named individuals above, as well as other unnamed individuals having been constantly attacking Sis. Judy Tupolo because she has the POA over Bro Don Adair. Our organization is financially responsible for him and is fully invested in his care. These attacks are baseless and warrantless, and they are trying to undermine the Salem Association, and assassinate her character while doing so.

When Bro Don Adair fell ill none of the other Davidian factions came to his aid or help. Sis Judy Tupolo was the only one that has been on the ground taking care of him while trying to maintain her own health as well as she is a cancer survivor. Bro Don Adair fought these people his whole life and now they are trying to pretend to care about him and his wellbeing. Therefore, they are continuing this attack by slander and accusations when in reality they were never interested in Salem Association, Bro Don Adair, or Sis Judy Tupolo beforehand. If you have any questions or concerns, please feel free to contact me at (340) 513-1905.

Sincerely,



Rawle Watkins Jr, ND.

California Jurat Certificate

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

Сопромат

S.S.

Subscribed and sworn to (or affirmed) before me on this 26 day of Oct Month

20 22, by RAWLE WATKINS JR and

Name of Signer (1)

proved to me on the basis of

Name of Signer (2)

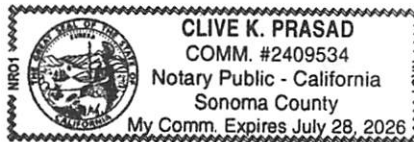
satisfactory evidence to be the person(s) who appeared before me.

CP

Signature of Notary Public

2409534

For other required information (Notary Name, Commission No. etc.)



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this jurat to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The certificate is attached to a document titled/for the purpose of

TO WHOM IT MAY
CONCERN

containing 1 pages, and dated 10-26-22

Additional Information

Method of Affiant Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Affiant(s) Thumbprint(s) ☐ Describe: _____

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My name is Rawle Watkins Jr, ND and an senior officer on the board of the General Association of Davidian Seventh Day Adventists (GADSDA) in located in the Salem, SC area since 2019. Our headquarters in Salem/Tamassee is named Mount Carmel Center according to our beliefs and constitution.

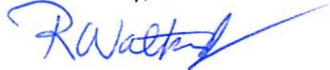
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Sincerely,



Rawle Watkins Jr, ND.

California Jurat Certificate

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

Сопромат

S.S.

Subscribed and sworn to (or affirmed) before me on this 26 day of Oct Month

20 22, by RAWLE WATKINS JR and

Name of Signer (1)

proved to me on the basis of

Name of Signer (2)

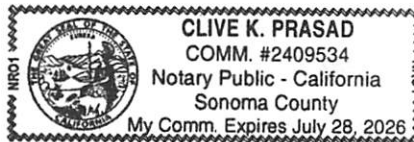
satisfactory evidence to be the person(s) who appeared before me.

CP

Signature of Notary Public

2409534

For other required information (Notary Name, Commission No. etc.)



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this jurat to an unauthorized document and may prove useful to persons relying on the attached document.

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The certificate is attached to a document titled/for the purpose of

TO WHOM IT MAY
CONCERN

containing 1 pages, and dated 10-26-22

Additional Information

Method of Affiant Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Affiant(s) Thumbprint(s) ☐ Describe: _____

Affidavit of Attorney Fees

Bagwell & Corley Law Firm, PC

Tjay M. Bagwell, Esquire and Stephanie M. Corley, Esquire

Walhalla Office
603 W. Main St. (PO Box 400)
Walhalla, SC 29691

Seneca Office
10121 Clemson Blvd., Suite D
Seneca, SC 29678

Powdersville Office
4891 Hwy 153, Suite D
Easley, SC 29642

Anderson Office
100 Miracle Mill Dr, Suite F
Anderson, SC 29621

Walhalla Office - Phone (864) 718.0777 Fax (864) 718.0776
Easley, Anderson and Seneca Offices - Phone (864) 886.8123 Fax (864) 886.8124
office@bagwellcorley.com www.bagwellcorley.com

Real Estate • Personal Injury • Wills/Estate Planning • Business Formation • Foreclosure • Action to Quiet Title

2022-328 Adair

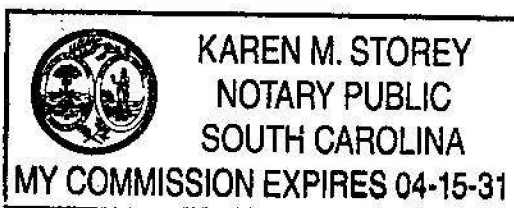
4 Aug. 2022	Doc Review	.75
10 Aug 2022	Interview	.6
15 Aug 2022	Interview – Def	1.2
17 Aug 2022	Email – D Counsel	.2
23 Aug 2022	Doc Review	.5
23 Aug 2022	Interview – Plt (Phone)	.9
5 Sept 2022	Interview – Plt Wit.	.5
17/18 Sept 2022	GAL Report	2.7
24 Oct 2022	Doc Review/Trial Prep	.8
25 Oct 2022	Hearing	.75
Total Hours		8.9 hours
Attorney Regular Fee	\$300.00 per hour	
Fee allowed by the Court	\$_____ per hour	

TOTAL \$2670.00

TOTAL ALLOWED BY THE COURT

Remit Payment to:

Bagwell & Corley Law Firm PC
PO Box 400
Walhalla, SC 29691



Karen M. Storey

Garcia

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	C/A No.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	ORDER OF DISMISSAL
	)	
vs.	)	
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

This action was initially filed by the Plaintiff in Probate Court in an attempt to remove the Defendant as Power of Attorney for Donnie Wayne Adair. The case was then removed to the Court of Common Pleas and motion was made by Plaintiff for a Temporary Restraining Order against the Defendant restraining her from carrying out her duties as agent for Donnie Wayne Adair. The initial Motion Hearing was held before me as a virtual hearing on July 11, 2022. Present was Plaintiff and W. Trey Merck, attorney for Defendant.

After the hearing, I took the matter under advisement and decided to appoint a *Guardian ad Litem* in the matter, therefore by Order of August 1, 2022, I appointed TJay Bagwell, Esquire, as *Guardian ad Litem*. Mr. Bagwell looked into the matter and reported his findings in a Report filed on September 20, 2022. Another hearing was scheduled and held virtually on October 25, 2022 at 11:30am. Present was Plaintiff and W. Trey Merck, attorney for Defendant, along with TJ Bagwell, Esquire, as *Guardian ad*

Litem. The Court heard from Mr. Bagwell and also heard from the parties. The Court took the matter under advisement.

After hearing arguments of Plaintiff and Defendant's counsel and considering the evidence in the case, I make the following Findings of Fact and Conclusions of Law:

Judy Tupolo has served as the agent for Donnie Way Adair involving the financial, legal and health care decisions related to the principal through a Durable Power of Attorney and a Durable Health Care Power of Attorney. Both of these documents were executed on July 27, 2020, and the Durable Power of Attorney was recorded. It appears that Mr. Adair has been well-taken care of by Judy Tupolo. There is evidence to suggest that Mr. Adair may be incapacitated, however the proper medical evaluations have not been performed, and a petition for conservatorship and/or guardianship have not been filed. There is enough question about Mr. Adair's capacity that his alleged verbal revocation of the Powers of Attorney cannot be accepted at this time. Plaintiff's formal allegations are vague and not credible. The financial allegations do not involve the personal funds of Mr. Adair, therefore this issue is not properly before the Court or involved in the Petition filed by Plaintiff.

This action is strictly governed by the South Carolina Uniform Power of Attorney Act as set out in *S.C. Code of Laws Ann. § 62-8-101, et seq.* As such, Plaintiff must prove that he has standing to bring an action under this Act by showing that he belongs to one of the classifications set out therein. Plaintiff is just an acquaintance of Mr. Adair who is not in a position to care for Mr. Adair or manage his assets, and he has failed to make such proof that he fits one of the classifications of the Act. Mr. Merck made motion

at the July 11, 2022 to dismiss the Petition of Plaintiff, and it appears that this relief is proper. Further, the Court notes that a fee affidavit totaling **\$2,670** was submitted by Mr. Bagwell for his work as *Guardian ad Litem*.

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

Defendant's motion to dismiss the Petition is granted, therefore this action is dismissed, with prejudice. The *Guardian ad Litem* fee shall be split evenly between the parties, requiring each side to remit **\$1,335** to Mr. Bagwell.

IT IS SO ORDERED.

R. Scott Sprouse
Circuit Court Judge

Walhalla, South Carolina
November ____, 2022



Oconee Common Pleas

Case Caption: Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,
defendant, et al
Case Number: 2022CP3700157
Type: Order/Dismissal

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP3700157

Jirair Baghdassarian
PLAINTIFF(S)

Judy Tupolo as Power of Attorney et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Upon careful consideration of the filings by the parties, applicable law, report of the Guardian ad litem, and arguments at the hearing, the Court finds that the Plaintiff has failed to establish grounds for the Court to dissolve the power of attorney in question and grant the relief sought. Accordingly, this action is dismissed.

This order is without prejudice to either party's right to petition the Probate Court of Oconee County for a Conservatorship. It appears that this dispute centers around where the best care for Mr. Adair can be provided. That is a matter in the jurisdiction of the Probate Court. There also are allegations about church funds which are not properly before the Court.

Mr. Merck is directed to prepare a formal order within fifteen (15) days, setting forth full findings of fact and applicable law.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/07/2022 .

Probate Court Oconee County
Jirair Baghdassarian for Jirair Baghdassarian
Jirair Baghdassarian for Jirair Baghdassarian

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Oconee Common Pleas

Case Caption: Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,
defendant, et al
Case Number: 2022CP3700157
Type: Order/Electronic Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

I have known Judy Tupolo since early 2019. She has always, since we met, had a good, kind and understanding disposition. She is concerned with the welfare of others and lives a christian lifestyle.

To my understanding she came here for the sake of Don Adair whose health and mental state were declining. Don's wife had died after an extended illness. It was a major change in his life to lose his helpmate. It is through Judy's efforts that Don has received the medical attention he has needed. She is a retired military nurse.

I have never known Judy to be mean spirited, or greedy and seeking financial gain in her relationship with Mr. Adair as his caretaker.. They come to church each week (unless unexpected circumstances prevent it) and he is clean, neatly dressed and appears to be well fed. He enjoys the services and contact with others. He enjoys church lunches and eats well, he especially enjoys his portion of dessert.

I believe anyone would consider themselves blessed to have a caretaker such as Judy.

Sincerely

LaDell T. Garza

LaDell T. Garza Phone-(864) 364 2214

107 Lewis Rd.

Salem, SC 29676

Angela E. Langston



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	2022-CP-37-00157
	)	
JIRAIR BAGHDASSARIAN	)	
PLAINTIFF	)	GAL REPORT
v.	)	
	)	
JUDY TUPOLO	)	
DEFENDANT	)	
	)	
IN RE: DONNIE ADAIR	)	

I have to start by saying I am not a medical doctor, and that any opinions I offer on the health or performance of any party is strictly based on my personal experience. Much of that experience is from my time meeting regularly with clients, some of them elderly, for my fourteen year career, and my four deceased grandparents, two of which were diagnosed with dementia and/or Alzheimer's.

Donnie Adiar (Donnie) is ninety years old, and gets around well for that age. I have observed Donnie walking and getting up and sitting down without any assistance. He doesn't move quickly, but he also isn't so slow that he is getting in the way. I would feel comfortable taking Donnie on a grocery shopping trip with me if I were his caretaker. However, Donnie's mind does not appear to be holding as firm as his body. I would like to respectfully say that I believe there was a time that Donnie was among the most respected, desired teachers and leaders in his entire religion. Everyone involved in this case has spoken highly of the decades that Donnie and his wife Marilyn devoted themselves to service, study, and their fellow man. Donnie still exhibits a great deal of retention of his Biblical knowledge, crafted from years of research. The old cliché, "Donnie has forgotten more about the Bible than most people will ever know," is applicable here. Donnie freely quoted scripture and discussed verses with me. Donnie also told me all about how he became so heavily involved in the Davidian Branch of The Seventh Day Adventist, and particularly the chapter located in Salem, South Carolina, often called Mount Carmel (the Association). This story starts in the 1970s, and Donnie's leadership of the Association lasted a little over forty years. Donnie's long term memory is still good, and probably better than most. Donnie's short term memory is already weak though. Donnie told me the same stories several times, had to be reminded to stay on topic, couldn't remember things I had said minutes earlier, and expressed some confusion and initial frustration about why he and I were talking at all. The hour Donnie and I spent together reminded me greatly of the early years of my two grandmother's Alzheimer illnesses. From what I've learned, short term memory begins to go, followed by long term, then less essential organs, before the most essential organs shut down. I realize this is an over-simplification, but for as strong as Donnie's long term memory was, I can't imagine the man today leading the Association. He doesn't currently have the problem solving capacity, the observation skills or the rationalization to be the man he was. And I have full confidence that this will only get worse. I would not feel comfortable leaving Donnie alone in a place that had a working kitchen, or other ways to accidentally hurt himself or others, if I were his caretaker. I would feel comfortable leaving him on the porch or in front of the TV while I went to the bathroom or cooked dinner, but not for so long as to go to the store. I believe he needs supervision in the same way a five year old would.

I feel to understand Donnie, the court needs at least a brief explanation of the Association. It doesn't appear that the Association has any lackadaisical or half-committed followers. The members appear to be fully devoted to each other, and to the Association's teachings. Donnie and Marilyn led through

service. The Association isn't as large as say the Southern Baptist, but the members meet more regularly, give more freely, study more intensely, and are more fully devoted than the average Oconee County church member. Because of this the Association has collected assets: real estate, literature, and finances. The Association continues on without Donnie, but he certainly has shaped and left his finger prints on it. The stability and agreement that Donnie and Marilyn led with appears to have disappeared though. Again, this is an oversimplification, but the two factions are basically the Pro-Judy side, and the anti-Judy side. Judy Tupolo (Judy), the Defendant, does not lead the Association in the way Donnie did, but for our purposes it is helpful to see her as a representation of this division. Donnie is not currently a torch that could be passed between factions to represent control of the Association, but in the early days of the power shift away from Donnie's leadership "control" of Donnie landed with the Pro-Judy crowd, and lent them the legitimacy, and access to the accounts, that pushed them into the leadership positions they now enjoy. I put "control" in quotation marks, because I do not think there were any meetings, or even evil intent, about how taking care of Donnie would lead to success in the power struggle, everybody just most likely acted in a way that was best for themselves, and in what they thought was best for Donnie and the Association.

I also have to say that I totally believe that Donnie and Marilyn misappropriated Association funds for decades. But, I only really believe this would be a problem to the IRS, not the members. Donnie and Marilyn never drew a salary, they supported themselves using association funds to buy whatever they needed. For decades people from all over the world have sent the Association money, and bought books from the Association, knowing that the money was used to support Donnie and Marilyn personally, along with supporting them in their ministry. So when I use the word misappropriation, I mean it from a legal sense. Donnie and Marilyn earned an "income" that they never paid taxes on, and used Association money for personal expenses. But this was no secret to, I'm guessing a majority, of the Association's donors. Again, Donnie and Marilyn had their communities' respect, and I don't think many Association members would care if the accounting was not proper. — — — I wrote the the above paragraph in my first draft of this report. After that I received a letter signed by a half dozen members of the current leadership of the Association. I had reached out to Judy's attorney for more information about finances, and explanation about what was going on with the money. I received a letter that a bit too conveniently answered each of my concerns. The current leadership is all Pro-Judy, and explained to me that Donnie and Marilyn really had permission to use the Association money all along. This is impossible for them to know, the current leadership would have been children when Donnie started with the Association. What I really gathered from this letter is that the current leadership is happy with how everything has shaken out. They are like minded in their support of Judy, their love of Donnie, and their desire to leave the situation unchanged. I also feel that my suspicions that the IRS would disapprove of the way Association money has been handled for decades, but that the members of the Association either didn't care, or straight out approved, of Donnie and Marilyn being supported by the inner workings of the Association. — — — I bring this up not to disparage Donnie, but to say that he doesn't really have many assets of his own. He has been keeping much of his social security earnings, between \$25,000 and \$33,000 depending on the source, in savings, but never seems to have misappropriated funds to the tune of making himself wealthy. This is not a Jim Baker situation. I believe the only assets Donnie has is the savings, a car, and his personal property. Additionally, Donnie has a couple of copyrights on books he put together. Where we start talking about real money is when we get into money that Donnie controlled, Association money. Depending on the telling, Donnie controlled \$103,000 or \$104,000 when Judy began taking action as Power of Attorney (POA). I know that \$25,000 is a significant amount, but if we're looking for the largest assets that Donnie had power over, we need to look at the tens to hundreds of thousands of dollars that get donated to the Association. I will discuss these further.

Judy has been taking care of Donnie for about four years. She is without a doubt his primary care giver. Judy said that her great love for Marilyn is what drove her to volunteer to take care of Donnie. By all accounts Marilyn was a lovely woman, devoted to the behind the scenes work, and tiring service that makes a church successful.

Donnie told me at least three times that: he asked Judy to marry him, but she declined. Judy was a Major in the Air Force and he's had to change his attitude about taking orders, because she gives him a lot of orders. Judy and Donnie met through the Association, and she helps provide his daily needs. Judy confirmed each of these. Donnie lives in a home owned by Judy. As far as I can tell Judy doesn't receive any compensation for taking care of Donnie, and lives off of her military retirement. However, Judy did say that she used the \$104,000 to fix up the house. She bought the house, with a mortgage, then fixed it up with Association funds. Again, this wasn't "Donnie's money," even though everybody calls it that. Judy took control of the Association account that Donnie controlled for years, and used that money to renovate her personal residence. I did not get to the bottom of whether the Association account was still being fed. — — — In the letter from the Association leadership, they sought to soothe any of my fears that anything out of line was going on. They assured me that each action with Association money had went through the appropriate channels and the leadership felt a responsibility to Donnie. Again, the current leadership is very Pro-Judy. — — —

Donnie lapses into frustration when talking about his relationship with Judy. I believe this is because Donnie doesn't know that he is sick. There was an attempt by Judy to put Donnie into an assisted living facility, and he hated it. I don't believe there was any malice in putting Donnie in to the facility, it just didn't work. My grandmother's both eventually benefited from moving to a facility, with their activities coordinators, better medical personal and equipment, so I believe there are beneficial situations for long term care. Donnie rejected the assisted living facility, and Judy respected the situation and brought him back home. I asked Donnie if there was a situation that he could imagine, an illness, injury, or old age that he could see himself going into a facility. He would not entertain the idea. He needs twenty-four hour supervision right now, but would not admit that he needed the supervision, and could not imagine a scenario in which that would be possible. He doesn't recognize his current short comings. Judy does, and has made the adjustments to her life to care for Donnie. I believe Judy would care for Donnie until his eventual death if the situation remained unchanged.

The Plaintiff, Jirair Baghdassarian, (Gerard) has professional experience with memory care patients. He is some sort of psychologist or psychiatrist that helps with care and diagnosing patients. Gerard is a long time member of the Association, and has met Donnie on several occasions. Most of Donnie and Gerard's relationship has been built through Donnie's teachings, Gerard has been Donnie's student through phone calls. Gerard lives in Nevada. Gerard's respect for Donnie is over-flowing, he sees Donnie as a preeminent teacher among the Association, and has listened to Donnie's lessons as recently as this Spring. Gerard expressed that he has the time, desire, and resources to care for Donnie. I have no hesitations about Gerard possessing the desire and the resources to care for Donnie. My only hesitation about the time is how it will be done. I believe Donnie needs twenty-four hour care, and for Gerard to provide that and work he would need to hire somebody to do that. I should back up and say that this is also coming with a lot of "ifs." Gerard wanted me to know that he would do everything in his power to defer to what Donnie wanted. If Donnie believes he can still drive, then Gerard would work toward that outcome if possible. Same if Donnie wanted to stay in South Carolina, move to Nevada, continue teaching, or stay out of assisted living or a nursing facility. Gerard made clear he wants to do what Donnie wants to do. I believe this absolute deference would be short lived, that just a few hours with Donnie would be enough for any adult in the room to know that Donnie isn't the best decision maker for Donnie anymore. But I do have to credit Gerard's willingness to defer to a man that

he doesn't have a family relationship with. Gerard was non-committal to where Donnie would live, because he truly wants it to be Donnie's decision for as long as possible. I summed the conversation up with Gerard as, "you recognize that Donnie could already need care, and will in an increasing amount in the future, but you would like for Donnie to retain personal agency for as long as possible," and he agreed.

Gerard provided a list of thirteen phone calls he had recorded with Donnie. I think that Gerard wanted me to listen to them to show that Donnie is still a mostly capable man. And if that was your starting point, a great respect for this titan of your religion, then you would interpret those calls that way. I listened to them with a different bias, that Donnie is in the beginning stages of a disease that will eventually rob him of what makes him himself. My conclusion from listening to the calls is what I've stated above; Donnie still has the capacity to teach because his long term memory is good, and he was starting from an elevated position, but his short term memory and processing has slipped.

Judy has used money that wasn't hers to the tune of \$100,000 or more. She admitted it to me, and I'm treating it as fact. There are plenty of other accusations that have been thrown at her: tithe money still coming in, a van she put in her daughter's name, Donnie's social security, just to name a few. Again, I don't believe any of the \$100,000 was actually Donnie's money, and that may be knit-picky, but it seems to me like Donnie's representative just continued rolling the misappropriation log that Donnie was previously rolling. Judy just did it suddenly, without the years of trust and appreciation built up that Donnie had, and this has given ammunition to the Anti-Judy crowd. Without discovery and sworn testimony I don't know if anyone will ever know the depth of Donnie, Marilyn, Judy, and the Association's financial mess. Donnie prudentially took money that wasn't his for a lifetime of personal gain with implied permission of the Association, and that permission remains today. Judy took money that wasn't hers and used it for personal gain, and now uses that gain to care for Donnie. Whether or not she has permission to do this depends on who you ask, Pro-Judy or Anti-Judy. Is this splitting hairs? Is this a fair use of the money? What happens during an audit? With respect, I believe these are half of the questions the Court is faced with. Is/Was Judy's alleged bad behavior detrimental to the ongoing care of Donnie?

The other half of the questions revolve around the actual care. Judy actually, literally, takes care of Donnie, and has done so for several years. Gerard says he will, but he is some what a stranger, both to Donnie and to the Court. Donnie wants his independence back, but shouldn't have it, and is fortunate enough to have two volunteers to provide it. If Judy is a con artist she is terrible at it. She cashed in the biggest account, but was left with the responsibility of caring for Donnie, and, in my opinion has successfully done so. Gerard is an outsider, but seems to genuinely care for Donnie, and wants to protect him from further humiliation by giving him back as much of his life as he can.

Tjay M. Bagwell

Tjay M. Bagwell
SC Bar NO. 76927
603 W. Main Street
Walhalla, SC 29691
Phone: (864) 718-0777
Email: tjay@bagwellcorley.com

THE STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Jirair Baghdassarian)

Case #.: 2022CP3700157

v.)

ORDER

Judy Tupolo as Power of Attorney,)
DEFENDANT.)

Consistent with S.C. Code Regs. 65-12, pleadings are to be liberally construed with a view of substantial justice between the parties. Accordingly, the Court accepts Plaintiff's motion as properly filed [*see attached*] and compliant with S.C. Code Rules 59 and 60. However, the Court notes this submission erroneously inquires into the finances of Mr. Donnie Adair. Mr. Adair is not a party and his ability to pay or the state of his finances are immaterial to the Court. The Court previously ordered that the named parties split the GAL bill evenly and this remains the order of the Court.

Further, as stated in the order, the Form 4 issued on 11/08/2022 was without prejudice to either party's right to petition the Probate Court of Oconee County for a Conservatorship. However, this matter is dismissed with prejudice before this Circuit Court and there is no error in the order issued on 11/22/2022 setting forth such.

As to the other findings in this prior order, the Court carefully considered the record, pleadings, arguments of Counsel, and applicable law. Accordingly, the Court concludes that Plaintiff's motion for reconsideration pursuant to Rule 59(e), SCRPC be denied as there was no misunderstanding or failure to fully consider all arguments and issues at the hearing. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

Accordingly, Plaintiff's Motion is DENIED.

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

Jirair Baghdassarian

Plaintiff,

vs.

Judy Tupolo

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE circuit JUDICIAL CIRCUITAPPLICATION FOR WAIVER OF
PAYMENT OF NEUTRAL FEESDocket No. 2022-CP-37-00157

NAME OF APPLICANT	Jirair Baghdassarian
ADDRESS	2580 La Cara Ave
CITY, STATE, ZIP CODE	Las Vegas Nv 89121
TELEPHONE NUMBER(S)	702 689 1459

1. Are you presently employed?



Yes



No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	FULL OR PART TIME
	We are halping Donnic wayne Adair in this case and what we mention here is his assests not ours, which we ignore its value but know that it is scarce	

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

SALARY OR WAGES PER MONTH	NAME AND ADDRESS OF EMPLOYER	TERMINATION DATE
	Don Adair Does not work	

2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

NAME	AGE	RELATIONSHIP	AMOUNT OF SUPPORT
NA			

SCADR150C (04/2021)

3. **Have you received within the past twelve (12) months any money from any of the following sources?**

- a. Business, profession or form of self-employment? Yes ☐ No ☐
- b. Rent payments, interest or dividends? Yes ☐ No ☐
- c. Pensions, annuities or life insurance payments? Yes ☐ No ☐
- d. Gifts or inheritances? Yes ☐ No ☐
- e. Any other sources? Yes ☐ No ☐

If the answer to any of the above is "yes," describe each source of money and state the amount received from each and by whom during the past twelve months.

SOURCE OF MONEY	AMOUNT
We do not know what he is doing. He may have some social security minor allowances. Not sure	

4. **Do you own cash, or do you have any money in a checking or savings account?**
☐ Yes ☐ No

If the answer is "yes" state the total amount of the cash and owner: \$UNknown. Probably none

5. **Do you own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishings and clothing)?**
☐ Yes ☐ No

If the answer is "yes," describe the property and state the appropriate value of the items owned and who owns it:

PROPERTY	AMOUNT
There is some property in Tamasses we know of that Don Adair has minor share with	

6. **What kind of motor vehicle do you and/or the alleged incapacitated individual own?**

Year: Make: Model:
 Is it paid for? ☐ Yes ☐ No
 If not, what is the monthly payment? \$

7. **How much do you owe (on liens, mortgages, other encumbrances or debts)?** \$

I do solemnly swear that the above information is a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, whether they are assets which I control, assets that any person is holding in trust for me, or in which I have any interest. I

SCADR150C (04/2021)

have not recently, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned here.

I do solemnly swear I am financially unable to pay the Neutral Fees associated with the mandatory mediation required by the Court.

This 28th day of November, 2022

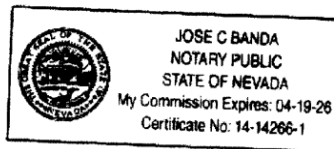
[Signature]
Applicant Signature

Subscribed and sworn to before me this

28th day of November, 2022

[Signature]
Notary Public for South Carolina

My Commission Expires: 04/19/26



.....
The Application for Waiver of Payment of Neutral Fees is hereby ☐ Granted / ☐ Denied.

Dated: _____

Judge/Clerk or Deputy Clerk

_____, South Carolina

SCADR150C (04/2021)



Oconee Common Pleas

Case Caption: Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,
defendant, et al
Case Number: 2022CP3700157
Type: Order/Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	C/A No.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	AFFIDAVIT
	)	
vs.	)	
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

Personally appeared before me, Kymberly Nichols, and states as follows:

1. I am the administrator of Foothills Assisted Living in West Union, SC.
2. Mr. Don Adair was admitted to the facility on 12/21/21. Mr. Adair's diagnoses were: Mixed vascular dementia, BPH, CVA history, and venous insufficiency.
3. Mr. Adair's POA, Judy Tupelo, made me aware that Mr. Adair was part of a religious organization that may call and ask questions about him, and that she wished no information be given to anyone, without a code word.
4. Approximately in late January, the facility began receiving phone calls regarding Mr. Adair. The phone calls consisted of the caller accusing us of abuse, keeping Mr. Adair against his will, and telling us Mr. Adair could make his own decisions. Shortly after that, a Jirair Baghdassarian began calling and asking for me. He requested information regarding Mr. Adair, and I told him that due to the HIPPA laws, I could not give any information. He continued to call numerous times, and

made several complaints to Oconee County Law Enforcement during that time. The Sheriff's Department came several times, interviewed Mr. Adair as well, and never found any evidence of any wrongdoings. The ombudsmen for our facility, Kim Bridges, also came to the facility, and she too found no evidence of wrongdoings.

5. Mr. Baghdassarian also posted on a Davidian Facebook page, a picture of our facility, address, and encouraged people to keep calling and visiting our facility to free Mr. Adair.

6. Mr. Adair could make his needs known, but was very confused at times. He stated on several occasions, "he was married to the Sheriff's daughter." He also stated that he "could fly", and multiple times, tried to call the police regarding "a fire" at his house.

7. His caregiver Judy, was very attentive to his needs, and was available anytime we called her with issues. She took him out for rides, brought him food he liked, took him to doctor's visits, and paid all his bills on time.

8. Approximately 2 weeks before Mr. Adair left, he was on the phone with an unknown individual that he referred to as an "attorney". Shortly after that, the facility received a letter from Mr. Baghdassarian stating he was now his "POA".

9. I have recalled these events to the best of my ability.

10. Further affiant saith not.

Sincerely,

Kymberly Nichols, CRCFA, LPN

Kymberly Nichols, CRCF A, LPN
Foothills Assisted Living

SWORN TO AND SUBSCRIBED BEFORE ME
this 7th day of July, 2022.

Jo Ann Cornely
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: Sept 29 2027

RECEIVED

Jun 03 2024

SC Court of Appeals

From: [gerard b](#)
To: [Court Of Appeals Filings](#)
Subject: Fw: Documents
Date: Saturday, June 1, 2024 11:58:24 PM
Attachments: [1 app for paup 02.28.22.pdf](#)
[2 app retr 02 28 22.pdf](#)
[3 mot remov cir crt 02 28 22.pdf](#)
[4 civil act cov sheet 02 28 22.pdf](#)
[5 NOTICE OF MOTION SCHEDULING, MARCH 1ST, 2022.pdf](#)
[8 ORDER, MAY 26, 2022.pdf](#)
[9 RE OBJECTION TO CONTINUANCE, MAY 26, 2022.pdf](#)
[10 DON ADAIRS REQUEST TO SEE THE JUDGE 30TH, 2022.pdf](#)
[11. SUBPOENA OF DON ADAIR AND ASSISTED LIVING.pdf](#)
[12 POLICE REPORT OF SUBPOENA SERVICE JULY 8TH, 2022.pdf](#)
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*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Resubmitting the record as mentioned on our record of appeals

From: gerard b
Sent: Tuesday, September 19, 2023 7:10 AM
To: Court Of Appeals Filings <ctappfilings@sccourts.org>
Subject: Documents

I am sending as attachments the content of the designation of matter that can be emailed.
The USB of the recordings has been mailed to you by USPS
Thank you.

10/25/2022

To Whom It May Concern:

This is a response to Jirair complaint.

I've known Don Adair since 2002 and I have been actively involved in his religious organization that he and his wife Marilyn Adair managed for about 43 years. I visited them often for four years when I was active military living six hours away and maintained contact as often as possible during my military career. I retired in 2016. Shortly after Marilyn's death in Oct 2018, I and two other group members arrived to assist him. Prior to this I was informed by Catherine Kerr that Don's late wife's relative were going on the property and taking mail looking for donations sent in by supporters. A local friend Elissa Peters who house sat for Don informed me that Kevin Mueller came to the property taking carpenter tools and whatever else he wanted, and that an organization file cabinet was missing. Don trusted them to house sit at times when Elissa couldn't. Kevin Mueller also drove off with the cargo van his aunt, Don's late wife was driving and told Don that the property now belonged to them and he had to leave. Shortly afterwards Kevin's dad Carl Mueller took Don to court, making an unsuccessful attempt to evict Don from the trailer he and his late wife were living in.

After Marilyn Adair's death, I asked Catherine Kerr two months in a row to go with me to check on Don. She refused both times. Late January, she suddenly tells me that she is meeting another association member, Donald Panciera at the organization, they were going to check on him. This only gave me five days to prepare to meet them and I was glad to go and check on Don as I did not want to be with him alone. His wife and I were close friends.

Feb 2019 When I arrived to South Carolina, Catherine Kerr and I shared one room in a Air BNB home for one and half months. I then discovered the real reason for her sudden willingness to visit Don. She told me that Don sent her about two and half months' worth of members' tithe money in mid-January. However, she was advised that she should go and get her name put on the association accounts. Don kept the funds hidden and was afraid that Kevin and his dad would find them, so he quickly sent them to her without counting the amount (he never dealt with the funds because his late wife did. Don would never leave the property unless someone was house sitting so the funds were accumulating for a few months or more). He asked Catherine to keep the monies until the situation between the relatives got settled.

When Donald Panciera arrived three days later, Don appointed the three of us as council members. A meeting was held where Catherine Kerr proposed to be the secretary, Donald Panciera the Treasurer and Don continue as vice president. Catherine and Donald proposed that the funds be sent to their homes to care for Don and the association, which Don refused. Catherine was in tears yelling, "But you promised you would send me the tithe." They continued a heated argument of where the funds should go. Don called me out of the room and proposed to me, I asked him why he doesn't marry Catherine who was willing to marry him, and he said because he didn't trust her and her son. Being recently retired and with my medical background in nursing, my only interest in coming to South Carolina was to see about Don's health condition offering him moral support for his recent bereavement. I honored him and his wife for their long years of gospel service and believed in the cause they promoted.

I was in much distress as I found out the true nature of Catherine and Donald's visit, and on top of Don proposing to me. They actually came to clean up the junk laying around the property and then shut down the organization property, run the business from their homes and put Don in a nursing home. I told them I would look after him and it wasn't time to put him in a nursing home yet. Don at that time voiced that he wanted me as his nurse still making attempts to marry me. After I told him no and my purpose was only to look after him, he began mistreating me and put unfavorable things about me in his newsletter and hope that he would find a wife.

During our stay Catherine was paid to shop and fix food for Don while I tended to his health needs without pay. I noticed a health decline, an unsteady stumbling gait with numerous bouts of forgetfulness and mental confusion. I immediately arranged for a doctor's physical and mental evaluation. In the interim I assessed that his legs were swollen recommending that he stop drinking salt water every morning. The swelling immediately disappeared. Catherine suddenly left due to problems with her son's

banking account funds dwindling, while Donald left a few weeks earlier after he did not become treasurer. I was voted in as Secretary treasurer and continued working with Don helping with some of the association functions of his late wife.

August 2019 his initial mental evaluation and brain CT Scan found him positive for dementia and Alzheimer's disease in a mild state. (see Dr's notes for 2019-5/2022). I assisted him on the premise for 10 months.

November 2019 I was diagnosed with stage 3 breast cancer and had to return to my home in Texas for chemotherapy treatments. During this time, I continued to help him run the business, ensuring his basic needs were met, hiring local personal friends who also updated me on his condition and people calling the association.

While I was away, Catherine Kerr and a few of her friends, who were in contact with him were well aware of his dementia and attempted to turn him against me, causing him further confusion and causing discord between us. However, no one volunteered to physically assist him and move to South Carolina, so our work relations remained intact, plus after he saw that I was committed to God's cause, I was the only one he trusted in close working relations.

June 2020 Mr. Adair suffered a stroke with one sided movement impairment, was hospitalized a few days and then sent to rehabilitation for over three weeks where he was able to successfully walk again, we spoke daily. He told me Catherine Kerr called him and said that she'll have the brethren praying for him. Later that day in the evening, a Hispanic member called me saying a long-time member called him crying saying Don had died. I assured him Don was alive and recovering well in Rehab. Don's neighbor who met Catherine seeing her once confirmed that Catherine Kerr called her about Don's whereabouts, and she informed her of his health status.

Retired and living in California, Catherine continually tries to keep up with Don's whereabouts and will go on a search (the latest was the Foothills Living Assisted home) for where he is living with a purpose. Over the years of knowing Don, she accumulated most of his bible study recordings, all his articles and book compilations in hopes that when he expires, she could take over his operation and assets. She gave me a USB port with all of his studies to that time, all his articles and the main books that he compiled.

She asked me to keep this silent as those articles are copyrighted, and she was not given permission by Don. or the association to accumulate or disperse them. Yet she never cared enough to come and support him physically after his wife's death but came only to put him in a nursing home and shut down the operation in South Carolina. She is the person with a keen interest and the main person behind taking me to court. As such, has put her friend Jirair up to doing it. Yet Jirair hasn't seen Don in 20 years and knows nothing about him except what Catherine Kerr tells him. He also admitted in court that Catherine Kerr is helping him with this case.

July 2020 During this time I was in cancer remission but still receiving treatments about once a month and getting bi-weekly physical therapy for frozen shoulder, side effects of prolonged breast cancer surgery. However, I was well enough to visit him as soon as he was discharged home, taking him to his follow up doctor's visits with the various specialty doctors.

I arrived 30 minutes just before three prior members arrived to visit the association property. They also said they were informed that Don expired but were surprised to see him well and working in the office. These same people a while back asked Don if they could gain the association once he expired. He refused and they no longer supported him but have now returned after many years of no contact. This somewhat frightened Don and he started thinking about the possibility of death.

We discussed his business affairs and after-life arrangements of his assets and his wishes for the business. (Settling after life earthly affairs was remote. He held on to the belief that he will never die but be translated alive to heaven and be one of the 144,000). Numerous people in the past made unsuccessful attempts to gain any of his or the association assets, he held on to his long-time position as vice president. However, the fear and repercussions of another stroke, and after numerous doctor's visits with his health concerns addressed, he finally expressed that he was willing to place me as the executor of his assets, and that he wanted all his educational works and assets to go to the organization. He additionally expressed that he desired to make me his durable and healthcare power of attorney. These wishes were written up by his attorney, Emily Morrison's office, signed by Mr. Adair and two witnesses in July 2020.

After three weeks visit, I returned to Texas to continue my treatments but ensured he had accompaniment to his doctor's appointments for the next few months. He then gained the ability to drive independently. I continued scheduling his doctor visits remaining informed of the outcomes, reminding him, and ensuring he makes his doctor appointments.

March 2021 after completing my treatments, but still recovering from cancer. treatments after affects, I returned to South Carolina and found his dementia had worsened and removed him from his living environment which was deplorable. I was his live in caretaker until December 2021 when I could no longer care for him and hope to remain in cancer remission. His dementia worsened with him becoming agitated and suspicious refusing to comply with household safety measures, such as not going down the stairs or using a cane. Additionally, he refused to take his dementia medication which caused him to be more agitated and combative. He was reluctantly transferred to Foothills Assisted Living

It was during this time that Jirair and his associates sought out where he was living. Jirair had no long term or recent organization affiliation, but suddenly showed a keen interest in Mr. Adair's new living facility and promised to remove him from this home. Ironically, this happened shortly after the organization begin to assert a poised media presence, launched and updated our new website and

featured Don Adair's books for sale. We simply continued the mission of the organization fulfilling its' purpose, but this time through a broader media exposure. Mr. Adair labored for the organization most of his life as a writer, an educator, and compiled and sold his books.

Ever since then, Jirair has done a myriad of attempts to get the power of attorney revoked. He taped recorded Mr. Adair saying he was held against his will at the home, and he wants to leave. He led a social media campaign against me, made numerous false accusations, harassed me about not allowing him to speak to Mr. Adair and harassed the nursing home for not letting him speak to Don. The nursing home complied with my wishes because they saw that Don was incapacitated and knew the history of people trying to gain the organization and Don's lifetime works.

May 3-14-2022, he sent a spy Charles Angweni AKA Kaka to the organization where I was living. He insisted on living there, during this time he was trusted to gain access to Don Adair and take him out of the Assisted Living Home where Don resided. However, he made attempts to gain access to paperwork relating to Don's care and financial matters He took Don to two banks where the association banked for years but gained no information. (These funds were removed by me and placed into another association bank account to avoid the new VP from taking them for investments. His name was on the account). Kaka then proceeded to take Don to the Fire Station and from there filed a fraudulent report against me and additionally had Don make a statement to them that the Power of Attorney be revoked from me, and appoint himself Kaka as the new POA, and that the POA be revoked by the next week (see report).

The next week came and Jirair and his associated Catherine Kerr once again started calling the Rest Home demanding to speak to Don as I am no longer the POA, the Home denied their request and hung up the phone three times. Jirair persistently called three times in a row, after the home denied his request, and he finally stopped calling after he was threatened with a harassment complaint to the Sheriff's office. A few days later, Catherine Kerr called and insisting to speak to Don also stating that I'm no longer the POA, she was denied. A few days later she called again saying that Don's attorney Andrew Holliday, wanted to talk to him, she was denied as well because the Assisted living home knew Don was incapacitated, suffering hallucination bouts, delusions about being married and being able to fly. Shortly afterwards, I took Don out of the home in order to protect him and save the home from continual harassments which made me feel so bad that they had to be involved in this manner.

So sadly, today this predatory pursuit continues with various Davidian group leaders and prior members preying on an elderly demented man who's spent his life sacrificing for God's cause. Catherine Kerr and Jirair had these people to write letters to the courts to support their case against me. They haven't seen or talk to Don in years. This is very shameful that so called Christians could stoop to deceptive means for selfish gain. Truthfully, I'm so sorry that it has gotten to the point where the courts and you have become involved, contrary to bible teachings that "we are not to take our brother to court," but work out disputes among the believers.

Additionally, the board helped me to purchase the house at 115 Davidian Way (sub-lease with an option to buy) because the association didn't have credit-worthiness to qualify for a business loan. The \$104K belonged to the organization, not Don. Part of those association funds went to help rebuilding, payroll etc. Don's personal funds are separate and went to pay for his needs, day care with Palmetto Care and Foothills Living Assisted care, as well as scammers in his demented state. I already have a retirement home in Texas and didn't need another home. We've cared and treated Don with utmost respect ensuring his comfort. Additionally, I and the organizational board have paid for about half for all his

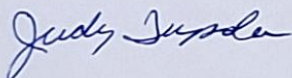
burial arrangements, which is paid in full. I continue to take him to follow up doctor visits for his condition and monitor any other health needs.

In addition, Don in his right mind wanted me to help him with the association and to be his caretaker. I was the only one here for him that he trusted, others left because of his personality, and he refused to pay people or offered meager pay. I love him and his wife for all their labors of sacrifice for gospel of Jesus Christ and His kingdom. I now render my services from a heart of gratitude, receiving meager pay for my licensed RN profession and military experience, and since February 2022 have not received pay.

In closing, I and the association board will continue to ensure Don's physical and healthcare needs are met until his very end. I pray that this letter will give you a background understanding as to why this case has ended up in your office and in the court system. May God bless you with the "spirit of discernment" in your work as the truth is what stands forever, and may He help you decipher the truth in these conflicting voices. Thank you so much for all that you are doing for Mr. Adair.

PS. This conflict story is written in our November 2021 Newsletter and will show that I did not make this up, the story about me and Catherine Kerr and the split went to all our members for an update.

Very respectfully yours,



Judy Tupolo

TEXAS ORDINARY CERTIFICATE OF ACKNOWLEDGMENT
 Civil Practice & Remedies Code § 121.007

The State of Texas

County of Bexar

Before me,

Erica Garcia, Notary Public
 Name and Character of Notarizing Officer,
 e.g., "John Smith, Notary Public"

on this day personally appeared

Judy Tupolo
 Name of Signer

☐ known to me

☐ proved to me on the oath of

 Name of Credible Witness

☐ proved to me through _____

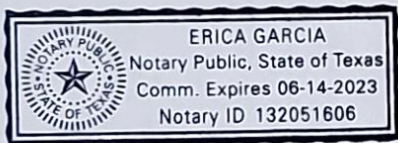
Texas DL
 Description of Identity Card or Document

to be the person whose name is subscribed to
 the foregoing instrument and acknowledged
 to me that he/she executed the same for the
 purposes and consideration therein expressed.

Given under my hand and seal of office this

25th day of October, 2022
 Day Month Year

EJ
 Signature of Notarizing Officer



Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or
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Description of Attached Document

Title or Type of Document: Personal Statement

Document Date: 10-25-22 Number of Pages: 6^{pgs} 5

Signer(s) Other Than Named Above: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE.	)	C/A NO.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF Jirair Baghdassarian
	)	
vs.	)	
	)	Plaintiff
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

I undersigned, Jirair Baghdassarian, swear under oath that the following testimony is true to the best of knowledge.

Statement of facts:

We believe Judy Tupolo has been abusing her power of attorney that Don Adair has granted to her without understanding what he was signing. She has used it to exploit him financially and abuse him emotionally. She has not consulted him in any decision related to his financial, personal and medical affairs, and she has not acted to the best of his interest. Consequently, we believe all power of attorney she possessed including those she has granted by extension to anyone else, should be suspended permanently and a recognition of the power of attorney Don Adair has granted or attempted to grant to the plaintiff on May 23rd, 2022 should be recognized.

We believe that Don Adair has many faculties that he was able to use that Judy Tupolo was not respecting and that she has treated him as an inmate stripped from his dignity and from living to the best of his faculties.

If Don Adair was to be considered as incompetent by the court, we request the court to appoint us or to consult with us one someone we would agree upon as Guardian over him. We also wish that the court would specify what are the faculties that Don Adair cannot use instead of considering him fully incompetent of any decision, so that he could use his decision-making capacities and faculties with a least restrictive manner.

We have talked on the phone with Don Adair for a sufficient period to find out that Mr. Adair is capable of many faculties such as deciding with whom he wants to live, with whom to talk and with whom he wants to associate. We believe also that he has the right and the capacity to decide

the location where he wants to live as long as there is at least one person to assist him and monitor him in that location.

We understand that during the many occasions Don Adair has been talking to us on the phone, from January to Mya 2022, he was alert, conscious and oriented to self, place, person, time and situation. He was asked questions about daily living and safety, such as how to cook his favorite meal and how to turn off a fire and he was able to respond accurately and correctly. He was also given a list of tasks on the phone, such as inform the staff at the assisted living about the revocation of power of attorney, orally and in written. Don Adair was able to accomplish the task and was able to call us back and report that he has accomplished it and provide us feedback of the results. Consequently, we think he has a good long-term memory, an acceptable short term memory and a functional executive memory as well as a good judgment, at least at certain times.

We were not able to determine on the phone how many hours of monitoring and assistance Don Adair needs per 24 hours, as this would require further assessment in person which may take several days if not weeks to determine.

Plan:

If our power of attorney was recognized by the court or if we were appointed guardianship, our plan would be to discuss with Don Adair what would be the best plan for his care. There are many options he could choose from.

Plan 1: Don Adair can stay in a group home or smaller size assisted living with less than 10 residents, near his former workplace in South Carolina, where he can be provided more individualized care and where he has access to a personal cellphone and a laptop enabling him to have some communication and religious work as tolerated, in a least restrictive manner.

Plan 2: If Don Adair wishes, he would be welcome to stay in Plaintiff's private residence in Las Vegas NV, where plaintiff can keep close supervision over him, assess him closer and find out with him how plans can be accomplished to the best of his interest.

Plan 3: We would like to find the possibility to place Don Adair in a private residence near his former workplace and headquarters in South Carolina, with a person assisting him depending on his need for assistance, after proper assessment is done. This option would not be possible without recovering the financial assets and incomes, including tithes that Judy has unlawfully, unethically and illegitimately appropriated. We will be striving to pursue her legally on this matter in order to provide Don Adair with his rights.

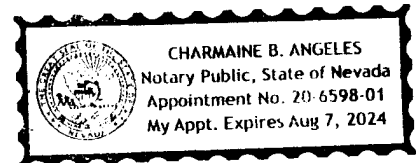
9/9/2022

Undersigned
Jirair Baghdassarian
Plaintiff

Jirair Baghdassarian

[Large stylized signature]

State of Nevada
County of Clark
Signed and sworn before me on
September 9, 2022 by JIRAIR MAURICE BAGHDASSARIAN
[Signature]
Notary Public



Attached to : Affidavit of Jirair Baghdassarian dtd. 9/9/2022
3 pages

This is the 2nd affidavit
of Catherine F Kerr in this case
and was made on Sept. 9, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE.	)	C/A NO.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF CATHERINE F KERR
	)	
vs.	)	
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
	)	

1. My name is Catherine F. Kerr. I am 73 years old. I am a retired medical transcriptionist and office admin. My current residence is Truckee, CA where I have resided for 31 years.

2. I, Catherine F. Kerr, swear that the information in my sworn statement is truthful to the best of my knowledge and understanding

STATEMENT OF FACTS

3. Since July 2020, after a brief TIA, hospitalization and rehabilitation, Donnie Wayne Adair has been under the Power of Attorney of Judy Tupolo. My objections and proofs of her inability to manage his personal needs and his financial affairs have been submitted in an earlier Affidavit (in July 2022). In May of 2022. Donnie Wayne Adair stated that he wanted her POA removed, and he wanted the Plaintiff to be his POA. Since the Plaintiff has known Donnie Wayne Adair for many years, and is well-acquainted with his habits and level ability to care for himself due to his expertise in the nursing field, especially in the care of the elderly, I sincerely believe the Plaintiff is capable of caring for and serving the needs of Donnie Wayne Adair either as his POA or Guardian.

4. In order to fully satisfy the requirements of the Court so that the home maintenance and care of Donnie Wayne Adair be adequate and clearly laid out, I would like to propose a care plan for Donnie Wayne Adair.

CARE PLAN — RESIDENCE

○ Reside in Small residential care facility in South Carolina

5. In order to keep Mr. Adair in close proximity to the familiarity of community where he has resided for 50 years, it would be my aim to see him located at a small residential care facility in that area where there are 6 residents or less. The purpose of him being in a small residential care facility is so that he's able to have visitors, receive phone calls, and have an interactive and vital relationship with his community of believers and with the caregivers and residents of the facility. It would be especially helpful for him to have a laptop there with him so that he can work on his articles and write his memoirs.

○ Reside with the Plaintiff in Las Vegas, Nevada

6. If it is not possible for him to reside in a care facility, the best place for him would be in the home of the Plaintiff in Las Vegas, Nevada. At that location, he would receive the companionship and interactions that he craves, being able to call friends and give Bible studies as he pleases. He would also be able to have the vegan food that he thrives on. And he would be in a safe environment where he receives 24 hour supervision.

CARE PLAN — Long Term

7. It is the final goal for Donnie Wayne Adair's care that he's able to live in a private home, and enjoy his old age under the care and supervision of a full time caregiver. This would be possible after the restoration of his assets from

CONCLUSION

8. In my opinion the Court should recognize the authority and POA granted to Donnie Wayne Adair on May 23, 2022. In turn, the POA of Judy Tupolo would be terminated.

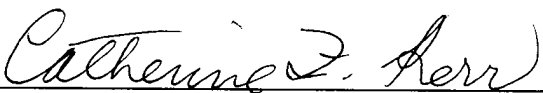
9. The next step in facilitating the care of Donnie Wayne Adair is to remove him from the presence of Judy Tupolo and to establish a new residence for him. That new residence would be either (1) Assisted living in Oconee County; or (2) reside at the residence of the Plaintiff and be under his care. In order to make these moves, the Court

would await the proper placement by the Plaintiff of Donnie Wayne Adair by (1) applying and awaiting the acceptance in an Assisted Living facility; (2) Researching and locate the funding (Medicare etc) by which his care can be facilitated; and/or (3) Await the arrival of the Plaintiff in South Carolina to accept the release of Donnie Wayne Adair into the care of the Plaintiff. At that point, Donnie Wayne Adair would then be transported to the assisted living facility or accompany the Plaintiff to the plaintiff's residence in Las Vegas, NV.

10. When the POA of Judy Tupolo is removed, the POA of the Plaintiff must be established and recognized by all medical and financial institutions. Any necessary legal enforcement of this should be granted to the local sheriff's office so that all financial and medical records be available to the new POA.

11. These statements have been respectfully submitted by me to the Court. I am a very close friend to Don Adair and have been on his original Board for years. I, Catherine F. Kerr, once again swear that the information in my sworn statement above is a complete representation of the facts to the best of my knowledge.

Respectfully submitted by


Catherine F. Kerr

SEE LOOSE
CERTIFICATE
ATTACHED

ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Nevada }

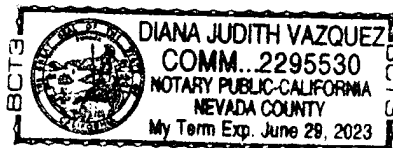
On 09/09/2022 before me, Diana Judith Vazquez, Notary Public,
(Here insert name and title of the officer)

personally appeared Catherine F. Herr,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Diana Judith Vazquez
Notary Public Signature (Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
- _____
(Title)
- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other _____

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- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE.	)	C/A NO.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	Affidavit of.
	)	
vs.	)	Jirair Baghdassarian
	)	
Judy Tupolo as Power of Attorney,	)	Plaintiff.
	)	
Defendant.	)	
_____	)	

FILED OCONEE COUNTY, SC
MELISSA G. BURTON
CLERK OF COURT
2022 NOV - 1 P 1:44

I, jirair Baghdassarian swear under oath that the above statement is true and accurate to the best of my knowledge.

Statement of fact and expert's opinion.

The honorable Judge Sprouse requested our expert opinion on the cognitive capacity of Don Adair and how competent he could be in living by himself, and whether he needs 24 hours supervision regularly.

We thank Mr. Bagwell for his trust and acknowledgment that we specialize in Neurology and psychiatry, the two specialties directly involved in dementia and cognitive impairments in all ages, including elderlies.

Being an expert in this field, we can witness this based on the phone conversations we had with Don Adair from January till June 2022. The talks were often long ones. One lasted over an hour, close to two hours, and Don Adair showed a remarkable capacity to focus for a very long period. He rarely, if ever, repeated the same question twice unless it was an issue of spelling or hearing. We have not seen any evidence of loss of focus or short-term memory that is impaired enough to make him a threat to himself or others.

Saying that Don Adair needs 24-hour supervision must be based on something that we have not heard or seen, neither from the reports we have had from the facility where he was residing nor from Mr. Bagwell nor Judy nor our conversations with him. Nevertheless, for a patient his age it is recommended that he should not live alone, but rather have someone visit him regularly to help him organize his household and environment. We Agree with Mr. Bagwell that someone the age of Don Adair, who may have a history of vascular dementia, should have

lost many of the life skills to enable him to live with full independence. It would be safer if he lived with someone to monitor him. We do not know how many hours of monitoring he needs as this is not possible to determine with the restricted access, we have to Don Adair and his medical records.

Neurodegeneration and cognitive condition

Based on reports from Don Adair and other witnesses, we understood that Don Adair was not in a cognitive condition that permitted him to understand he was signing a power of attorney when he signed the documents of the Power of attorney to Judy Tupolo, since he was recovering from a stroke and was challenged at that time. Presently, he seems to understand things better. Having taken these two events and compared them, we can only deduct that his situation improved and not worsened, making us suspect vascular dementia rather than Alzheimer's disease. This is, in fact confirmed by the affidavit presented by Kymberly Nichols, manager of Foothills assisted living in her affidavit from July 2022. Mr. Bagwell should be able to testify that we suggested to him that, although we have not been given access to his file and to personal access to Don Adair to check his situation, the first diagnosis we could suspect at this point is vascular dementia due to former transient ischemic attack. Vascular dementia is not considered a neurodegenerative disease such as Alzheimer and does not have to be terminal nor debilitating in many situations. It results from temporary brain damage secondary to reduced blood flow from a stroke or TIA. This type of brain damage does not worsen more than the natural aging process. Vascular damage resulting from TIA may improve, which was the case with Don Adair. Diagnosing Alzheimer's based on one visit is impossible. No neurologist in the whole world can do it. This fact is even more true for a lay person who is neither a neurologist nor a medical or healthcare provider.

Extent of independent living

Saying that Don Adair needs 24 hours assistance is based on a lay impression or personal observation based on the reasoning that Don Adair has a defective short-term memory and may forget cooking tools on fire. But is there anyone that has not forgotten cooking tools on fire? Do we deprive them of their freedom, make them mentally incompetent and treat them like five years old because there is a possibility, they may forget a cooking pot on fire? I do not know anyone that has not, or is not capable of, forgetting a cooking pot on the stove. If we think that the person has a high chance of igniting a fire and becoming a threat to himself and others, wouldn't it be easier to secure the stove than to deprive him of all his freedom and keep him under forced supervision for 24 hours? It is very inconvenient, impractical, and burdensome, physically, financially, and mentally to both caregiver and patient to babysit. Patients should be provided a sitter only in acute situations. They are only locked up in institutions when they are in terminal stages of their dementia and are constantly wandering around. Without person-to-person

long term observation of Don Adair and without accessing his clinical files it would be very difficult for us to confirm he is in that stage. In fact, his phone conversation confirm what GAL report has already announced, that he should be an early, not a late stage of dementia,

Even if that person needed 24 hours assistance because he can forget a pot on fire, does that entitle someone from detaining him against his will when he has another safe choice to make? Does it prevent him from receiving a phone from his friends privately without being spied on and without monitoring and restricting visits and conversations? Safety should not be a reason to deprive someone from his or her individuality, dignity and privacy.

Delusions.

There have been suggestions that Mr. Adair is having delusions, namely, stating that he believes he can fly, that he is married to the Sheriff's daughter, and that he has called the police at times for fire in his house. The statements are vague but may or may not be result of confusion and delusions. We note Don Adair did have a fire in his house in the past and may have turned inquisitive about it. When he requested to go to the fire department for that purpose, he filed a claim of abuse against Judy. As far as him marrying the Sheriff's daughter, it may be that he has met someone somewhere, sometimes and she convinced him that she married him or wants to marry him and that she is related the sheriff or someone in law enforcement. These stories must be investigated further to verify their veracity.

Concerning the flying, we know that Don Adair has been one of the champions of last day events prophecies and biblical eschatology related to God using flying saucers to save his people giving them capacity to fly. The statement is very vague, as flying could mean anything. We could use an airplane to fly. We are supposing that Mr. Don Adair may be confused "at times" as Kim Nichols testifies in her affidavit. But the term "at times" does not mean all the time, nor does it mean most of the time. We understand from Nichols statement that "Mr. Adair could make his needs known". Analyzing the statements, we understand that the normal baseline situation for Don Adair was to understand well his needs and appropriately communicate them in a successful manner. The "at times" confusion seems to have been the exception, not the baseline regular situation.

We also do not know what medications Don Adair is having as some medication elderly people with dementia take may cause confusion, hallucinations and delusions.

Moreover, our concern should not be whether these delusions are happening or not as much as to whether they are endangering his safety. For example, does Don Adair attempt to stand on a cliff and fly to the point where he would inadvertently commit suicide? Would his belief about the fire or missing wife make him threaten to hurt anyone? Most importantly, related to our discussion, what we care about mostly is whether his delusions affect his understanding of the nature of the power of attorney, its revocation and the consequences of that revocation and the appointment of another power of attorney. Our reply on the latter matter would confidently be negative. When we spoke to Don Adair about the power of attorney and its revocation, we had not heard any sign of delusion, confusion or hallucination that may have interfered with his comprehension of the nature of the power of attorney,

its revocation and the consequences of revoking it and appointing someone else. People can be delusional, hallucinatory, and schizophrenic and still be living a free totally independently. We have many years working with psychiatric patients in wards and in private to clinic to know for a fact that a status or diagnosis of mental illness associated with delusion is not reason for involuntary confinement. We have taken in consideration the affidavit of Kim Nichols as it is the only letter sent in a format of a sworn statement that qualifies to be an affidavit. None of the rest qualify for that status and should not be taken seriously.

Comment on the pictures.

We also found the pictures that were sent by the attorney about Don Adair living a place as compared with his dwelling in the new home in Seneca. We would like to say that we have visited Don Adair Don Adair in 2018, We will post a video testifying of our visit. Marilyn was alive at that time but was on her death bed. He was in his full mental powers at that time and has not suffered a TIA nor was he diagnosed with any cognitive disease. We noticed that his house looked like a shack and that it had some sanitary issues. We understood that Don Adair was adapted to that level of living level and that it was not necessary a result of confusion. IN our history doing home health care visits we have seen many patients living in such a condition, with their full mental powers, and having what for them is considered as a "normal life". Nevertheless, it is expected that thing should have worsened after his transient ischemic attack as he should have lost some faculties in self-care. That is why we believe that it may not be safe for Don Adair to live alone and that he needs to have someone with him, at least few house of the day to help him arrange his environment. How many hours of supervision he needs daily, we still cannot tell without assessing him in person.

Don Adair's supposed fall

Alexia Hall claims that his situation has worsened since GAL report and that he needs to be in a nursing home at this moment. If her statements were found to be true then we will consult with Don Adair to place him in a skilled nursing facility after appropriate assessment. However, we still insist that Don Adair should have the freedom and privacy that he deserves, namely talking to whomever he wishes to talk to, including to Judy Tupolo and her team. We have no intention from forbidding him from talking to anyone at all.

Alexia and Judy claim that Don Adair needs constant supervision and needs their so-called continuous care to remain in good health. But then she says he had a fall which worsened his condition and may have led to hospitalization. Why did Don Adair fall when she supposedly is providing him 24 hours care and supervision and when the continuity of her care is supposed to be irreplaceable. What are they doing in Texas when Don Adair is supposed to be under their tight constant supervision and when he is in a critical condition needing their dire help? Did she place him in a nursing home when she is telling the court that she has committed to have him live with her? Where is he now?

Suggested tests

We suggested that Don Adair be assessed with a preliminary mental cognitive test called MMSE or mini mental status exam.

See link : [Microsoft Word - Mini-Mental State Examination.doc \(heartinstitutehd.com\)](#)

For a more detailed assessment we suggest more specialized tests, Such as the ACED test or the Assessment of Capacity for Everyday Decision Making. Our evaluation should be based on concrete graded objective tests and not on countertransference consisting of a vague comparison between a single short visit with someone we have met somewhere in the past. For example, if we see a person having a dark lump on his skin and compare him with another person who also has a dark lump and was diagnosed with melanoma, which is a very lethal form of cancer, does that mean that the first person also has cancer? Not at all. A lump could be anything benign, from a mole to a tattoo or a bruise, which is very vague. Similarly, the diagnosis of Don Adair with Alzheimer's should be based on clinical evidence. In the past, they needed an autopsy to confirm Alzheimer's, and today's PET scan where, if positive, would show an above-normal elevation of Beta Amyloid 42. Only a specialized PET scan can confirm diagnosis, not a regular CT scan as Judy is claiming. A CT scan is not as sensitive as an MRI in showing changes in brain matter, but none of the latter can confirm Alzheimer's disease. See the following link for further information:
<https://go.exlibris.link/PxtLhdM0>

While Vascular dementia is not characterized by steady decline and can improve, Alzheimer's is considered a terminal neurodegenerative disease characterized by a constant gradual cognitive decline, beyond the normal decline of natural aging, until the affected person turns into a vegetative state and dies.

We have not seen evidence of a neuro-vegetative state related to Don Adair. Moreover, even if that neurodegenerative state exists, what we are concerned with, at this time, is Don Adair's present capacity to decide for himself related to his revoking and granting Power of attorney.

After talking to Don Adair on the phone, we do not have any doubt about his capacity to make the decision mentioned above. He was fully capable and competent of revoking any medical power of attorney he has provided to Judy in the past. He did revoke it the legal manner and Judy is no more his power of attorney.

How to determine competency.

It is a false assumption that if someone makes a decision that others may consider as harmful, unsafe, or unhealthy, that such a person would be incompetent. Most people overeat, drink and practice unsafe sex. Many people today use illicit and licit recreational drugs such as marijuana. Some people choose to have an order of Do Not Resuscitate DNR in case of an emergency, such as a cardiac attack that requires defibrillation or a respiratory arrest that may require intubation. DNR orders forbids providers from resuscitating them in those conditions, even if they were dying. Just because their decisions are not considered best by many, no one has the right nor jurisdiction to view them as incompetent. Why?

Because he or she understands the nature of their choice and the consequences of making that choice. For example, a homeless person can decide to be homeless, if they understand the nature of being homeless and the result of living such a life, if that person is not hurting anyone else.

So, the question we should be asking is the following: Does Don Adair understand the nature of revoking Judy's Power of attorney and choosing someone else as Power of attorney? Our answer is certainly affirmative. When we spoke to him, he was alert, conscious, and oriented to self, person, place, time, and situation; this is attested to recordings.

Although Don Adair denies understanding the meaning of what he signed in 2019, he clearly understood the reason for his false imprisonment as we described it to him. We explained to him that the document he signed for her is providing her, though illegally, a pretext for making decisions on his behalf. So, Don Adair clearly understands the nature of the Power of attorney document, as proven by the recordings that we have presented to the court. Don Adair was also explained how to technically revoke a power of attorney according to South Carolina Law. We explained to him how to revoke orally and in writing. He wrote down all information and executed them in the letter. He called us back several days later.

The next question would be, does he understand the nature of his choice? The answer would also be certainly affirmative. Based on the recordings we have presented from the phone conversations we have had with him, Don Adair has understood the consequences of revoking the Power of attorney. He understands that Judy would cease making decisions for him and that Plaintiff would be able to use the document to sign him out from a facility and place him in a different location that would be safe and where he would have access to a phone. Don Adair had specific and detailed questions on these matters, showing that he understood the nature of our explanation and the possibilities where he can invest and use the Power of attorney. For example, he asked me if he could drive again, and my answer was that this would depend on what the doctor said after the assessment. He understood the nature of the evaluation since he was accusing Judy of taking him to a doctor who did not assess him personally but instead yielded to Judy's instructions. In other words, he understood the nature of the physical assessment necessary to produce a recommendation related to the capacity to drive or not. He asked me if he could come back to his former office. He also understood that this was not a promise we could

guarantee him as Judy was in control of that office. The only thing we could promise him is that he would be welcome at my private residence if he wishes to.

For further reading on the matter of competency and capacity, we find the following document very useful, current and reliable:
<https://www.nbasw-atsnb.ca/assets/Uploads/toolkit-for-primary-care-capacity-assessment.pdf>

Rights of a ward and a principal.

Concerning the rights of a principal or a ward we reiterate what we have already expressed in our former replies and memoranda:

In our reply to the defense's memorandum we have exposed the difference between clinical incapacity and legal incompetency.

Clinical capacity and incapacitation

Clinical incapacity of a principal requires the agent to provide consent to providers on behalf of the principal concerning certain medical procedures, interventions, or treatments, only when the principal is not able to communicate and when unable to understand the nature of the procedure or its consequences. A power of attorney agent, in that situation, may provide consent to providers only when related to specific medical procedures and after evaluating two medical professionals who must document that the principal cannot consent. The agent cannot force the principal to accept the treatment if the latter refuses to do so.

The determination of clinical incapacity is usually temporary and restricted to a specific medical intervention or procedure unless permanent and terminal is documented and proven. It must be testified and confirmed by two medical providers.

All of this has yet to be respected. For one, Judy has yet to be able to present to the court her possession of medical or healthcare Power of attorney documents legally prepared since July 2019. She has never done so. For two, she has extended her choices beyond the medical decisions to decisions controlling his daily life. She would decide who is to be his caretaker, where he should live, with whom he can talk or communicate, how, when, and whereto he is to be discharged, whether he can have a phone, and who can speak to him. She would even go into his room in the facility and steal private property from him, including his personal notebook and his phone numbers. We can subpoena the facility to testify of that. She refused to recognize his legal revocation of the power of attorney and our appointment as power of attorney and tore out the written evidence, according to Mr. Adair. He said he had to hide them from her because she would and did come and steal them and deprive him from them. If the GAL report says there is no money left for Don Adair and if he is in a safe facility, why is she afraid of his old friends

talking to him? She has gone beyond the jurisdiction of her Power of attorney. What is there left to steal when she seems to have depleted everything, some things to her explicit admission.

Rights to revocation of power of attorney

According to SC probate codes of law, Mr. Adair has the right to revoke his Power of attorney, and he has done so according to the law. None respected that because the facility was following Judy's orders, who had no guardianship powers over him.

SECTION 62-5-504 provides authority to the principal to revoke his Power of attorney orally. The medical Power of attorney should include the following clause clarifying the revocation rights mentioned above: "YOU HAVE THE RIGHT TO REVOKE THIS DOCUMENT, AND TERMINATE YOUR AGENT'S AUTHORITY, BY INFORMING EITHER YOUR AGENT OR YOUR HEALTH CARE PROVIDER ORALLY OR IN WRITING."

As medical experts, our NPI is 1760068365; we have been working with one of the top neurology companies in Las Vegas since September 2021. We specialize in psychiatry at Duke University, NC, and are performing clinical practice with one of the leading psychiatrists in Las Vegas in several nursing homes in the area. In these nursing homes, we constantly evaluate cognition in elderly and dementia patients. We can provide our resume and evidence of the above per request of the court. We are a medical authority with jurisdiction and expertise to rule upon clinical and legal competency matters.

We can testify and confirm, based on the extensive phone conversations we had with Don between January 2021 and June 2021, that he fully and unequivocally had the mental capacity and legal competency to understand the nature of the Power of attorney he was revoking and the consequences of its revocation and that he had the full right and Power to do so. He has legally revoked his Power of attorney according to SC probate code section 62-5-504. He did so both orally and in writing. We have the evidence and copies of the recording sent to the court. Judy did not respect his wish, and she stole from him the written revocation to wipe out evidence. We believe she did so maliciously to cover up for her abuse because she did not want him, nor anyone else, to investigate and expose her financial and emotional abuse. She did not act in his best interest, and her Power of attorney privileges have been revoked. Don Adair appointed us as his Power of attorney, as attested by the same recordings on file.

Legal competency and incompetence.

We have explained that legal competency relates to more personal issues in the patient's life. Judy had assumed and used guardian powers when she had none. Don Adair has not been declared a ward, and no court has specified which powers of the ones we enumerated in our former reply have been taken away from him and transferred to her. It is imperative to understand that caregiver abuse is widespread, and no guardian nor caregiver should have absolute Power over a ward.

SC probate code SECTION 62-5-304A defines the "Rights and powers of ward and guardian". The above probate code defines as follows:

(A) "The court shall set forth the rights and powers removed from the ward. To the extent rights are not removed, they are retained by the ward. Such rights and powers include the rights and powers to: ...

(2) reside in a place of the ward's choosing, and consent or withhold consent to any residential or custodial placement;

(3) travel without the consent of the guardian;

(4) give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, and physical examinations, care, treatment and therapies; ...

(6) consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;

(7) authorize disclosures of confidential information; (8) operate a vehicle; ...

(11) consent to or refuse educational services;

(12) participate in social, religious or political activities;

(13) buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon the conservator under Section 62-5-422;

(14) make, modify, or terminate contracts;

(15) bring or defend any action at law or equity; and

(16) any other rights and powers that the court finds necessary to address." Judy has illegally removed the powers mentioned above from Adair and transferred them to herself without soliciting the court to "set forth the rights and powers removed from the ward" as required by SECTION 62-5-304A (A)

Part (B) of the same section specifies that it is the court, not the guardian nor the Power of attorney agent, neither the status of legal or medical capacity or incapacitation, or the status of a ward, that provides such transfer of rights from the principal to the agent, or from the ward to the legal guardian. The following powers can be given to a guardian only, never to a power of attorney, under special conditions, and only when explicitly specified by court order as mandated in Section 62-5-204A (B)

Judy has not respected any of the above. She has abused her Power of attorney privileges by acting as a guardian and has mandated the facility to consider her Power of attorney as guardian powers. We feel sorry the facility was in the middle of this, not knowing what to do, but they had to respect her wishes based on her false claims, which is considered an abuse of Power.

Judy had considered and convinced others to consider Don Adair as a Ward that has lost legal capacity in determining the above-mentioned rights that, according to section 62-5-304A should be retained by Don Adair even if he were considered legally incompetent (which he wasn't), and even if she were appointed a guardian by a court (which she wasn't), unless specified by a court of justice. She thus deprived him of his fundamental rights illegally and for unethical, malicious reasons.

Legal hold or Involuntary Mental Health commitment.

If Judy felt there was an imminent danger or threat to the patient's life, then she could have requested a legal, medical provider, or law enforcement authority to request a temporary legal hold until a judge decides on Don Adair's competency. A legal hold is not permanent. It is temporary. Having worked in psychiatric wards, where we often confine patients with dementia and Alzheimer's disease, I have placed patients on legal hold in NV, and I know that such hold cannot exceed 72 hours, during which the authorized entity that issues the hold must prove that there is an imminent threat on the person's life or danger to others. We have not seen any evidence of that so far with Don Adair. In South Carolina, a legal hold is called involuntary mental health commitment. It is acted upon when one feels an imminent threat to a person's life. It is defined in South Carolina Code of Laws, title 44, chapter 17, article 5, entitled Custody and Admission of Persons Requiring Immediate Care. Section 44-17-410 regulates "Emergency admission of person likely to cause serious harm; It states as follows:

"SECTION 44-17-410. Emergency admission of person likely to cause serious harm; procedures; court review; assessment by examiners; initiation of emergency commitment procedures; hearing; right to counsel.

A person may be admitted to a public or private hospital, mental health clinic, or mental health facility for emergency admission upon:

(1) written affidavit under oath by a person stating:

(a) a belief that an individual is a person with a mental illness as defined in Section 44-23-10(21) and because of this condition there is the likelihood of serious harm as defined in Section 44-23-10(13) to himself or others if not immediately hospitalized;

(b) the specific type of serious harm thought probable if the person is not immediately hospitalized and the factual basis for this belief;

(2) a certification in triplicate by at least one licensed physician stating that the physician has examined the person and is of the opinion that the person is mentally ill and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized. The certification must contain the grounds for the opinion. A person for whom a certificate has been issued may not be admitted on the basis of that certificate after the expiration of three calendar days after the date of the examination;

(3) within forty-eight hours after admission, exclusive of Saturdays, Sundays, and legal holidays, the place of admission shall forward the affidavit and certification to the probate court of the county in which the person resides or, in extenuating circumstances, where the acts or conduct leading to the hospitalization occurred.

Within forty-eight hours of receipt of the affidavit and certification exclusive of Saturdays, Sundays, and legal holidays, the court shall conduct a preliminary review of all the evidence to

determine if probable cause exists to continue emergency detention of the patient. If the court finds that probable cause does not exist, it shall issue an order of release for the patient. Upon a finding of probable cause, the court shall make a written order detailing its findings and may order the continued detention of the patient.

With each affidavit and certification, the treatment facility shall provide the court with a designated examiner appointment form listing the names of two designated examiners at the treatment facility.

If the court appoints these two designated examiners, the examination must be performed at the treatment facility and a report must be submitted to the court within seven days from the date of admission. The court may appoint independent designated examiners who shall submit a report to the court within the time allotted above. In the process of examination by the designated examiners, previous hospitalization records must be considered. At least one of the examiners appointed by the court must be a licensed physician. The examiners' reports must include the grounds for the examiners' conclusions.

If the report of the designated examiners is that the patient is not mentally ill to the extent that involuntary treatment is required and reasons have been set forth in the report, the court shall dismiss the petition and the patient must be discharged immediately by the facility unless the designated examiners report that the patient is a chemically dependent person in need of emergency commitment and that procedures have been initiated pursuant to Section 44-52-50. In which case, emergency commitment procedures must be complied with in accordance with Chapter 52, and the facility shall transfer the patient to an appropriate treatment facility as defined by Section 44-52-10, provided that confirmation has been obtained from the facility that a bed is available; transportation must be provided by the department.

If the report of the designated examiners is that the patient is mentally ill and involuntary treatment is required, the court may order that the person be detained, appoint counsel for the patient if counsel has not been retained, and fix a date for a full hearing to be held pursuant to Section 44-17-570 within fifteen days from the date of admission. The court shall give notice of the hearing pursuant to Section 44-17-420.

The examiners' report must be available to the person's counsel before the full hearing. The person must be given the opportunity to request an independent designated examiner pursuant to Section 44-17-530.

If before the hearing, the designated examiners determine that the patient is no longer mentally ill to the extent that involuntary treatment is required, they shall cause a supplemental report to be submitted to the court. If the court receives a supplemental report at least forty-eight hours before the hearing stating that the patient is no longer mentally ill to the extent involuntary treatment is required, and setting forth the reasons for the examiners' conclusions, the court shall dismiss the petition and the patient must be discharged immediately by the facility. "

None of the above has been respected by Judy while detaining don Adair against his will.

Explanation

Let us explain it briefly to make it clearer.

Don Adair has been detained against his will under the pretext that there is a threat to his life. Judy is not his guardian; he has not been declared a ward, and she has not taken specific authorization from the court to detain him as section 62—5-304A of the SC probate code mandates.

To place the temporary hold, or involuntary commitment, the above conditions should have been met when they were not.

Par. (1) says that there should have been a written affidavit by a person stating that (a) the person has a mental illness whose condition is likely to cause serious harm to himself or others if not immediately hospitalized or detained. That means there should be an immediate emergent threat to life, and without acting emergently, the patient may have serious harm to his health. (b) the specific belief why the person is at risk of harm to himself or others if not immediately hospitalized or detained against his will. (2) there should be a certification in triplicate by at least one licensed physician stating that the physician has examined the person and agrees of his mental illness and that his condition is likely to cause harm to himself through neglect, inability to care for self, or personal injury or other if not immediately admitted or detained. The certificate should explain the grounds of the medical opinion and cannot serve more than three calendar days after the examination date. (3) within 48 business hours, an affidavit and certification should be forwarded to probate court to conduct a preliminary review of all evidence to decide upon the validity of the certification and determine if emergency detention should be continued or discontinued. The facility shall provide the probate court with a designated examiner appointment form listing two of them from the facility. The court may or may not appoint these two examiners, but they cannot be appointed without probate court designation following legal procedure. If the facility's two examiners were appointed, they must submit their report to the court within seven days from the date of admission. If the court appoints another independent examiner, he shall submit information within the same period. At least one of the examiners must be a licensed physician. The report must include the grounds of the decision. If the court decides that there is insufficient evidence that the mental illness requires immediate treatment, the court will dismiss the petition and release the petition. In the opposite situation, the court may order the patient to be detained, appoint a counsel to advocate for the patient, and fix a date for a full hearing, whose date is announced under section 44-17-420. The examiner's report must be available to the person's counsel before the full hearing.

Right for designation of independent examiner.

The person (Don Adair) must be given a chance to request an independent examiner, a situation which we have been ordering from the beginning in our reply to the memorandum. We said we

need an independent expert Don Adair agrees upon who will examine him to determine competency. The law continues by allowing the latter independent examiner to petition the court to discharge the patient if he reports that the patient is not or is no longer mentally ill to cause an immediate serious threat to his health.

None of the above has been respected. They have acted in disrespect to Don Adair's fundamental human rights. They have trampled and disrespected SC law. Judy has acted maliciously abusing Power of attorney privileges to convince people and facilities that she has powers that she does not legally nor legitimately possess to commit all the allegations we have presented in this motion. She has not acted in the principal's best interest and has exploited his confinement to socially isolate him, emotionally and spiritually abuse him, and financially exploit him as admitted by her to the extortion and abuse of funds and other resources that should contribute to serving Don Adair's retirement. Many unadmitted abuses need to be further investigated, are highly suspected, and we believe the reason she is not allowing investigation is her guilt.

Case by case involvement of court instead of absolute power of guardian.

Incompetency is often temporary and restricted to specific situations unless specified and incapacitation proven otherwise. It means that for each distinct decision a guardian must petition the court for that specific situation based on the circumstances and the mental condition of the ward at that particular time. Up-to-date and current evaluations must be done again every time and, in every situation, by two neutral medical providers appointed by the court to determine whether the guardian can make that decision at that time or not.

In sum

Judy acted unilaterally, without consulting the law and respective authorities. She bypassed and defied South Carolina law, and trampled on Don Adair's rights, all in the name of an agency that Don Adair was not aware he granted her. She did so maliciously, to cover up for her financial exploitation and emotional and spiritual abuse we have already addressed in former statements and affidavits. Consequently, all her Power of attorney privileges should be suspended.

In case the court finds it necessary we request the appointment of an independent investigator that Don Adair agrees upon. We can suggest some and send the court their resumes upon request.

Respectfully

Jirair baghdassarian

P.S. it is ironical that Judy declares Don Adair as mentally incompetent needing to be deprived of constant supervision and that she made adjustments in her life to serve him by moving him to a new house she bought in Tamassee SC, while we see her during the court session on the 25th of October, on zoom session, with her daughter Alexia Hall, without Don Adair's presence in the room, in Texas. This is attested further by the notarized statements she has posted and that were notarized on Oct 25th in the county of Texas, Bexar County. If she is the only caregiver as she claims, if he needs constant supervision, if he lives with her in SC new home and she adjusted in her life to be with him and care for him and if she removed him from a facility, how come she is in Texas now with her daughter and her husband instead of being with him in Texas. We think Judy may have lied to the court by providing false information to Mr. Bagwell to influence his report. Her lies to the court should be investigated further and be considered as grounds to invalidate her defensive statements. In fact, Judy, in her statement from Oct 25, 2022, said that Don Adair was moved out of the facility between May 3rd and May 14th 2022. This seem to be a lie since the police have served Don Adair at the address of Foothills assisted living as attested by the accompanied service statement from June 8th, 2022. We will attach the statement to prove that Judy was lying about moving Don Adair from the facility and by May 14 when he was still residing in the facility on June 8th. Alexia said he just fell and should be a skilled nursing facility. Is he in a facility now? How come she has not made the claimed adjustment in her life to be around him when he fell, and was, most likely, hospitalized, and needs her mostly to care for him as she claims? We see contradictions, and suspect lies and dishonesty in her claims. That is why we request to subpoena Don Adair, the hospital where he was hospitalized lately and Foothills Assisted Living facility to confirm whether Judy is truly lying about caring for him or not or whether she has not made the life adjustments she has claimed in a court of justice.

Acknowledgment by Individual

State of Nevada County of ClarkOn this 28 day of October, 20 22. Before me, Eric Alas
Name of Notary Public

the undersigned Notary Public, personally appeared

Sirair Maurice Baghdassarian

Name of Signer(s)

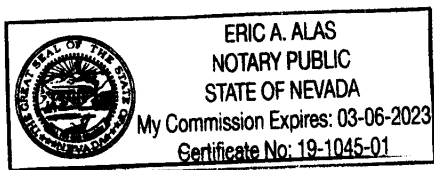
☐ Proved to me on the oath of _____

☐ Personally known to me

☒ Proved to me on the basis of satisfactory evidence NVDL:0001521095, Ex:04/25/24
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

(Signature of Notary Public)

My commission expires 03/06/2023Optional: A thumbprint is
only needed if state stat-
utes require a thumbprint.Right Thumbprint
of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Affidavit of Sirair Baghdassarian Plaintiff

Document Date

Number of Pages

Signer(s) Other Than Named Above

Account Number (if applicable)



F001-00000DSG5350-01

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

) IN THE COURT OF COMMON PLEAS
) TENTH JUDICIAL CIRCUIT
) Case Number: 2022-CP-37-00157
)

Jirair Baghdassarian,

)
)
) Plaintiffs,
)
)

vs.

**ORDER APPOINTING
GUARDIAN AD LITEM**

Judy Tupolo as PR for Donnie W. Adair,

)
)
) Defendants.
)
)

PRESIDING JUDGE:	R. SCOTT SPROUSE
DATE OF HEARING:	JULY 11, 2022
PLAINTIFFS' ATTORNEY:	PRO SE
DEFENDANTS' ATTORNEY:	TREY MERCK
COURT REPORTER:	WEBEX

This action is before the Court pursuant to the filing of a Summons and Complaint by the Plaintiff alleging that the Defendant, as Power of Attorney for Donnie Wayne Adair, has engaged in improper conduct and should be removed as Power of Attorney. The case was originally brought in the Probate Court of Oconee County, but was removed to the Circuit Court by Order of the Honorable Ashley M. Rice, dated February 22, 2022. The action was removed on the ground that the construction of the Power of the Attorney and/or the actions of the Power of Attorney were in question. Apparently, no conservatorship action has been filed in the probate court.

This Court held a virtual hearing on July 11, 2022. Prior to the hearing, the Defendant obtained legal counsel, who filed a Motion to Dismiss, along with supporting documents. The Court allowed the Plaintiff time to respond to the Defendant's filings since he had not been served with same in a timely manner.

Upon review of the filings, it appears that serious allegations are being made regarding the competency, status, and care of Donnie Wayne Adair, who is in an assisted living facility. The Court determines that a Guardian *ad litem* is necessary in this case to fully investigate the matter and issue a report to the Court. Accordingly, Tjay Bagwell, of the Oconee County Bar, is appointed Guardian *ad litem* for Donnie Wayne Adair pursuant to Rule 17 of the South Carolina Rules of Civil Procedure. He shall investigate this matter and issue a written report to the Court within thirty (30) days from receipt of this order. The Defendant shall execute all necessary releases for Bagwell to inspect any medical, financial or other records belonging to Donnie Wayne Adair. Should Bagwell need additional time to complete his report, he may petition the Court for same. A hearing in this matter shall be scheduled once the Guardian *ad litem*'s report is received by the Court.

AND IT IS SO ORDERED!

SIGNATURE PAGE TO FOLLOW



Oconee Common Pleas

Case Caption: Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,
defendant, et al
Case Number: 2022CP3700157
Type: Order/Appointment Of Guardian Ad Litem

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE.	)	C/A NO.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	STATEMENT OF Jirair Baghdassarian
	)	
vs.	)	
	)	Plaintiff
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
	)	

Plaintiff statement.

In our former Memorandum and reply to the defense's Memorandum, we have presented allegations based on Carolina Law proving that the defendant Judy Tupolo as an agent in a presumed healthcare power of attorney that we have not seen yet, has deprived Mr. Don Adair of some of his fundamental rights. Judy Tupolo is the presumed agent, while Don Adair is the principal.

Judy purports that Mr. Don Adair is entirely incompetent and, therefore, cannot make decisions. She has abused her presumed power of attorney privileges by acting as a court-appointed guardian and by considering Don Adair as an entirely incompetent ward that is not capable of no decisions at all.

Judy would prevent Don Adair would from receiving personal visits and phone calls. She has socially isolated him from his friends, legal counsel, and advocates. Judy has not consulted with him concerning his medical, financial, and personal affairs and acted unilaterally, appropriating to herself all power over all his assets, properties, career, personal life, social relationship, medical decisions, monetary funds, and so forth. She has done so in defiance of SC law related to a healthcare power of attorneys. We still need proof that she has any document of medical power of attorn1. ey available.

Don Adair has revoked the power of attorney according to South Carolina Law, and Judy has not respected the law in that matter and has requested others, including the facility where he is staying, to do the same. SC probate code of law SECTION 62-5-504 provides Don Adair, the principal, the right to revoke the power of attorney. He did so on May 23, 2022, both orally and in writing, according to the law.

According to section 62-5-504 § 4, Judy should have consulted the principal concerning matters and decisions related to health care, and she did not do as evidenced by the apparent fact that she disregarded all his requests and objections.

As explained in our reply to the defense's Memorandum, Judy has breached duties named in section 62-8-114, including contravening the following clauses in the same section: (a) An agent

that has accepted appointment shall act: (1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and in the principal's best interest; (2) in good faith; and (3) only within the scope of authority granted in the power of attorney. (b) Except as otherwise provided in the power of attorney, an agent that has accepted the appointment shall: (1) act loyally for the principal's benefit (2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

Don Adair has many reasonable expectations that she has ignored and has not acted according to his best interest. For example, he wanted a cellphone; he wanted to receive visits from old friends, bible students, and acquaintances. He requested independent legal counsel, he tried to transfer himself to another safe care than the present one, and he wanted to address his followers as a Bible teacher. He wanted his funds to be reasonably and differently spent. He wanted to discharge her favors as the power of attorney and caregiver to the benefit of another reliable and safe one. She is also accused of many other breaches, including emotional and spiritual abuse and financial exploitation. During and under her care, many questionable disappearances of assets and funds need to be investigated, and whose investigation she is depriving others of doing. Judy has admitted to depleting the funds of over \$104 000 from the association. That fund was gathered by Don Adair and was supposed to serve his retirement salary till his death partially. Don Adair says also he has no access to social security benefits nor any other of his savings. Mr. Bagwell, in court session and his GAL report, explains that there remains no savings or funds available for Don Adair and that he does not expect any to be restored or returned to him, which makes us question what she has done with his savings. We also note the mysterious disappearance of his beloved dog and violin during her care. Judy has also admitted that the association helped her fund the mortgage of the house she bought and that she has depleted the total \$104 000 association savings that DOn Adair has gathered through his lifetime career toward a luxurious vain renovation of that house. Then she used the house to make income and profit from renting it back to the treasury that gave her those funds. It sounds like someone who illegitimately steals money from someone else, then forces that person from borrowing it at high usury for profit made out of the stolen money. Thus, she manifested blatantly financial abuse and corruption. She did it all thanks to the abuse of the presumed power of attorney privileges that allowed her to hide Don Adair from the public as a hostage. She used his name, fame, private property address, books, copyrights, and assets to claim the association's profits, tithes, legacy, and intellectual property and name and legacy to herself. She used his history and accomplishments against his will to make herself a name and fame and to put her hands on his personal property, savings, and the association's tithes, income, and funds.

We have requested the defense to provide us with several points to defend their actions, and we are still waiting for the points to be answered.

We reiterate the points as follows:

1. Present affidavits and documents proving our attempts or intentions to take advantage of Don Adair for financial gain and religious hegemony of personal beliefs or dogmas.
2. Present proof of an existence of a document or contract of a medical or healthcare power of attorney that it may be verified, and all the stipulations that provide scope and

privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges.

3. Prove scientifically or medically, with the help of a neutral medical and legal expert, that Don Adair has a terminal neurodegenerative disease that has already turned him legally and clinically incompetent based on reliable medical diagnostics and assessment.
4. Prove that Don Adair is clinically AND primarily legally incompetent, as explained in our reply to his Memorandum.
5. Prove that Judy Tupolo has been granted Guardianship powers with the specific transfer of rights as mentioned in our reply to argument 4 in our reply to the Defense's Memorandum and according to Section 62-5-304A "Rights and powers of ward and guardian."
6. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.
7. Allow Don Adair to return the document granting us officially Power of attorney Agency, witnessed and notarized, as we have mailed it to him and as he promised to process it and mail it back to us immediately.
8. Reply to all the requests we have presented in our reply to his Memorandum.

None of the above has been presented so far:

1. We have seen some statements presented that are not sworn and cannot be considered as affidavits saying unfounded lies about us, based on biased opinions, not on facts, and without any evidence. These lies can be considered under the category of defamation that can be legally pursued. They do not answer our request above, nor should they be considered valid.
2. Judy has not presented any evidence of existence, since July 2019, of any medical power of attorney contract. It may mean that she has been using nonexistent powers and privileges, and all we have seen so far is the financial power of attorney, which does not entitle her to any personal or medical decisions over his life.
3. There has been no evidence nor presentation of any unbiased diagnostic imaging and report, clinical history, or neutral medical diagnosis presenting medical diagnosis from a competent medical authority since July 2019 explaining why and how they believe Don Adair has a neurodegenerative disease, such as Alzheimer's disease, that is turning him into a vegetative state.
4. Judy has not proven by a court order that Don Adair has been declared a legally incompetent ward since July 2019, and she has yet to prove his clinical incapacity.
5. She has yet to prove her status as guardian since that time, and she has yet to prove that she is his medical power of attorney. According to Section 62-5-304A "Rights and powers of ward and guardian.", she has not demonstrated which powers have been taken away from Don Adair. and provided to her, incapacitating her from making the abovementioned decisions on his behalf without reasonably consulting him.
6. She has yet to explain by what agency, powers, or consent he has been moved without explicit written permission.

The defense has, moreover, not justified the abuse by reasonably answering none of the requests we have presented in our reply to his Memorandum, which we reiterate as follows:

1. The defense must present proof of an existence of a document or contract of a medical power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to confirm its existence and examine its awarded privileges; AND
2. The defense must bring evidence of medical incapacity based on the procedure defined in section 62-5-502 (d) of the South Carolina probate code, including the medical diagnosis, the nature, extent, and expected duration of such incapacity in written format by two unbiased physicians chosen by the court;
AND
3. The defense must demonstrate a judge's order in court that Don Adair has been deemed permanently and irreversibly legally incapacitated by a special court decision and that his status has become the status of a "ward" as defined in section 65-5-101 (24); AND
4. The defense must prove that the agent Judy Tupolo has been awarded legal guardianship privileges. Agency granted by Don Adair does not grant her privileges of contradicting the agent's wishes or will; AND
5. The defense must prove that, besides legal incapacitation, the specific being contested has been suspended from Don Adair and transferred to his legal guardian. Only a judge's decision can specify which rights have been taken away, the specific court decision, time, date, and duration of suspension; AND
6. Defense must prove that the below specific powers have been granted to her in guardianship status in a court of law. These rights that cannot be taken away from anyone, even if legally incapacitated, without a court decision are mentioned in SECTION 62-5-304A. "Rights and powers of ward and guardian. Of probate code: For a detailed description and explanation, see our reply to the defense's memorandum p. 9 and 10.

As Mr. Bagwell reports, Judy may have provided Don Adair with his basic physical needs, but we are trying to save him from the humiliation he is in at the moment by restoring his dignity, allowing him to exercise most of what remains of his intellectual and physical faculties. Our respect for him is overflowing. We share Mr. Bagwell's concern that any party could abuse an elder when he is not able to defend himself, and that is why we have always insisted that there should be no absolute power over an elder. That is why, as long as he is able to communicate and reason, he should be allowed to make the decisions his intellectual faculties allow him to make safely. A living will or notarized advance directive may also help in avoiding abuse when the elder becomes fully incapacitated, in case it happens. That is also the reason why the abovementioned law, SECTION 62-5-304A mandates a guardian to consult the court decision every time and in every circumstance, a decision necessitates taking away from the ward certain powers explained and listed in the law.

Mr. Adair is more than unhappy with Judy. He is obviously miserable and desperately trying to relieve himself from her clutches. This is attested by his complaints recorded and sent to court, by his constant request and pleading to us for help, and also recently by the defense's

statement that he has become aggressive and combative while living with Judy. This is a change in his status since the facility's affidavit and our discussion with them never show any complaint about combativeness or aggressivity. This must be the result of his despair and hopeless attempts to deliver himself from her.

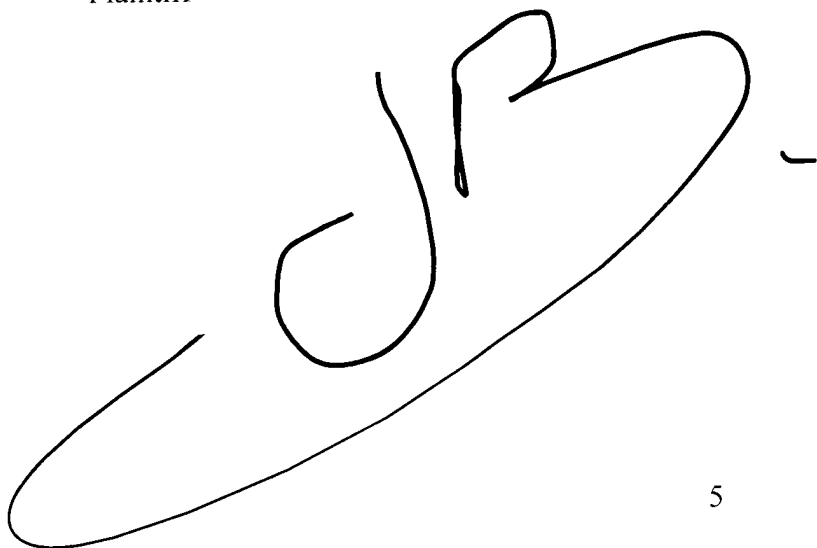
We believe Judy may have lied to the court by stating that she made adjustments in her life to take good care of him. She said that he has been living with her, in her home, since June 14, 2022, when police documents prove his presence in the same facility at a later time. Her appearance on the webcam at the hearing on October 25 and her notarized affidavit prove she was in Texas, not with Don Adair in SC, when he needed her most. Her care seems to have failed, according to her testimony, since Donnie seems to have had a fall that deteriorated his health.

Since the defense has not been able to provide any of the justifications requested above, our allegations presented in our reply to the defense's Memorandum should be considered valid reasons for abuse of her presumed authority as a healthcare power of attorney. All power of attorney privileges she has must be suspended. We request the honorable justice to grant Don Adair his wish to appoint us as his power of attorney, as attested on presented recordings, so we can provide him safe care as mentioned above and as explained in our former statements. We also request the court to provide us financial indemnity from the defendant for all the time and costs inflicted upon us for our benevolent action to help our friend, brother, and elder in our religious community.

If the court is not satisfied by the above evidence, we request to subpoena don Adair and other witnesses, and present an expert opinion to check on him so that he would have the advocacy that he deserves.

Thank you
Respectfully yours

Jirair Baghdassarian
Plaintiff

A large, stylized handwritten signature in black ink, appearing to be 'Jirair Baghdassarian', written over a large, loopy flourish.

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE.)
Jirair Baghdassarian,)
Plaintiff,)
vs.)
Judy Tupolo as Power of Attorney,)
Defendant.)

IN THE COURT OF COMMON PLEAS

C/A NO.: 2022-CP-37-00157

AFFIDAVIT OF TREVOR BINGHAM

Eric Tyrone Alleyne

I, Trevor Bingham, swear that the information in my sworn statement is truthful to the best of my knowledge and understanding.

STATEMENT OF FACTS

In recent telephone conversations with Jirair Baghdassarian, he expressed his concern for the wellbeing of Don Adair, his long-time friend, and asked if the Davidian Seventh-day Adventist Association would be willing and able to commit to the lifetime care of Mr. Donnie Wayne Adair. We trust Mr. Baghdassarian and understand his unselfish motives, and we share his deep concern for the wellbeing of Mr. Adair and are willing to take on this responsibility as long as Mr. Baghdassarian is his legal representative, guardian or power of attorney.

While we are primarily a non-profit religious institution, we provide accommodation and assistance to some of our retired workers and members at our headquarters in Exeter, Missouri. We currently have six older retired people living here who are independent and eight other retired people living here who live independently but use our van service to go to town for shopping or doctor's appointments. While most of these people no longer drive, all except one are ambulatory and can care for their personal day-to-day needs. At different times in the past, we had two elderly individuals who required 24-hour care, which we provided to them during their stay with us. We currently have on our general staff three qualified nurses who assist with the care of our retired brethren as needed.

We are not an accredited care facility of any kind. Missouri law requires licensing for facilities with three or more individuals who need substantial care. We are legally able and willing to provide 24-hour care and supervision to Don Adair. If we were in a position where we felt the need to care for more than two people, we would proceed to apply for the appropriate license. We do not plan to do this now, but we may in the future.

While we are *not* a for-profit nursing home or long-term care facility, we already have experience in this field as part of our charitable work with retired low-income brethren. Don



Adair fits our criteria for help in several ways. First, he is a former member and worker for our group and secondly, he is a retired worker for a sister church whose doctrines and practices are very close to ours in many ways. For these and other religious reasons, we are willing to commit to all his non-hospital care requirements, including 24-hour care.

I have noted Mr. Baghdassarian's deep concern toward Mr. Adair's wellbeing, dignity, and self-esteem, and I share those concerns myself. I believe Don Adair is not being treated with the dignity, care and respect at this time he deserves. We are strongly against restricting his or anyone else's freedom to have visitors and to speak to their old friends and family. We have seen reports from others (not just Mr. Baghsasarian) on how happy he was to receive visitors and what a positive effect this had on his wellbeing. We are committed to providing him complete freedom of association and speech. We also are committed to providing him the maximum degree of freedom here at our headquarters campus consistent with his medical care and physical safety. We understand that he must have 24-hour supervision for his own wellbeing, though we intend to provide this in a low key way through friendly "companions," rather than through a formal nursing home atmosphere, to the extent that his medical needs allow this.

On a personal note, I would like to mention that I have known and liked Don Adair since I was a small boy. My father, M. J. Bingham, was his mentor and Mr. Adair was a key person in the establishment of our Association in its early days. Today, our headquarters campus provides a safe and peaceful environment for Mr. Adair, in which I believe he would be as happy as possible.

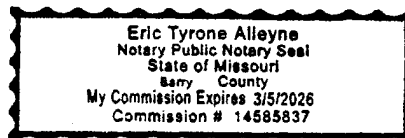
As a resident, Mr. Adair would have free access to all forms of contact with the outside world, as do all of our other retired brethren. To the extent he is able and interested, he would be welcome to have a personal phone and computer to communicate with others and pursue his writing and scriptural studies and teaching, without any constraints. He would have the company of other people of similar belief and be able to freely attend religious services as he chooses. He would also have the opportunity for accompanied outings and external visits in the same way as our other retirees.

We are always open to visitors and having our facilities inspected with the understanding that we do not claim to be a licensed care facility. If there are any concerns I've not addressed, I would be happy to address them and provide any additional information needed.

Sincerely yours,

V. Trevor Bingham

V. Trevor Bingham, President



Eric Tyrone Alleyne

Collette Theroux witness

EXHIBIT A — LETTER TO JUDGE SPROUSE

Affidavit of Attorney Fees

Bagwell & Corley Law Firm, PC

Tjay M. Bagwell, Esquire and Stephanie M. Corley, Esquire

Walhalla Office
603 W. Main St. (PO Box 400)
Walhalla, SC 29691

Seneca Office
10121 Clemson Blvd., Suite D
Seneca, SC 29678

Powdersville Office
4891 Hwy 153, Suite D
Easley, SC 29642

Anderson Office
100 Miracle Mill Dr, Suite F
Anderson, SC 29621

Walhalla Office - Phone (864) 718.0777 Fax (864) 718.0776
Easley, Anderson and Seneca Offices - Phone (864) 886.8123 Fax (864) 886.8124
office@bagwellcorley.com www.bagwellcorley.com

Real Estate • Personal Injury • Wills/Estate Planning • Business Formation • Foreclosure • Action to Quiet Title

2022-328 Adair

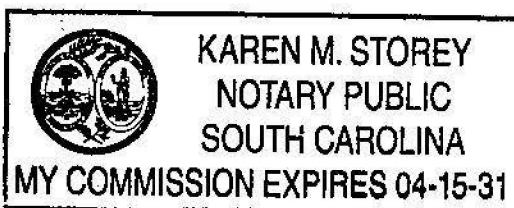
4 Aug. 2022	Doc Review	.75
10 Aug 2022	Interview	.6
15 Aug 2022	Interview – Def	1.2
17 Aug 2022	Email – D Counsel	.2
23 Aug 2022	Doc Review	.5
23 Aug 2022	Interview – Plt (Phone)	.9
5 Sept 2022	Interview – Plt Wit.	.5
17/18 Sept 2022	GAL Report	2.7
24 Oct 2022	Doc Review/Trial Prep	.8
25 Oct 2022	Hearing	.75
Total Hours		8.9 hours
Attorney Regular Fee	\$300.00 per hour	
Fee allowed by the Court	\$_____ per hour	

TOTAL \$2670.00

TOTAL ALLOWED BY THE COURT

Remit Payment to:

Bagwell & Corley Law Firm PC
PO Box 400
Walhalla, SC 29691



Karen M. Storey

Garcia

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	C/A No.: 2022-CP-37-00157
	)	
Jirair Baghdassarian,	)	
	)	
Plaintiff,	)	NOTICE OF HEARING
	)	(with Certificate of Service by Mail)
vs.	)	
	)	
Judy Tupolo as Power of Attorney,	)	
	)	
Defendant.	)	
_____	)	

A HEARING on Plaintiff's Motion for Temporary Order of Restraint has been set for Tuesday, October 25, 2022 at 11:30am before the Honorable R. Scott Sprouse, Circuit Court Judge for Oconee County, South Carolina, as a virtual hearing.

The attachment shows how to log in for the hearing on the scheduled date/time.

September 23, 2022

s/ W. Trey Merck
W. Trey Merck, Attorney-at-Law
SC Bar No. 13641
119 S. Main Street, Suite B
Six Mile, South Carolina 29682
Phone: (864) 883-6060; Fax: (843) 305-3324
email: trey@treymercklaw.com

Attorney for Defendant,
Judy Tupolo as Power of Attorney

CERTIFICATE OF SERVICE BY MAIL

COMES NOW, W. Trey Merck, Attorney-at-Law, and certifies that on September 23, 2022, he served a true and correct copy of *Notice of Hearing (with Certificate of Service by Mail)*, by placing a copy in the United States mail, first-class, with postage affixed and addressed to the Plaintiff, as follows:

Jirair Baghdassarian
2580 La Cara Ave
Las Vegas, Nevada 89121

September 23, 2022

s/ W. Trey Merck
W. Trey Merck, Attorney-at-Law
SC Bar No. 13641
119 S. Main Street, Suite B
Six Mile, South Carolina 29682
Phone: (864) 883-6060; Fax: (843) 305-3324
email: trey@treymercklaw.com

Attorney for Defendant,
Judy Tupolo as Power of Attorney



Trey Merck <trey@treymercklaw.com>

Motion "MOFREE-Motion/Temporary Order of Restraint" for Case "2022CP3700157-Jirair Baghdassarian VS Judy Tupolo as Power of Attorney , defendant, et al" was added to a Motions Roster for 10/25/2022 at 11:30 AM

1 message

Courtmail37_DoNotReply@sccourts.org <Courtmail37_DoNotReply@sccourts.org>

Thu, Sep 22, 2022 at 1:45 PM

To: trey@treymercklaw.com

Cc: awatkins@oconeesc.com

VIRTUAL COURTROOM MOTION ROSTER(Backup to Jury Trials)//OCT 25, 2022//HONORABLE R SCOTT SPROUSE, PRESIDING//The case referenced in the notice has been scheduled for a virtual hearing. Go to: www.sccourts.org/calendar/ Click "circuit" on the appropriate hearing date Scroll to find and Click on Judge Sprouse's "Virtual Courtroom".**(See instructions for virtual hearings outlined in paragraph(c)(10) of Supreme Court Order dated (8/27/21)**All Attorneys and Pro Se Litigants will need to appear virtually at the scheduled time.If your Motion has been resolved, settled or needs to be withdrawn, please notify Amanda Watkins by email at the following address (awatkins@oconeesc.com).

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

ELECTRONICALLY FILED - 2022 Sep 23 9:11 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700157



## FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee  
IN THE COURT OF COMMON PLEAS

## JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP3700157

Jirair Baghdassarian  
PLAINTIFF(S)

Judy Tupolo as Power of Attorney et al  
DEFENDANT(S)

## DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);  
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

## ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

## For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/01/2022 .

Donnie Wayne Adair  
Probate Court Oconee County  
Jirair Baghdassarian for Jirair Baghdassarian  
Jirair Baghdassarian for Jirair Baghdassarian

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

## Court Reporter:

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Oconee Common Pleas

**Case Caption:** Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,  
defendant, et al  
**Case Number:** 2022CP3700157  
**Type:** Order/Electronic Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

|                         |   |                              |
|-------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
|                         | ) |                              |
| COUNTY OF OCONEE        | ) | 2022-CP-37-00157             |
|                         | ) |                              |
| JIRAIR BAGHDASSARIAN    | ) |                              |
| PLAINTIFF               | ) | GAL REPORT                   |
| v.                      | ) |                              |
|                         | ) |                              |
| JUDY TUPOLO             | ) |                              |
| DEFENDANT               | ) |                              |
|                         | ) |                              |
| IN RE: DONNIE ADAIR     | ) |                              |

I have to start by saying I am not a medical doctor, and that any opinions I offer on the health or performance of any party is strictly based on my personal experience. Much of that experience is from my time meeting regularly with clients, some of them elderly, for my fourteen year career, and my four deceased grandparents, two of which were diagnosed with dementia and/or Alzheimer's.

Donnie Adiar (Donnie) is ninety years old, and gets around well for that age. I have observed Donnie walking and getting up and sitting down without any assistance. He doesn't move quickly, but he also isn't so slow that he is getting in the way. I would feel comfortable taking Donnie on a grocery shopping trip with me if I were his caretaker. However, Donnie's mind does not appear to be holding as firm as his body. I would like to respectfully say that I believe there was a time that Donnie was among the most respected, desired teachers and leaders in his entire religion. Everyone involved in this case has spoken highly of the decades that Donnie and his wife Marilyn devoted themselves to service, study, and their fellow man. Donnie still exhibits a great deal of retention of his Biblical knowledge, crafted from years of research. The old cliché, "Donnie has forgotten more about the Bible than most people will ever know," is applicable here. Donnie freely quoted scripture and discussed verses with me. Donnie also told me all about how he became so heavily involved in the Davidian Branch of The Seventh Day Adventist, and particularly the chapter located in Salem, South Carolina, often called Mount Carmel (the Association). This story starts in the 1970s, and Donnie's leadership of the Association lasted a little over forty years. Donnie's long term memory is still good, and probably better than most. Donnie's short term memory is already weak though. Donnie told me the same stories several times, had to be reminded to stay on topic, couldn't remember things I had said minutes earlier, and expressed some confusion and initial frustration about why he and I were talking at all. The hour Donnie and I spent together reminded me greatly of the early years of my two grandmother's Alzheimer illnesses. From what I've learned, short term memory begins to go, followed by long term, then less essential organs, before the most essential organs shut down. I realize this is an over-simplification, but for as strong as Donnie's long term memory was, I can't imagine the man today leading the Association. He doesn't currently have the problem solving capacity, the observation skills or the rationalization to be the man he was. And I have full confidence that this will only get worse. I would not feel comfortable leaving Donnie alone in a place that had a working kitchen, or other ways to accidentally hurt himself or others, if I were his caretaker. I would feel comfortable leaving him on the porch or in front of the TV while I went to the bathroom or cooked dinner, but not for so long as to go to the store. I believe he needs supervision in the same way a five year old would.

I feel to understand Donnie, the court needs at least a brief explanation of the Association. It doesn't appear that the Association has any lackadaisical or half-committed followers. The members appear to be fully devoted to each other, and to the Association's teachings. Donnie and Marilyn led through

service. The Association isn't as large as say the Southern Baptist, but the members meet more regularly, give more freely, study more intensely, and are more fully devoted than the average Oconee County church member. Because of this the Association has collected assets: real estate, literature, and finances. The Association continues on without Donnie, but he certainly has shaped and left his finger prints on it. The stability and agreement that Donnie and Marilyn led with appears to have disappeared though. Again, this is an oversimplification, but the two factions are basically the Pro-Judy side, and the anti-Judy side. Judy Tupolo (Judy), the Defendant, does not lead the Association in the way Donnie did, but for our purposes it is helpful to see her as a representation of this division. Donnie is not currently a torch that could be passed between factions to represent control of the Association, but in the early days of the power shift away from Donnie's leadership "control" of Donnie landed with the Pro-Judy crowd, and lent them the legitimacy, and access to the accounts, that pushed them into the leadership positions they now enjoy. I put "control" in quotation marks, because I do not think there were any meetings, or even evil intent, about how taking care of Donnie would lead to success in the power struggle, everybody just most likely acted in a way that was best for themselves, and in what they thought was best for Donnie and the Association.

I also have to say that I totally believe that Donnie and Marilyn misappropriated Association funds for decades. But, I only really believe this would be a problem to the IRS, not the members. Donnie and Marilyn never drew a salary, they supported themselves using association funds to buy whatever they needed. For decades people from all over the world have sent the Association money, and bought books from the Association, knowing that the money was used to support Donnie and Marilyn personally, along with supporting them in their ministry. So when I use the word misappropriation, I mean it from a legal sense. Donnie and Marilyn earned an "income" that they never paid taxes on, and used Association money for personal expenses. But this was no secret to, I'm guessing a majority, of the Association's donors. Again, Donnie and Marilyn had their communities' respect, and I don't think many Association members would care if the accounting was not proper. — — — I wrote the the above paragraph in my first draft of this report. After that I received a letter signed by a half dozen members of the current leadership of the Association. I had reached out to Judy's attorney for more information about finances, and explanation about what was going on with the money. I received a letter that a bit too conveniently answered each of my concerns. The current leadership is all Pro-Judy, and explained to me that Donnie and Marilyn really had permission to use the Association money all along. This is impossible for them to know, the current leadership would have been children when Donnie started with the Association. What I really gathered from this letter is that the current leadership is happy with how everything has shaken out. They are like minded in their support of Judy, their love of Donnie, and their desire to leave the situation unchanged. I also feel that my suspicions that the IRS would disapprove of the way Association money has been handled for decades, but that the members of the Association either didn't care, or straight out approved, of Donnie and Marilyn being supported by the inner workings of the Association. — — — I bring this up not to disparage Donnie, but to say that he doesn't really have many assets of his own. He has been keeping much of his social security earnings, between \$25,000 and \$33,000 depending on the source, in savings, but never seems to have misappropriated funds to the tune of making himself wealthy. This is not a Jim Baker situation. I believe the only assets Donnie has is the savings, a car, and his personal property. Additionally, Donnie has a couple of copyrights on books he put together. Where we start talking about real money is when we get into money that Donnie controlled, Association money. Depending on the telling, Donnie controlled \$103,000 or \$104,000 when Judy began taking action as Power of Attorney (POA). I know that \$25,000 is a significant amount, but if we're looking for the largest assets that Donnie had power over, we need to look at the tens to hundreds of thousands of dollars that get donated to the Association. I will discuss these further.

Judy has been taking care of Donnie for about four years. She is without a doubt his primary care giver. Judy said that her great love for Marilyn is what drove her to volunteer to take care of Donnie. By all accounts Marilyn was a lovely woman, devoted to the behind the scenes work, and tiring service that makes a church successful.

Donnie told me at least three times that: he asked Judy to marry him, but she declined. Judy was a Major in the Air Force and he's had to change his attitude about taking orders, because she gives him a lot of orders. Judy and Donnie met through the Association, and she helps provide his daily needs. Judy confirmed each of these. Donnie lives in a home owned by Judy. As far as I can tell Judy doesn't receive any compensation for taking care of Donnie, and lives off of her military retirement. However, Judy did say that she used the \$104,000 to fix up the house. She bought the house, with a mortgage, then fixed it up with Association funds. Again, this wasn't "Donnie's money," even though everybody calls it that. Judy took control of the Association account that Donnie controlled for years, and used that money to renovate her personal residence. I did not get to the bottom of whether the Association account was still being fed. — — — In the letter from the Association leadership, they sought to soothe any of my fears that anything out of line was going on. They assured me that each action with Association money had went through the appropriate channels and the leadership felt a responsibility to Donnie. Again, the current leadership is very Pro-Judy. — — —

Donnie lapses into frustration when talking about his relationship with Judy. I believe this is because Donnie doesn't know that he is sick. There was an attempt by Judy to put Donnie into an assisted living facility, and he hated it. I don't believe there was any malice in putting Donnie in to the facility, it just didn't work. My grandmother's both eventually benefited from moving to a facility, with their activities coordinators, better medical personal and equipment, so I believe there are beneficial situations for long term care. Donnie rejected the assisted living facility, and Judy respected the situation and brought him back home. I asked Donnie if there was a situation that he could imagine, an illness, injury, or old age that he could see himself going into a facility. He would not entertain the idea. He needs twenty-four hour supervision right now, but would not admit that he needed the supervision, and could not imagine a scenario in which that would be possible. He doesn't recognize his current short comings. Judy does, and has made the adjustments to her life to care for Donnie. I believe Judy would care for Donnie until his eventual death if the situation remained unchanged.

The Plaintiff, Jirair Baghdassarian, (Gerard) has professional experience with memory care patients. He is some sort of psychologist or psychiatrist that helps with care and diagnosing patients. Gerard is a long time member of the Association, and has met Donnie on several occasions. Most of Donnie and Gerard's relationship has been built through Donnie's teachings, Gerard has been Donnie's student through phone calls. Gerard lives in Nevada. Gerard's respect for Donnie is over-flowing, he sees Donnie as a preeminent teacher among the Association, and has listened to Donnie's lessons as recently as this Spring. Gerard expressed that he has the time, desire, and resources to care for Donnie. I have no hesitations about Gerard possessing the desire and the resources to care for Donnie. My only hesitation about the time is how it will be done. I believe Donnie needs twenty-four hour care, and for Gerard to provide that and work he would need to hire somebody to do that. I should back up and say that this is also coming with a lot of "ifs." Gerard wanted me to know that he would do everything in his power to defer to what Donnie wanted. If Donnie believes he can still drive, then Gerard would work toward that outcome if possible. Same if Donnie wanted to stay in South Carolina, move to Nevada, continue teaching, or stay out of assisted living or a nursing facility. Gerard made clear he wants to do what Donnie wants to do. I believe this absolute deference would be short lived, that just a few hours with Donnie would be enough for any adult in the room to know that Donnie isn't the best decision maker for Donnie anymore. But I do have to credit Gerard's willingness to defer to a man that

he doesn't have a family relationship with. Gerard was non-committal to where Donnie would live, because he truly wants it to be Donnie's decision for as long as possible. I summed the conversation up with Gerard as, "you recognize that Donnie could already need care, and will in an increasing amount in the future, but you would like for Donnie to retain personal agency for as long as possible," and he agreed.

Gerard provided a list of thirteen phone calls he had recorded with Donnie. I think that Gerard wanted me to listen to them to show that Donnie is still a mostly capable man. And if that was your starting point, a great respect for this titan of your religion, then you would interpret those calls that way. I listened to them with a different bias, that Donnie is in the beginning stages of a disease that will eventually rob him of what makes him himself. My conclusion from listening to the calls is what I've stated above; Donnie still has the capacity to teach because his long term memory is good, and he was starting from an elevated position, but his short term memory and processing has slipped.

Judy has used money that wasn't hers to the tune of \$100,000 or more. She admitted it to me, and I'm treating it as fact. There are plenty of other accusations that have been thrown at her: tithe money still coming in, a van she put in her daughter's name, Donnie's social security, just to name a few. Again, I don't believe any of the \$100,000 was actually Donnie's money, and that may be knit-picky, but it seems to me like Donnie's representative just continued rolling the misappropriation log that Donnie was previously rolling. Judy just did it suddenly, without the years of trust and appreciation built up that Donnie had, and this has given ammunition to the Anti-Judy crowd. Without discovery and sworn testimony I don't know if anyone will ever know the depth of Donnie, Marilyn, Judy, and the Association's financial mess. Donnie prudentially took money that wasn't his for a lifetime of personal gain with implied permission of the Association, and that permission remains today. Judy took money that wasn't hers and used it for personal gain, and now uses that gain to care for Donnie. Whether or not she has permission to do this depends on who you ask, Pro-Judy or Anti-Judy. Is this splitting hairs? Is this a fair use of the money? What happens during an audit? With respect, I believe these are half of the questions the Court is faced with. Is/Was Judy's alleged bad behavior detrimental to the ongoing care of Donnie?

The other half of the questions revolve around the actual care. Judy actually, literally, takes care of Donnie, and has done so for several years. Gerard says he will, but he is some what a stranger, both to Donnie and to the Court. Donnie wants his independence back, but shouldn't have it, and is fortunate enough to have two volunteers to provide it. If Judy is a con artist she is terrible at it. She cashed in the biggest account, but was left with the responsibility of caring for Donnie, and, in my opinion has successfully done so. Gerard is an outsider, but seems to genuinely care for Donnie, and wants to protect him from further humiliation by giving him back as much of his life as he can.

*Tjay M. Bagwell*

---

Tjay M. Bagwell  
SC Bar NO. 76927  
603 W. Main Street  
Walhalla, SC 29691  
Phone: (864) 718-0777  
Email: [tjay@bagwellcorley.com](mailto:tjay@bagwellcorley.com)

STATE OF SOUTH CAROLINA     ).     IN THE COURT OF COMMON PLEAS  
                                           )  
 COUNTY OF OCONEE.            )  
                                           )  
 Jirair Baghdassarian,         )  
                                           )  
                                   Plaintiff,     )  
                                           )  
 vs.                                 )  
                                           )  
 Judy Tupolo as Power of Attorney,     )  
                                           )  
                                   Defendant.     )  
                                           )

**AFFIDAVIT OF**

**Robert Peralta**

FILED OCONEE COUNTY, SC  
 MELISSA C. BURTON  
 CLERK OF COURT  
 2022 NOV - 8 A 8:13

I swear under the penalty of perjury that the following statement is true and accurate to the best of my knowledge.

My name is Robert Peralta, I have known Jirair Baghdassarian, known as "Gerard" to me, for close to 11 years now. We met on Facebook through our FB Davidian Seventh-day Adventist site called "Truth Tellers". I was asked to provide a written testimony on my experience in knowing "Brother Gerard".

Over the years we have shared many conversation, both in person and through phone calls and social media. I have found him to be highly dependable, thoughtful, and zealous in his convictions. His dedication to our faith has been inspiring and at no time have I found him to be dishonest or have wrong motives towards others. We have worked together in both online events and church activity.

I have read some of the testimonies provided by other parties and to be frank and honest , they attempt to paint the picture of Gerard being a swindler , out for money , power or who knows what. NOTHING could be further from the truth! I know him well enough that he only wants what is best for Don Adair. He has never shown me any desire for personal gain while working and sharing in, this Davidian message and faith.

In closing, it has been a honor to know this brother and we share much passion for the Davidian SDA faith and to think that he is somehow desiring evil purposes or selfish gains is to slander a sincere and honest person.

Sincerely, Robert Peralta

 11/2/22

Copies to: no copies  
 Atty \_\_\_\_\_ (P) \_\_\_\_\_ (D)  
 DSS \_\_\_\_\_ other \_\_\_\_\_  
 Mailed \_\_\_\_\_ Boxed \_\_\_\_\_ handed \_\_\_\_\_

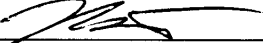
SEE ATTACHED  
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 11/2/2022  
 ENTERED  
 COMPUTER



**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

**GOVERNMENT CODE § 8202**

- ☐ See Attached Document (Notary to cross out lines 1–6 below)  
☐ See Statement Below (Lines 1–6 to be completed only by document signer[s], not Notary)

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6  \_\_\_\_\_  
Signature of Document Signer No. 1 Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Riverside

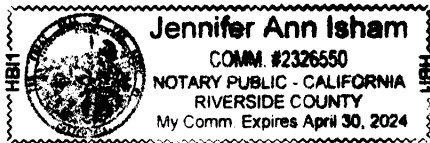
Subscribed and sworn to (or affirmed) before me

on this 2 day of November, 2022  
by Robert Peralta  
Date Month Year

(1) Robert Peralta

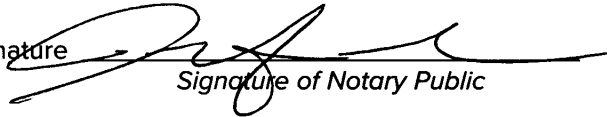
(and (2) \_\_\_\_\_),  
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Place Notary Seal and/or Stamp Above

Signature

  
Signature of Notary Public

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

STATE OF SOUTH CAROLINA ).  
COUNTY OF OCONEE.

FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT

IN THE COURT OF COMMON PLEAS  
C/A NO.: 2022-CP-37-00157

2022 JUL 21 P 1:11

**AFFIDAVIT OF SWORN STATEMENT**

The undersigned, TREVOR BINGHAM, being duly sworn, hereby deposes and says:

1. I am over the age of 18 and I am a resident of the state of Missouri. As I have many positive memories of Don Adair as a child, when I learned he was in a nursing home I asked my secretary, Collette Theroux, to call the nursing home facility to visit with and inquire about how Mr. Adair was doing. The first phone call to the nursing home the telephone receptionist inquired if my secretary had permission from the "PO" to speak with Mr. Adair. The receptionist refused to connect us with Mr. Adair. The second call was made a few weeks later, and I spoke to the receptionist personally. Again she refused to put me through to Mr. Adair unless I had a "code" from the "PO." I attempted to request permission to talk to Don Adair, from the power of attorney by contacting her daughter, Alexia Hall. The latter promised me to get back to me on that matter but she never did so till the present day, thus ignoring my request.

2. To best of my recollection, this is an accurate summary of my efforts to call Mr. Adair. I also checked with my secretary and this her memory of the calls also. If at all possible I would love to speak with Mr. Adair. My only concern in this matter is that Mr. Adair is well cared for and happy. Thank you for your time.

I declare that, to the best of my knowledge and belief the information herein is true, correct and complete.

Executed this \_\_\_\_\_ 19th \_\_\_\_\_ day of \_\_\_\_\_ July \_\_\_\_\_ 2022.

*Trevor Bingham*  
*July 19, 2022*

**NOTARY ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ MISSOURI \_\_\_\_\_ COUNTY OF \_\_\_\_\_ BARRY \_\_\_\_\_:

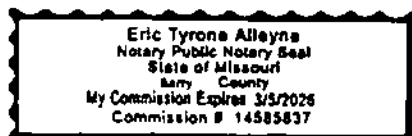
\_\_\_\_\_  
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*Eric Tyrone Alleyne*  
Notary Public

Title (and Rank)

My Commission expires

*3/5/2026*



*No Copies*

ENTERED  
*(Signature)*  
ROUTER

|                                   |   |                              |
|-----------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS |
|                                   | ) |                              |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157    |
|                                   | ) |                              |
| Jirair Baghdassarian,             | ) |                              |
|                                   | ) |                              |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF</b>          |
|                                   | ) |                              |
| vs.                               | ) |                              |
|                                   | ) | Lynne M. Bernasky            |
| Judy Tupolo as Power of Attorney, | ) |                              |
|                                   | ) |                              |
| Defendant.                        | ) |                              |
|                                   | ) |                              |

July 24, 2022

My name is Lynne M. Bernasky, I am 59 years old and my profession is an Interior Design Consultant for the last 30 years. I currently live at 4128 Sottile Lane in Shingle Springs, CA 95682.

I, Lynne M Bernasky, swear and testify that the below information is correct and true to the best of my knowledge and understanding.

Judy Tupolo was contacted on February 4<sup>th</sup> 2022 and was asked via text, regarding speaking with Don Adair, "Can anyone speak to him?" I have bought \$100's of dollars of books from Don and had many 2-hour phone conversations with him in the past and I am very concerned about the fact that his phone was taken away from him by Judy Tupolo. Something no free human being who is able to communicate should have taken from them and Judy did this to Don Adair. This is America, we have the Constitution that guarantees such freedoms and liberties. Continuing with the conversation: Judy Tupolo also stated, and I quote: "I only let those speak to him who loved him before his illness n who are faithful members. He must be protected from vulturistic attempts of those who are now all of a suddenly concerned at his end stage of life..."

Don was and is loved by me, he has been a long time leader in his ministry and deserves better treatment at the end of his days on this earth, and that is why I am writing this testimony. Freedom to choose is God given even to someone whose memory is slowly or moderately declining.

I asked Judy Tupolo in the same conversation, "Can we speak sometime on the phone as your voicemail is full" and her response was: "...I won't talk to those who were not members." and Judy also made it clear "sorry we do not have anything else to discuss". I did kindly persist in this conversation, and she said "I'll try to call you later in the week" but never did.

I do hope that at the very least, Don Adair is given his phone back, which was a huge part of his life. He spoke to 100's of people throughout his years in his ministry who were not of his "members" but knew he was a brother in faith. To take that away from him is an injustice on the part of Judy Tupolo and she should not be entrusted with his care in my opinion.

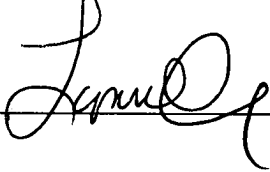
Don Adair should be cared for in a home of fellow believers, where his strict Kosher, vegetarian diet is kept by all and the observance of the 4<sup>th</sup> Commandment is honored. This has been his life for decades and decades. Please consider allowing him to be placed where this is observed by all in the household of his companions, and where his spiritual needs are met.

In regards to Alexia Hall who is 2<sup>nd</sup> POA, I also communicated with her a few weeks ago and when addressed about taking away Don Adair's phone, and taking away this freedom, she stated: "so people can call and record and manipulate and take advantage of a demented man? No we will not let him speak to just anyone".

Please consider this testimony in favor of Don Adair being able to testify himself.

Respectfully submitted,

Lynne Bernasky

 7-26-22

**SEE ATTACHED  
NOTARY CERTIFICATE**

# ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of El Dorado

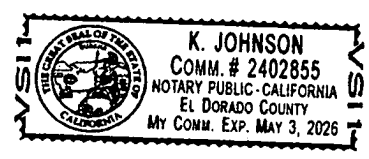
On 07/26/2022 before me, K. JOHNSON, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared Lynne Bernasky  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



|                         |   |                                       |
|-------------------------|---|---------------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS          |
|                         | ) |                                       |
| COUNTY OF OCONEE        | ) | C/A No.: 2022-CP-37-00157             |
| Jirair Baghdassarian    | ) |                                       |
| Plaintiff               | ) | <b>REPLY TO OPPOSITION MEMORANDUM</b> |
| vs.                     | ) | <b>IN SUPPORT OF MOTION FOR</b>       |
| Judy Tupolo             | ) | <b>TEMPORARY RESTRAINT</b>            |
| Defendant               | ) |                                       |

Comes now, this is our reply to the memorandum presented by the defense on July 12, 2022. We still have no proof of possession of medical power of attorney by Judy Tupolo nor attestation of medical and mental condition that supports their allegations. If the defense is not able to prove powers by demonstrating possession of the mentioned documents, their argument is void, should be dismissed and the agency suspended per Plaintiff's motion.

### Brief statement of facts:

The counsel for the defendant accused Plaintiff of ill intentions toward Donnie Wayne Adair. The counsel has neither shown any proof nor any history exposing any reason, present or former action, or appearance of an attempt to bring any harm or action of ill intent toward Don Adair. The latter is not just an "acquaintance", but rather a long-time friend known since 2002, a spiritual brother, and a respected elder in our religious community. He has been for us a spiritual mentor, a good friend, and a member of our religious family for over 20 years. The counsel's accusations should be dismissed for lack of evidence. They are a dishonest attempt of slander and defamation.

Plaintiff is not the only person that has attempted to contact Don Adair since January 2022. Many of his friends and those he communicated with were rejected or ignored when requesting access. It is unthinkable to state that all lifetime friends attempting to contact Don Adair to support him have nothing but malicious intent and that only Judy has the benevolent intent, despite her documented ill reputation on this matter. This paranoid behavior seems to be motivated by the fear of facing scrutiny and desperately concealing Defendant's abuse.

It should not be Plaintiff's obligation to hereby prove, beyond the shadow of a doubt, the allegations against the defendant Judy Tupolo, as this motion does not request any punitive action against her. It is simply requesting facilitating access to Don Adair, by suspending all Power of attorney status and privileges, until, and for the purpose of, further investigating the suspected allegations. Plaintiff and Don Adair have mutual rights to communicate with each other. Judy Tupolo has tyrannically imposed unreasonable restrictions over him with malicious intent of concealing and covering up by obstructing any scrutiny or investigation. Adair has expressed his concern about the way he is being

restricted by Judy and requested our help. He has revoked the agency he granted her and transferred it to us. She has not respected his wishes. She is abusing ungranted powers and revoked agencies.

If the counselor or the defendant believe this was a misunderstanding, we ask them to grant us access to Don Adair to finalize his wishes, solve the matter and dismiss the case under a provisional agreement testified in this court. If they are unwilling to do so, then they would be de facto contradicting themselves and admitting that they are not willing to cease from infringing on Don Adair's rights. The matter needs no further proof of any kind.

We kindly solicit the honorable justice to grant us access to Don Adair, according to his wish, by suspending any status or agency she is abusing to accomplish her restrictions. We also request that his location be disclosed and made accessible without manipulations, modifications, or restrictions by Judy and whoever or whichever institution provides him care and residence.

### 1. Reply to argument 1:

Defendant claims that we have no status according to Section 62-8-116 et seq.

We answer that the medical or health care power of attorney is not governed by Title 62 article 8, but rather by title 62, article 5, section 500 et seq., which does not mandate anywhere in its codes such status on anyone.

Nevertheless, we can add that we do have sufficient status per 62-8-116, as supported below.

SECTION 62-8-116. Judicial relief states the following:

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(1) the principal or the agent;

We are the agent as orally expressed by the principal, and we do represent the principal. We have filed this motion on behalf of Don Adair, whom Judy has been depriving of advocacy, legal counsel, and from an alternative agent of his choice. She has obstructed any means of communication needed to finalize a signed and witnessed agency. Don Adair has the status, he has explicitly, in writing and orally, revoked his Power of attorney from Judy Tupolo and transferred it to us. We have that on a recording. We will present the recordings to the court. We hoped that he could have testified of the matter in person during the last hearing when Adair was subpoenaed. We request to subpoena the documents to be served to Don Adair and signed by him according to his expressed wish. We would subpoena his witnessing concerning this matter and the subpoena where he was or is presently staying.

Section 62.8.116 (a) (2) provides status to "a guardian, conservator, or other fiduciary acting for the principal;"

Having been requested by Don Adair to be his representative in these legal and medical matters, Plaintiff should be considered the only legitimate fiduciary according to the principal's wish.

Section 62-8-116 (a) (3) authorizes a person authorized to make health care decisions for the principal; Plaintiff has been appointed as Power of attorney and representative by Don Adair.

Section 62-8-116 (a) provides status to (8) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare.

Plaintiff has demonstrated sufficient interest in the principal's welfare since he knew about his health issues in 2021. Plaintiff told him and told others he was welcome to stay at his place. He has also contacted Adair several times since then. During a phone conversation, around May or June 2021, Plaintiff called Adair and found out that his foot swelling was being neglected and provided him recommendations as to what to do about it. Plaintiff told him to call anytime for help and medical advice. Since Plaintiff talked to him in January 2022, he has been very concerned about his well-being and physical and mental health, and he has been trying to support him and provide him legal advice to grant him relief from his suffering.

Section 62-8-116 (a) (9) continues: a person asked to accept the Power of attorney.

Don Adair asked Plaintiff to become his Power of attorney. Plaintiff is a person asked to accept the Power of attorney that is being contested in this motion by both the facility where he resided and by the defendant and her counsel. That is the reason Plaintiff has not been allowed to access Don Adair to provide him support and advocacy.

## 2. Reply to argument 2:

The South Carolina court rule no. 240 defines the rules for filing a motion. Item 3) states that affidavits are to be filed in the absence of Appendix. The latter was presented to probate court as requested before the case was transferred to the circuit court for an online hearing. We found that subpoenas were strong evidence in a court hearing, as the judge would be able to talk to the caregivers and to Don Adair and be able to assess his level of competency personally.

Nevertheless, we will send affidavits and recordings to support our arguments with further witnessing and evidence. If lack of evidence was determined, we would like to subpoena Don Adair, Judy Tupolo, Tyrell Jones and his wife, Mary Bottig, Don Panciera, Stephen Gaines, Jean Caleb Chavannes, Foothills assisted Living, the facility, or the person in charge of his care at present, the facility where he was treated in 2020, bank statements from the bank from which Judy Tupolo withdrew all association savings. We request a period of 60 days to process all subpoenas.



### 3. Reply to argument 3:

We have not seen any medical durable power of attorney that the defendant claims to possess. Until we see we will assume it is not existent and should not provide any status or powers related to Adair's medical conditions. Supposing that the document is presented, Judy has used powers not granted by law as evidenced below.

The defense claims that a power of attorney document is strictly governed by the South Carolina Uniform Power of Attorney Act as set out in S.C. Code of Laws Ann. § 62-8-101, et seq., but has failed show by which of the statutes granted in the above-mentioned code she has been granted power over the principal's daily life decisions, over his freedom of choice and speech, and against his will. We have nothing in the above-mentioned act that justifies or provides her any such jurisdiction. There is none, which means such privileges and powers have not been granted to her, and that she has acted against the principal's will, wishes and best interest. The agent should be exonerated according to section 62-8-115 (1) (A) through (D) and (2) for breach of duty committed dishonestly, in bad faith, with reckless indifference to the purposes of the power of attorney; through willful misconduct; and abuse of a confidential or fiduciary relationship with the principal.

Section 62-8-110 (3) terminates the power of attorney when the principal revoked it on January 23<sup>rd</sup> and again on May 23<sup>rd</sup>.

A health care power of attorney is governed by the South Carolina Law title 62, Article 5, Section 500 et Seq., entitled Health Care Powers of Attorneys.

Don Adair has the right to revoke his Power of attorney according to SECTION 62-5-512 entitled Revocation of health care power of attorney, and stating the following:

a) A health care power of attorney may be revoked in the following ways:

(1) by a writing, an oral statement, or any other act constituting notification by the principal to the agent or to a health care provider responsible for the principal's care of the principal's specific intent to revoke the health care power of attorney.

SECTION 62-5-504 that the medical power of attorney should include the following clause clarifying the above mentioned right of revocation: "YOU HAVE THE RIGHT TO REVOKE THIS DOCUMENT, AND TERMINATE YOUR AGENT'S AUTHORITY, BY INFORMING EITHER YOUR AGENT OR YOUR HEALTH CARE PROVIDER ORALLY OR IN WRITING."

Don Adair has revoked the power of attorney both orally and in writing on May 23<sup>rd</sup> 2022.

Judy Tupolo has abused her powers and has not acted according to the best interests of the principal. She has acted even against his will and should be permanently exonerated of all her agencies.

Judy has brought harm to Don Adair by committing the following illegal and criminal acts against Don Adair: Financial exploitation of a vulnerable adult, psychological abuse of a vulnerable adult, Kidnapping, unlawful restraint, false imprisonment, and larceny.

Judy has breached duties named in section 62-8-114, including breaching the following clauses in the same section:

(a) An agent that has accepted appointment shall act:

(1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and in the principal's best interest;

(2) in good faith; and

(3) only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(1) act loyally for the principal's benefit

(2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest.

The agent has abused her powers by neglecting to implement and overruling the following mandates defined in section 62-5-504 § 4 mandating that "In making any decision, my agent shall attempt to discuss the proposed decision with me to determine my desires if I am able to communicate in any way. If my agent cannot determine the choice I would want made, then my agent shall make a choice for me based upon what my agent believes to be in my best interests."

Judy has ignored to determine and respect the principal's desire in many decisions explained elsewhere in this response when Don Adair is able to communicate very clearly. Since the principal was able to determine a choice, the agent should have not contradicted the principal's choice as she persists in doing. Moreover, she has not acted based on what is the principal's best interest.

#### Explanation:

Judy Tupolo is accused of abusing her Power of attorney privileges and status in an illegal, unethical, and criminal manner. She has been persisting in using her Power of attorney privileges after revocation, and she has been using those powers to commit elder abuse against Donnie Wayne Adair. Allegations relate to a vulnerable adult's emotional and spiritual abuse and financial exploitation. She is also accused of illegal acts of false imprisonment, unlawful restraint, forced isolation, and forced confinement toward Don Adair, which is considered a tort and a prosecutable crime.

South Carolina law section 43- 35- 10 (11) states as follows: "Vulnerable adult" means a person eighteen years of age or older who has a physical or mental condition that substantially impairs the person from adequately providing for his or her care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.

Don Adair falls under the category of a "vulnerable adult due to impairment in the ability to provide for his own protection because of infirmities including, but not limited to his advanced age,

history of organic brain damage, physical, cognitive, and emotional limitations, social isolation imposed on him by Judy Tupolo, as well as his status of being a resident in a facility.

According to South Carolina law section, 43- 35- 10 3), "Exploitation" means: (b) an improper, unlawful, or unauthorized use of the funds, assets, property, Power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person;

Judy Tupolo has personally admitted to Plaintiff to taking away the fund from the association's bank account that was founded and managed by Don Adair for about 50 years. Those funds were partially set aside for Adair's expenses and retirement, and she withdrew them without authorization from Don Adair and without authorization of other association board members whose name was on the account (see affidavit).

According to South Carolina law section 43- 35- 10 (10), "Psychological abuse" means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of severe emotional distress.

Judy has been deliberately subjecting Don Adair to intimidation, degradation, confusion, and emotional distress by socially isolating him, threatening to place him in a facility at one time and at a later time placing him in those facilities against his will, by depriving him of phone calls, from social support, old friends, legal advice, former and present Bible students, spiritual and emotional support, his home, his office, his books, his favorite food, his car, his car keys, his privacy by taking away personal belongings and documents against his will, his choice of medical and financial agency, his choice of residency, his office and study materials, his students as Bible teacher, free use of his funds and finances. We know from Don Adair that he used to believe that Judy used to threaten to accuse him of sexual harassment. We can also add the suspicious and enigmatic way his favorite dog and lifetime companion, as well as his violin, to whom he is emotionally attached, have mysteriously disappeared since she began managing his life and affairs. She is also accused of draining and using other assets such as another bank account, the association tithe money, and of illegally selling Don Adair's copyrighted publications without his permission.

#### SECTION 16-3-910. Kidnapping.

"Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without the authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20."

Judy Tupolo has unlawfully confined, inveigled, decoyed, and carried away Don Adair through intimidation, coercion, financial control, luring, social isolation, psychological abuse, flirting, bribery, biased medical statements, misinformation, and illegitimate abuse of a document of Power of attorney and by misrepresenting her authority over a vulnerable adult illegally (see affidavit).

Looking further at HISTORY: 1962 Code Section 16-91; 1952 Code Section 16-91; 1942 Code Section 1122; 1937 (40) 137; 1966 (54) 2151; 1974 (58) 2361; 1976 Act No. 684; 1991 Act No. 117, Section 1, according to Section 16-3-915. (A) "It is unlawful for a person to knowingly restrain another without consent, interfere substantially with his liberty, and expose him to a substantial risk of serious physical injury."

(B) "A person who violates the provisions of this section is guilty of the felony offense of unlawful restraint and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not more than twenty years."

Judy has knowingly restrained Don Adair without consent and has interfered with his liberty by confining him to locations against his will and preventing him from having options to leave.

"Section 16-3-916. (A) "It is unlawful for a person to knowingly restrain another without consent and interfere substantially with his liberty."

(B) "A person who violates the provisions of this section is guilty of the misdemeanor offense of false imprisonment and, upon conviction, must be fined not more than one thousand dollars and imprisoned for not more than three years."

As explained above, Judy would be guilty of false imprisonment upon conviction.

SECTION 16-3-1050. "Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and willfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years."

By taking away without Don Adair's consent the documents he has written, Judy has also committed Petit and simple larceny according to SECTION 16-13-30. (A) "Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, ..."

We suspect also that she may have committed grand larceny according to SECTION 16-13-30. (B) considering the valuable items worth over \$2000 that have been disappearing from his place since Judy and her daughter appeared on the scene to manage his life and residence.

See affidavits for further facts supporting the allegations.

#### 4. Reply to argument 4:

The counsel boasts that Don Adair is incapacitated without presenting any evidence. We emphasize that "clinical capacity" or "competency" is different from "medical capacity" or "competency", and powers of attorney are different than power of a guardian. The defense is claiming Don Adair's legal incapacity and is usurping specific powers of guardian that can be granted only to a guardian only when specified by a court of law, under specific circumstances.

Don Adair does not have to prove his natural human rights to be free, and it is the defendant's burden to prove that these rights have been suspended. The defense claims Adair has dementia has gotten worse over time and "that at least by May 2022," he has become incapacitated. He even forbids Don Adair from witnessing this hearing without providing proof of his legal incapacitation. The defense has presented no proof of the above allegations. He is trying to prevent a judge from making decisions about Don Adair's competency when the whole matter is based upon such a decision. Only a judge, no one else, can decide legal competency. Depriving Don Adair of presenting in front of a judge to defend himself without evidence of legal incapacity is outrageous and an insult to Adair's rights, to human justice, and to the judge's jurisdiction, a ruthless and cunning means of making it impossible for him to defend himself under the pretense of a medical diagnosis. It would not be just to lose one's rights based on the whim of a physician's diagnosis. In that situation, anyone diagnosed with a memory deficiency by a biased physician, without even a second opinion, is prevented from his or her freedom, becoming under the mercy of someone else whom one has appointed, rightly or inadvertently, to be one's agent.

In determining "legal incompetence" or "legal incapacity" and special guardianship powers, the defense is requested the present the existence of the following since July 2020, when her alleged abuse began, to substantiate and justify the abuse, accusations, and demeaning attitude toward Don Adair. If any of the below six conditions were not fulfilled since July 2020, the defense would have no case in depriving Don Adair of any of his rights of witnessing in court, revoking and appointing Power of attorney agents, and making personal choices in his daily life as already argued above and further:

1. The defense must present proof of an existence of a document or contract of a medical power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges; AND
2. The defense must bring evidence of medical incapacity based on the procedure defined in section 62-5-502 (d) of the South Carolina probate code, including the medical diagnosis, the nature, extent, and expected duration of such incapacity in written format by two unbiased physicians chosen by the court; AND
3. The defense must demonstrate a judge's order in court that Don Adair has been deemed permanently and irreversibly legally incapacitated by a special court decision and that his status has become the status of a "ward" as defined in section 65-5-101 (24); AND
4. The defense must prove that the agent Judy Tupoio has been awarded legal guardianship privileges. Agency granted by Don Adair does not grant her privileges of contradicting the agent's wishes or will; AND

5. The defense must prove that, besides legal incapacitation, the specific being contested have been suspended from Don Adair and transferred to his legal guardian. Only a judge's decision can specify which rights have been taken away, the specific court decision, time, date, and duration of suspension; AND
6. Defense must prove that the below specific powers have been granted to her in guardianship status in court of law. These rights that cannot be taken away from anyone, even if legally incapacitated, without a court decision, are mentioned in SECTION 62-5-304A. "Rights and powers of ward and guardian. Of probate code:

(A) "The court shall set forth the rights and powers removed from the ward. To the extent rights are not removed, they are retained by the ward. Such rights and powers include the rights and powers to: ...

(2) reside in a place of the ward's choosing, and consent or withhold consent to any residential or custodial placement;

(3) travel without the consent of the guardian;

(4) give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, and physical examinations, care, treatment and therapies; ...

(6) consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;

(7) authorize disclosures of confidential information;

(8) operate a vehicle; ...

(11) consent to or refuse educational services;

(12) participate in social, religious or political activities;

(13) buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon the conservator under Section 62-5-422;

(14) make, modify, or terminate contracts;

(15) bring or defend any action at law or equity; and

(16) any other rights and powers that the court finds necessary to address."

Judy has illegally removed the powers mentioned above from Adair and transferred them to herself without soliciting the court to "set forth the rights and powers removed from the ward" as required by SECTION 62-5-304A (A)

Part (B) of the same section specifies that it is the court, not the guardian nor the Power of attorney agent, neither the status of legal or medical capacity or incapacitation, or the status of a ward, that provides such transfer of rights from the principal to the agent, or from the ward to the legal guardian. The following powers can be given to a guardian only, never to a power of attorney, under special conditions, and only when explicitly specified by a court order as mandated in Section 62-5-204A (B)

The section continues further to emphasize that:



" (C) Nothing in this section must be construed as removing any rights guaranteed by the Bill of Rights for Residents of Long-Term Care Facilities under Chapter 81, Title 44.

(D) The attorney-client privilege between the ward and the ward's counsel must not be removed by the appointment of a guardian."

Related to (C) we quote from the Bill of Rights:

(G) "Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract."

The above has not been respected. Judy entered his room without permission and stole his possessions, such as documents. We suspect that she has been stealing phone numbers from him also to prevent him from talking to people like Plaintiff.

(J) "...Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail...."

This has also not been respected in the residence facility as restrictions against visits have been unreasonable and under the whim and mercy of the Power of attorney, not the resident. We also question the reason why we did not receive the prepaid enclosed envelope we have sent him, and we suspect that it has been either stolen or restricted from being mailed by Judy Tupolo at the facility.

Concerning (C), we can add that Adair does not have a legal representative regarding his freedom of choice. Whatever lawyer she claims is representing him in a probate issue is considered biased since he is being paid and given instruction by the same Power of attorney being contested and therefore should not be considered appointed by the client. Thus, attorney-client privilege between the ward and the ward's counsel has been removed.

#### Additional important remarks:

Power of attorney powers are not guardianship powers.

It is notable that according to Title 62 South Carolina Probate Code, the Health Care Power of attorney has no guardianship powers.

SECTION 62-5-501. Defines an "Agent" or "health care agent" as "a"n individual designated in a health care power of attorney to make health care decisions on behalf of a principal."

The decisions are only related to health care, not personal or daily life decisions.

#### SECTION 62-5-502

(c) To the extent not inconsistent with this part, the provisions of the Adult Health Care Consent Act apply to making decisions by a health care agent and implementing those decisions by health care providers.

In other words, this agency is allowed to give orders to the health care providers, not to the patient, only when the patient is not able.

In determining "clinical incompetence" or "clinical incapacity", the same section continues:

(d) "In determining the effectiveness of a health care power of attorney, mental incompetence is to be determined according to the standards and procedures for inability to consent pursuant to Section 44-66-20(8), except that certification of mental incompetence by the agent may be substituted for certification by a second physician. If the certifying physician states that the principal's mental incompetence precludes the principal from making all health care decisions or all decisions concerning certain categories of health care, and that the principal's mental incompetence is permanent or of extended duration, no further certification is necessary in regard to the stated categories of health care decisions during the stated duration of mental incompetence unless the agent or the attending physician believes the principal may have regained capacity."

Looking closer at Section 44-66-20(8) we read the following:

(8) "Unable to consent" means unable to appreciate the nature and implications of the patient's condition and proposed health care, to make a reasoned decision concerning the proposed health care, or to communicate that decision in an unambiguous manner. This term does not apply to minors, and this chapter does not affect the delivery of health care to minors unless they are married or have been determined judicially to be emancipated. A patient's inability to consent must be certified by two licensed physicians, each of whom has examined the patient. However, in an emergency the patient's inability to consent may be certified by a health care professional responsible for the care of the patient if the health care professional states in writing in the patient's record that the delay occasioned by obtaining certification from two licensed physicians would be detrimental to the patient's health. A certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration. If a patient unable to consent is being admitted to hospice care pursuant to a physician certification of a terminal illness required by Medicare, that certification meets the certification requirements of this item."

The above close means that when a patient is unable to appreciate the nature and implications of his condition and proposed health care, to make a reasoned decision concerning the proposed health care, or communicate that decision, then "two licensed physicians" must present certification-related, specifically, and exclusively, to that time when that specific proposed health care treatment is needed or offered. That certification must document that the principal is "unable to consent", i.e., he has not the capacity to understand the nature and efficacy of the treatment or is unable to communicate it. In this case, the Power of attorney can consent on his behalf only to that specific treatment at that specific time. The situation is not permanent, nor does it relate to the patient's lifestyle or his wishes to perform daily activities he can perform. The provisional nature and limitations are clarified in the following paragraph, especially in the following: "certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration."

The above means that two physicians cannot simply say that the patient has dementia or Alzheimer's, and they cannot only say he is incapable. They must state the nature of the procedure, the nature of the inability to consent to the procedure by the principal and mention its "extent and probable duration."



Even if the principal is supposedly clinically incapacitated, the following principal's rights described in Section 62-5-504 have been abused by the agent:

- (1) Defines that an agent's decisions are restricted to health care decisions only when the principal cannot decide for himself.
- (2) The principal may dictate what treatments he does not wish to have
- (3) The "principal has the right to refuse treatments" if not declared legally incompetent. Notice that the two physicians mentioned in section 44-66-20 (8) do not determine legal competency but rather a medical incapacity related to the capacity to consent for treatment. Only a judge can determine legal competency in court. Determining legal incompetency or incapacity is a judicial process defined in the same article SECTION 62-5-303 (see further explanation below)
- (4) Right to revoke the power of attorney
- (5) The principal has the right for access to social worker, lawyer, or other person to explain to him or advocate for him. He has not been given that right.

We see that Power of attorney agents have no rights over the patient's personal decisions. It only gives Power to consent on behalf of the principal, only for a specific medical treatment, for a specific period where two physicians document a certification testifying that he cannot consent. They must also mention the extent and possible duration, which means it is not a permanent certification. A power of attorney cannot force treatment on the patient nor contradict his wishes, and it can only provide consent to medical professionals on the principal's behalf when he's unable to do so.

### Summary

Judy has not disclosed her medical Power of attorney contract with the stipulations disclosing her privileges. She has proven neither medical nor legal incapacity of Don Adair. Her Power of attorney agency has been abused since Don Adair has revoked them, and since she has been using them to socially isolate him, unlawfully restrain him, psychologically abuse him, and financially exploit him. Judy has not been able to prove that Don Adair's civil rights of freedom of choice in his lifestyle have been transferred to her. No matter what she does, unless she is a legal guardian and unless Adair has been declared a legally incompetent ward by a judge in a court of law specifying that his freedom of choice to choose where he lives, whom he talks to, and where to go, have been taken away from him, then she would her restraints are considered unlawful, and she has committed an illegal act by abusing her powers.

### We demand the defense fulfill the following conditions:

1. Present the Power of attorney documents to the court.
2. Prove Don Adair's legal incompetence by presenting proof of legal incompetency and his status of "ward as explained in the six points mentioned above.

3. Prove that rights of guardianship were granted to Judy Tupolo in July 2020, specified by a court judge, which of the rights mentioned in SECTION 62-5-304A, as explained in the 6 points above, have been removed from Don Adair and granted to her.
4. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.

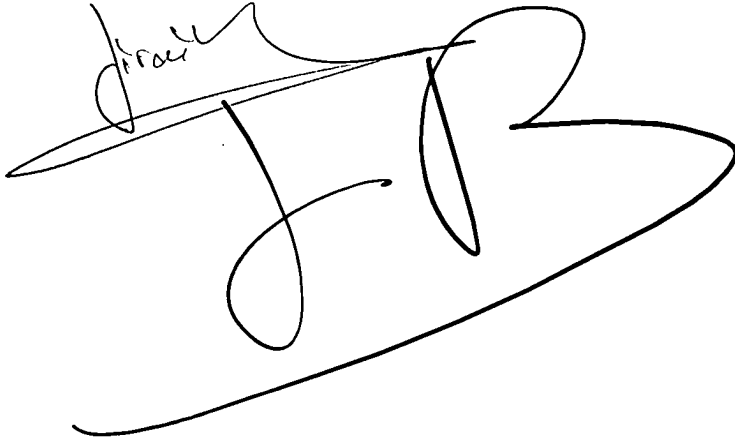
### Conclusion

Any power of attorney or other status related to Donnie Wayne Adair granted to Judy Tupolo should be suspended and relieved. The location and contact information for Don Adair should be disclosed. Any attempt to prevent contact with Don Adair, including relocating him, restraining access and communication, and hiding his location, should be forbidden. Any other attempt to isolate Don Adair and prevent him from meeting with us to provide him support, legal counsel, and advocacy, should be forbidden. The request of an allowance for enhanced redaction of any personal information on Mr. Adair and a Protective Order, should be denied. If the judge decides that more information is needed, we request an extension of 60 days to subpoena the witnesses and documents mentioned above in this response.

July 21<sup>st</sup> 2022

Plaintiff

Jirair Baghdassarian

A large, stylized handwritten signature in black ink, appearing to be 'Jirair Baghdassarian', written over a horizontal line.

|                                   |   |                                                  |
|-----------------------------------|---|--------------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS                     |
|                                   | ) |                                                  |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                        |
|                                   | ) |                                                  |
| Jirair Baghdassarian,             | ) |                                                  |
|                                   | ) |                                                  |
| Plaintiff,                        | ) | <b>Memorandum in support of the motion filed</b> |
|                                   | ) |                                                  |
| vs.                               | ) | <b>by Plaintiff.</b>                             |
|                                   | ) |                                                  |
| Judy Tupolo as Power of Attorney, | ) |                                                  |
|                                   | ) |                                                  |
| Defendant.                        | ) |                                                  |
|                                   | ) |                                                  |

To clarify things we summarize our requests in the following:

Brief Statement:

Comes Now, we request the honorable justice to grant us relief, if possible, permanently, of all power of attorney and of any status that was provided to Judy Tupolo and any person she has appointed as secondary power of attorney, such as her daughter Alexia Hall. Judy has illegally abused a status to impose on Adair confinement and rules, not in the scope of her agency or jurisdiction. We believe she would use any status to keep imposing suffering and restrictions on him and us.

We request access to Don Adair so we would grant him the wishes he has been asking about the alternative agency and investigate the allegations presented in this motion. We request

that Judy and anyone related to her be prohibited from preventing us from communicating with and reaching Don Adair by any means, including changing and hiding his location or obstructing physical or remote access to him. We request that he would be allowed to go where he wants in a safe and reasonable manner to accomplish his requests.

We also request just financial compensation for all the massive amount of time and suffering wasted and for all the financial burden, time, harm, pain and expenses we have placed upon ourselves to cover the legal costs of this motion and to counteract the unjust acts imposed by the Defendant.

We request that all the defense allegations and accusations be dismissed if they cannot bring sufficient evidence of the following:

1. Present affidavits and documents proving our attempts or intentions to take advantage of Don Adair for financial gain and religious hegemony of personal beliefs or dogmas.
2. Present proof of an existence of a document or contract of a medical or healthcare power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges.
3. Prove scientifically or medically, with the help of a neutral medical and legal expert, that Don Adair has a terminal neurodegenerative disease that has already turned him legally and clinically incompetent based on reliable medical diagnostics and assessment.
4. Prove that Don Adair is clinically AND primarily legally incompetent, as explained in our reply to his Memorandum.
5. Prove that Judy Tupolo has been granted Guardianship powers with the specific transfer of rights as mentioned in our reply to argument 4 in our reply to the Defense's

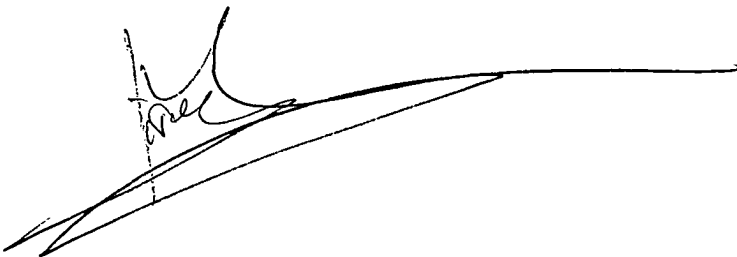
Memorandum and according to Section 62-5-304A "Rights and powers of ward and guardian."

6. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.
7. Allow Don Adair to return the document granting us officially Power of attorney Agency, witnessed and notarized, as we have mailed it to him and as he promised to process it and mail it back to us immediately.
8. 8. Reply to all the requests we have presented in our reply to his Memorandum.

7/26/2022

Jirair Baghdassarian

Plaintiff

A handwritten signature in black ink, appearing to read 'Jirair', followed by a long, sweeping horizontal line that extends across the page.

## Amanda Watkins

---

**From:** gerard b <jirairb@hotmail.com>  
**Sent:** Monday, May 30, 2022 9:18 AM  
**To:** Amanda Watkins; lmcintosh@sccourts.org  
**Subject:** FW: Objection for case 2022CP3700157

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To the honorable judge McIntoch.

I would like to inform you that the victim Don Adair in the case 2022CP3700157 expressed his wish to be heard by the judge.

I kindly request that he should be summoned to be heard by your honor as the facility is not allowing him to go anywhere without permission of the defendant Judy Tupolo. He even told me that she is not allowing him to talk to a lawyer.

Thank you very much.

Sincerely,

Jirair Baghdassarian

FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee

IN THE FAMILY COURT  
Circuit JUDICIAL CIRCUIT

2022 JUL 10 P 1:52

SUBPOENA IN A CIVIL CASE

Jirair Baghdassarian

Plaintiff,

Judy Tupolo

vs.

Defendant,

Docket No. 2022CP3700157

TO: Donnie Wayne Adair and Foothills assisted Living, West Union, SC or whoever providing his care.

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

goto [www.sccourts.org/calendar/](http://www.sccourts.org/calendar/) -click "circuit" then  
virtual courtroom then Judge Sprouse's virtual courtroom

PLACE OF TESTIMONY Virtual courtroom backup motion roster presided by Judge  
Honorable R Scott Sprouse

COURTROOM DATE AND TIME July 12, 2022 at 2:00 pm

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 35(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature  
Indicate if Attorney for Plaintiff or Defendant  
Attorney's Address and Telephone Number:

Date

Print Name

Melissa C. Burton

June 23, 2022

Melissa C. Burton

Clerk of Court/Issuing Officer's Signature  
Provide Litigant's Name, Address and Telephone Number:

Date

Print Name

Jirair Baghdassarian 2580 La Cara Ave Las Vegas, NV 89121  
(702) 689-1459

Custodial Parent (if applicable):

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.



# PROOF OF SERVICE

|           |                           |                                        |                                                                                                                                                |
|-----------|---------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| SERVED    | DATE                      | 7/8/2022                               | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$ |
|           | PLACE                     | 999 W Union Rd<br>West Union, SC 29691 |                                                                                                                                                |
| SERVED ON | Foothills Assisted Living |                                        | MANNER OF SERVICE                                                                                                                              |
| SERVED BY | Isaiah Yoder              |                                        | TITLE                                                                                                                                          |
|           |                           |                                        | Kim Nichols, Office Manager                                                                                                                    |
|           |                           |                                        | Dupntu                                                                                                                                         |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

300 S Church St, Wainalla, SC 29691

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

### (c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254F (05/2015)

FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee

2022 JUL 11

P 1: 53

IN THE FAMILY COURT  
Circuit JUDICIAL CIRCUIT

Jirair Baghdassarian

Plaintiff,

SUBPOENA IN A CIVIL CASE

Judy Tupolo

vs.

Defendant,

Docket No. 2022CP3700157

TO: Donnie Wayne Adair and Foothills assisted Living, West Union, SC or whoever providing his care.

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case. goto www.sccourts.org/calendar/ -click "circuit" then

PLACE OF TESTIMONY  
Virtual courtroom backup motion roster presided by Judge  
Honorable R Scott Sprouse

COURTROOM virtual courtroom then Judge Sprouse's virtual  
courtroom

DATE AND TIME July 12, 2022 at 2:00 pm

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature  
Indicate if Attorney for Plaintiff or Defendant  
Attorney's Address and Telephone Number:

Date

Print Name

Melissa C. Burton  
Clerk of Court/Issuing Officer's Signature  
Provide Plaintiff's Name, Address and Telephone Number:

June 23, 2022  
Date

Melissa C. Burton  
Print Name

Jirair Baghdassarian 2580 La Cara Ave Las Vegas, NV 89121  
(702) 689-1459

Custodial Parent (if applicable):

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(8)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

# PROOF OF SERVICE

|                               |                                                      |                                                                                                                                                |
|-------------------------------|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| SERVED                        | DATE <u>7/8/2022</u>                                 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$ |
|                               | PLACE <u>999 W Union Rd<br/>West Union, SC 29906</u> |                                                                                                                                                |
| SERVED ON <u>Don Adair</u>    | MANNER OF SERVICE <u>personal</u>                    |                                                                                                                                                |
| SERVED BY <u>Isaiah Yoder</u> | TITLE <u>Deputy</u>                                  |                                                                                                                                                |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

300 S Church St Walhalla, SC 29909  
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

### (c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254F (05/2015)

FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee

IN THE FAMILY COURT  
Circuit JUDICIAL CIRCUIT

2022 JUL 10 P 1:52

SUBPOENA IN A CIVIL CASE

Jirair Baghdassarian

Plaintiff,

Judy Tupolo

vs.

Defendant,

Docket No. 2022CP3700157

TO: Donnie Wayne Adair and Foothills assisted Living, West Union, SC or whoever providing his care.

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

goto [www.sccourts.org/calendar/](http://www.sccourts.org/calendar/) -click "circuit" then  
virtual courtroom then Judge Sprouse's virtual courtroom

PLACE OF TESTIMONY Virtual courtroom backup motion roster presided by Judge  
Honorable R Scott Sprouse

COURTROOM DATE AND TIME July 12, 2022 at 2:00 pm

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PLACE OF DEPOSITION

DATE AND TIME

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I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature  
Indicate if Attorney for Plaintiff or Defendant  
Attorney's Address and Telephone Number:

Date

Print Name

Melissa C. Burton

June 23, 2022

Melissa C. Burton

Clerk of Court/Issuing Officer's Signature  
Provide Litigant's Name, Address and Telephone Number:

Date

Print Name

Jirair Baghdassarian 2580 La Cara Ave Las Vegas, NV 89121  
(702) 689-1459

Custodial Parent (if applicable):

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

# PROOF OF SERVICE

|           |                           |                                        |                                                                                                                                                |
|-----------|---------------------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| SERVED    | DATE                      | 7/8/2022                               | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$ |
|           | PLACE                     | 999 W Union Rd<br>West Union, SC 29691 |                                                                                                                                                |
| SERVED ON | Foothills Assisted Living |                                        | MANNER OF SERVICE                                                                                                                              |
| SERVED BY | Isaiah Yoder              |                                        | TITLE                                                                                                                                          |
|           |                           |                                        | Kim Nichols, Office Manager                                                                                                                    |
|           |                           |                                        | Dupntu                                                                                                                                         |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

ADDRESS OF SERVER

Isaiah Yoder  
300 S Church St, Wainalla, SC 29691

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

### (c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254F (05/2015)

FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee

2022 JUL 11

P 1: 53

IN THE FAMILY COURT  
Circuit JUDICIAL CIRCUIT

Jirair Baghdassarian

Plaintiff,

SUBPOENA IN A CIVIL CASE

Judy Tupolo

vs.

Defendant,

Docket No. 2022CP3700157

TO: Donnie Wayne Adair and Foothills assisted Living, West Union, SC or whoever providing his care.

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case. goto www.sccourts.org/calendar/ -click "circuit" then

PLACE OF TESTIMONY

COURTROOM

Virtual courtroom backup motion roster presided by Judge  
Honorable R Scott Sprouse

DATE AND TIME July 12, 2022 at 2:00 pm

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature  
Indicate if Attorney for Plaintiff or Defendant  
Attorney's Address and Telephone Number:

Date

Print Name

Melissa C. Burton  
Clerk of Court/Issuing Officer's Signature  
Provide Plaintiff's Name, Address and Telephone Number:

June 23, 2022  
Date

Melissa C. Burton  
Print Name

Jirair Baghdassarian 2580 La Cera Ave Las Vegas, NV 89121  
(702) 689-1459

Custodial Parent (if applicable):



(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(8)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

# PROOF OF SERVICE

|           |              |                                        |                                                                                                                                                |
|-----------|--------------|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| SERVED    | DATE         | 7/8/2022                               | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$ |
|           | PLACE        | 999 W Union Rd<br>West Union, SC 29906 |                                                                                                                                                |
| SERVED ON | Don Adair    |                                        | MANNER OF SERVICE                                                                                                                              |
| SERVED BY | Isaiah Yoder |                                        | TITLE                                                                                                                                          |
|           |              |                                        | Deputy                                                                                                                                         |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

SIGNATURE OF SERVER

300 S Church St Walhalla, SC 29909

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(ii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254F (05/2015)

FILED OCONEE COUNTY, SC IN THE COURT OF COMMON PLEAS  
JENNIFER C. BURTON  
CLERK OF COURT  
STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE  
C/A NO.: 2022-CP-37-00157  
JUL 22 11:25

Jirair Baghdassarian,

Plaintiff,

vs.

Judy Tupolo as Power of Attorney,

Defendant.

**AFFIDAVIT OF CATHERINE F KERR**

My name is Catherine F. Kerr. I am 73 years old. I am a retired medical transcriptionist and office admin. My current residence is Truckee, CA where I have resided for 31 years.

I, Catherine F. Kerr, swear that the information in my sworn statement is truthful to the best of my knowledge and understanding

## STATEMENT OF FACTS

### I. PROOF THAT JUDY TUPOLO IS ABUSING HER POWER OF ATTORNEY

- a. Judy Tupolo blocks Association members and friends of Don Adair from speaking with him.
- b. Judy Tupolo makes it impossible for Don Adair to tell his close friends of his confinement. She restricts his communications to those only who agree with her.
- c. Judy Tupolo will not allow Don Adair to give phone studies as he always has.
- d. Judy Tupolo attempts to turn his members against him by mocking and belittling him.
- e. Judy Tupolo thwarts all attempts by Association members and acquaintances worldwide to reach their leader and researcher.
- f. Judy Tupolo handles the funds of Don Adair and his Association as she wishes.

The following examples prove the above statements. Every example can be backed up by recordings (including transcripts) and documents.

In March 6, 2021, when Bro Don was giving a study, Sister Judy cut me out of the study. She did this numerous times when he was giving studies.

On April 30, 2021, I called Don Adair at the Association phone line, and he explained to me that Judy stopping him from giving studies, and that she was telling him that he was decrepit and could no longer give studies.

On May 20, 2021, On a phone call, Don Adair told me and Marie Bottig that Judy was trying to make him look bad to his church members, that she was trying to get his members to turn against him, and ruin his reputation as a teacher; and trying to get rid of him.

On a May 25, 2021 Don Adair told Judy Tupolo that she was bossing him around, and that he could not go anywhere freely. She yelled at him, saying that he was not giving her enough money. He told her plainly, "Everything I want to do, you oppose it."

On September 7, 2021 Tyrrell Jones and his wife drive from Quitman, Georgia to the residence of Don Adair at 144 N. Lindsey Pt., Seneca, South Carolina, and tells Judy Tupolo that he has come to visit and do a wellness check with Don Adair. Judy Tupolo prohibits him from speaking to Don Adair. Tyrrell Jones calls the police and, when they come, he says he's doing a wellness check; that he had promised Don Adair that he would never allow him to be put in a nursing home. The police talk with Don Adair, and relay messages back and forth between Don Adair and Tyrrell Jones, but they never facilitate the meeting of Tyrrell Jones with Don Adair.

{In a May 23, 2022 phone call with Jirair Baghdassrian, Don Adair explains that he had been prohibited from coming out of his room to speak with his friend and member, Tyrrell Jones.}

On September 7, 2021, Tyrrell Jones and his wife visited the bank where the Association funds had been deposited, and was told by the bank that Judy Tupolo had removed all the funds.

{In a May 23, 2022 Don Adair called Jirair Baghdassarian and told him that he had gone to the bank accompanied by Bro Kaka Anguera , checking to see how much money was in his account, only to find that there were no funds in the account. And the bank told him that Judy Tupolo had removed the funds.}

January 27, 2022 I called Don Adair at Foothills Asst. Living, and was told that I needed the code to talk to him.

January 31, 2022, I called Don Adair at Foothills Asst Living, and was told that I needed the code to talk to him.

On February 4, 2022, I called Don Adair at Foothills Asst living, and was told I needed the code to talk to him.

On February 7, 2022, I called Don Adair at Foothills Asst Living, and was told I needed the code to talk to him.

I was told that his POA has the code so that I could gain access to speak to Don Adair, and that I must get it from the POA.

On May 13, 2022, I received a call from Melissa Mueller, Don Adair's niece, that Sgt Jameson had contacted her about the whereabouts of Don Adair, and that the office was seeking to terminate the POA of Judy Tupolo.

On May 13, 2022 I called Investigator Jameson to report any information that I could supply about the whereabouts of Don Adair and Judy Tupolo. I was told that Don Adair had gone to the Pickens Fire Station and told them that Judy Tupolo had stolen money from him.

On May 23, 2022, Don Adair called Jirair Baghdassarian, and orally revoked the Power of Attorney of Judy Tupolo.

On May 23, 2022, Don Adair called Jirair Baghdassarian and told him that Judy Tupolo had stolen \$17,000 from one bank account, and \$103,000 from another bank account.

On May 31, 2022 Don Adair stated out carefully that he was driving from headquarters at 282 Davidian Way in Tammasee all the way to Clemson, his doctor's office (between Feb 2021 and May 2021), and that the doctor had remarked how impressive that was that he could drive that far. At that time, the doctor had no intention to revoke any driving rights

I'd like to reiterate the fact that in 2021 Judy was trying to get brother Don's right to drive taken away. He told us plainly that she would tell the doctor what to write down.

On June 2, 2022. Don Adair called Jirair Baghdassarian to tell him that Judy Tupolo had come into his room at the Foothills Assisted Living and stolen his notes and his papers, and she told Don Adair that she is his nurse, and that Jirair Baghdassarian is his enemy.

## **II. PROOF THAT JUDY TUPOLO IS FINANCIALLY ABUSING DON ADAIR.**

- a. Judy Tupolo has been collecting the tithes sent from members worldwide, members, who have great respect for Don Adair. She does with these funds as she pleases.
- b. Judy Tupolo has removed the \$103,000 of savings that Bro Don's association had submitted through the years. These funds were always to be used for his retirement.
- c. Judy Tupolo has collected his Social Security as she pleases.
- d. Judy Tupolo has demanded to be paid by Don Adair \$1,000 a month to care for him, even though members have testified that she does not get along with him, argues with him all the time, and makes sure to put him in a different rental property or facility so that she does not have to talk to him.
- e. Judy Tupolo has free use of his credit card, and can charge for extra needed funds.

The following examples prove these statements, and I have recordings and transcripts of these recordings.

On February 14, 2019 I observed that the funds arriving at Bro Don's Association were \$10,000 a month. This was the amount that he was receiving. To this day, no one has been shown by Judy Tupolo how and where she has been spending this monthly income that is part of Don Adair's members' tithe payment.

On May 25, 2021, Don Adair said that Judy had been paid \$1,000 per month to take care of him, and that she was demanding more and that she was also spending \$400 a month off of his credit card. On this same recording, Judy Tupolo told Bro Don that he had left all of his money to the Association, and not to her, and that he had left nothing to her in his will. She complained that that was very "selfish".

On September 27, 2021 Tyrrell Jones explained about his visit to the bank where he and his wife were on a joint account with Don Adair and Judy Tupolo. Without consulting Jones, his wife, or Don Adair, Judy Tupolo had taken the funds out of the account.

## **III. PROOF THAT JUDY TUPOLO IS EMOTIONALLY ABUSING DON ADAIR.**

- a. Judy Tupolo hates Don Adair with the worst form of envy and strife. Those who have been around her have noted her mistreatment of Don Adair. Her aim is to belittle him, undermine his authority and take over his Association assets so that she can run it all herself.

- b. She feels that she has been appointed of God to run the Association, and she uses her dreams to tell her followers what will happen next. They blindly follow her. It is Judy's aim to push Don Adair aside, and to discredit his closest friends and allies.
- c. She has threatened him that she will lock him up in a nursing home so that he can never come out. Any time he questions her authority or disagrees with her about the smallest thing, she will threaten him with his greatest fear — being locked up where he can no longer have access to friends.

From April 29, 2019 to May 20, 2019, I received very rude messages from Judy Tupolo accusing me of stealing money from Don Adair's association, and of trying to take over the Association. She continually accused me to Don Adair, and made up lies about me to the other members, so that only a few trusted me. Since I was a very close friend to Don Adair, it was in her self-interest to ruin the reputation and credibility of Don Adair's closest friends. This was very damaging to him emotionally, as he no longer had access to his confidants.

On March 31, 2021 I called Don Adair, and he told me that Judy is telling him he is "old and decrepit" and cannot give studies.

On May 25, 2021, Judy Tupolo is heard yelling at Don Adair in disgust and disdain.

On September 7, 2021 Tyrrell Jones explained that Judy Tupolo hates Don Adair and mistreats him continually. He further stated that Don Adair had drawn him aside, and begged that he would never let him be put in a nursing home. He further explained that Don Adair told him that, even if he requested ripe avocado for his food, and objected to the unripe avocado, that she threatened to "throw him in a nursing home".

### IN SUMMARY

I have been a very close friend and associate of Don Adair, and was appointed to his Executive Council in February 2019. Up until the time of his wife's death in October 2018, and in the months thereafter, I spoke with Don Adair at least 3 or 4 times a week. When he was troubled about tithe money being stolen from his mailbox, he decided to send the tithe money to me to keep so that I could keep it for him. He sent it on January 27, 2019. I received the funds and kept it for him until I saw him in February 2019 when I returned it to him. The reason I have made this statement is to show that I am a very trusted friend of Don Adair. Everything that I have stated here is to prove that Judy has illegally sought to have control over Don Adair and his Association, and to marginalize anyone, such as myself, so that she does not have to give account for her actions. It was

very important for her to marginalize me since she knows I keep good account of everything,

From January to June 2022, Don Adair has continually sought the help and legal guidance of Jirair Baghdassarian in matters having to do with Judy Tupolo and the POA. Mr. Adair is earnestly seeking to free himself from her, and is constantly stating that the police and the judge must hear these things. It has been Judy's intention to discredit Don Adair, and his personal and professional needs.

Mr. Adair is a writer and publisher of many books. He is sought out worldwide for his knowledge of the prophecies in the Bible, and he is being prevented from speaking to thousands of members who look up to him.

It is my hope that the Honorable Judge recognizes the status of Jirair Baghdassarian in this most important case so that the legality of the medical and legal Power of Attorney of Judy Tupolo is brought into serious question, that it may be suspended for a period of time so that this matter can be more deeply looked into.. It is my final aim that it should be entirely revoked.

I, Catherine F. Kerr, once again swear that the information in my sworn statement above is a complete representation of the facts to the best of my knowledge.

Respectfully submitted by

Catherine F. Kerr July 19, 2022  
Catherine F. Kerr





# ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Nevada }

On 07/19/2022 before me, Diana Judith Vazquez, Notary Public,  
(Here insert name and title of the officer)

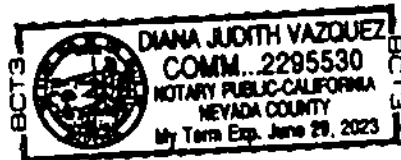
personally appeared Catherine F. Kerr  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Diana Judith Vazquez  
Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit of Catherine  
(Title or description of attached document)

F. Kerr  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

### CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)  
☐ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE  
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE**

**CASE NO. 2022- CP-37-00157**

JIRAIR BAGHDASSARIAN

JUDY TUPOLO AS POWER OF ATTORNEY,  
ET AL

PLAINTIFF

DEFENDANT

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:** ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

**ORDER INFORMATION**

**THIS CASE IS CONTINUED TO THE MAY 31<sup>ST</sup> TERM OF COURT. MR. BAGHDASSARIAN AND THE CLERK'S OFFICE TO SERVE MS. TUPOLO NOTICE OF THE HEARING.**

This order ☐ ends ☒ does not end the case.

| INFORMATION FOR THE JUDGMENT INDEX                                                                                                                                                                           |                                          |                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------------------|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. |                                          |                                                          |
| Judgment in Favor of<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|                                                                                                                                                                                                              |                                          | \$                                                       |
|                                                                                                                                                                                                              |                                          | \$                                                       |
|                                                                                                                                                                                                              |                                          | \$                                                       |
| If applicable, describe the property, including tax map information and address, referenced in the order:                                                                                                    |                                          |                                                          |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

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**ATTORNEY(S) FOR THE PLAINTIFF(S)**

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**ATTORNEY(S) FOR THE DEFENDANT(S)**

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**CLERK OF COURT****Court Reporter:**

**E-Filing Note:** In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Oconee Common Pleas

**Case Caption:** Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,  
defendant, et al  
**Case Number:** 2022CP3700157  
**Type:** Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

## Amanda Watkins

---

**From:** gerard b <jirairb@hotmail.com>  
**Sent:** Thursday, May 26, 2022 5:07 PM  
**To:** Amanda Watkins; lmcintosh@sccourts.org  
**Cc:** Catherine F Kerr  
**Subject:** Objection for case 2022CP3700157

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

5/26/2022  
Continuance

To the honorable the judge Lawton McIntosh presiding over the above case:

I hereby, Jirair Baghdassarian, contest the granted request for continuance by Judy Tupolo to postpone the hearing from June third to a later date.

Judy is attempting to waste time and has no reasonable reason to request any later date.

The case is, in fact, undeniable and did not even be taken by the court as it derives from the natural, civil rights of freedom any citizen is born with, and any human being should be born with.

What I do not understand is why the law enforcement is letting her get away with her infringement on his rights and are not doing anything to protect this man's freedom.

Judy Tupolo texted me in January and became aware of my request to speak to Don Adair.

It is beyond reasonable to have to file a civil case in hearing so I could simply talk to my friend and elder, Don Adair.

I have tried many times to solve things peacefully with her, either directly with her or through other mediators such as her daughter or people who knew her. It was useless.

What Judy is doing is a blatant infringement on SC and US law and on human rights. Being a power of attorney does not make her a guardian. If Don Adair was mentally incompetent, she had enough time to take him to be seen by the court to decide his mental capacity. I have recordings from Don Adair talking to me, mentioning that he is not even aware that he gave her any Power of attorney privileges. He requested any power of attorney he granted, providing he did so, that they would be rescinded and revoked.

I am not really asking much more than talking to Don Adair so he could sign his request in written legally in the presence of witnesses.

Don Adair is not a minor and is not mentally incompetent. I have talked to him twice on the phone and can witness under perjury that he was alert and oriented to self, to person, to the situation, and to time. He had a relatively good memory for a 90 years old man who had previously suffered from a TIA and who was being medicated with unknown medication.

I had the recording from May twenty-third when he called me in distress, asking me to take him out of the facility and deliver him from Judy's hands, whom he is accusing of stealing him. If you wish to, I can send you a copy of the recording so you can listen to it.

I do not see why no civil authorities have not defended Don Adair's rights against her abuse before. It is undeniable that the man has the right to make decisions, and this has been deprived of him simply because he signed a document he did not understand, giving her agency to act on his behalf when he is not able to. TH power of attorney document is not a transfer of legal or civil rights from the principal to the agent. It simply places the agent under the service of the principal, not vice versa.

If Don Adair did not have friends like me or others to advocate for him, no one would have done so till now.

Judy is simply wasting time because she knows Don Adair is deprived of his rights and because he does not trust her. His voice has not been heard so far, nor has anyone consulted him. He is being treated like an inmate, and no one is listening to him.

The situation cannot wait anymore. I am not sure what she can do by wasting time the way she is. I kindly request your honor not to grant her any means to waste time and keep Don Adair.

I would also like that the hearing has already been postponed once because Judy has not replied by returning the green card sent to her by the court to inform her of the date. She was informed more than a month ago about the date, and she decided to ignore it. She had enough time and noticed to be ready by the last hearing, and now that the hearing has been postponed, she is trying to find any chance possible to keep the status quo on her behalf by keeping Don Adair deprived of his liberty. It would be inhumane to postpone this situation any longer, and I request that her petition be denied and that the hearing remain as scheduled on Friday June third, 2022.

Thank you very much and sincerely yours.

Jirair M Baghdassarian

COMMON PLEAS  
SOUTH CAROLINA OCONEE COUNTY

Jirair Baghdassarian

2022-CP-37-00157

Plaintiff

-VS-

Judy Tupolo

Defendant

**AFFIDAVIT**

I, Kevin Mueller, of Walhalla, in Oconee, South Carolina, MAKE OATH AND SAY THAT:

1. While acting as the Durable Power of Attorney for Don Adair, Judy Tupolo has neglected her duties in the handling of the probate case resulting from the death of his wife, Marilyn Adair in November of 2018 of which I am her heir. She has not been willing to work with attorneys involved in this case nor has she cooperated with the requests from the probate court in which nothing was to be removed from the property. Her continued refusal to even show up at probate proceedings has caused many extensions in this case and has cost both the court and myself time and money in each extension that has been required by her absence. Mr. Adair is my uncle. I enjoyed a long and healthy relationship with him throughout my life. After my aunt Marilyn passed away, Judy made unfounded and unproven claims that I was taking advantage of Don, and in his confused and greiving state, she convinced him to take a no trespassing notice on me and publically accused me of stealing from him. When she became his POA, she completely isolated him from me and the rest of his family, the next of kin. She has not acted in the best interest of my uncle, neither financially or personally. As his next of kin, I cannot even call and speak with my uncle.

2. As the next of kin to Don Adair, I am asking for the court to appoint a guardian ad litem or a social worker to make sure that my uncle is being cared for and not being misused in any way.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

SUBSCRIBED AND SWORN TO BEFORE ME,

on the 29<sup>th</sup> day of July,  
2022

Signature

(Seal)

NOTARY PUBLIC

My Commission expires:

9/29/26

Mary Lee Robinson  
Notary Public, State of South Carolina  
My Commission Expires September 29, 2026

Kevin Mueller

(Signature)

Kevin Mueller



|                                   |   |                              |
|-----------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS |
|                                   | ) |                              |
| COUNTY OF OCONEE                  | ) | C/A No.: 2022-CP-37-00157    |
|                                   | ) |                              |
| Jirair Baghdassarian,             | ) |                              |
|                                   | ) |                              |
| Plaintiff,                        | ) | <b>ORDER OF DISMISSAL</b>    |
|                                   | ) |                              |
| vs.                               | ) |                              |
|                                   | ) |                              |
| Judy Tupolo as Power of Attorney, | ) |                              |
|                                   | ) |                              |
| Defendant.                        | ) |                              |
| _____                             | ) |                              |

This action was initially filed by the Plaintiff in Probate Court in an attempt to remove the Defendant as Power of Attorney for Donnie Wayne Adair. The case was then removed to the Court of Common Pleas and motion was made by Plaintiff for a Temporary Restraining Order against the Defendant restraining her from carrying out her duties as agent for Donnie Wayne Adair. The initial Motion Hearing was held before me as a virtual hearing on July 11, 2022. Present was Plaintiff and W. Trey Merck, attorney for Defendant.

After the hearing, I took the matter under advisement and decided to appoint a *Guardian ad Litem* in the matter, therefore by Order of August 1, 2022, I appointed TJay Bagwell, Esquire, as *Guardian ad Litem*. Mr. Bagwell looked into the matter and reported his findings in a Report filed on September 20, 2022. Another hearing was scheduled and held virtually on October 25, 2022 at 11:30am. Present was Plaintiff and W. Trey Merck, attorney for Defendant, along with TJ Bagwell, Esquire, as *Guardian ad*

*Item.* The Court heard from Mr. Bagwell and also heard from the parties. The Court took the matter under advisement.

After hearing arguments of Plaintiff and Defendant's counsel and considering the evidence in the case, I make the following Findings of Fact and Conclusions of Law:

Judy Tupolo has served as the agent for Donnie Way Adair involving the financial, legal and health care decisions related to the principal through a Durable Power of Attorney and a Durable Health Care Power of Attorney. Both of these documents were executed on July 27, 2020, and the Durable Power of Attorney was recorded. It appears that Mr. Adair has been well-taken care of by Judy Tupolo. There is evidence to suggest that Mr. Adair may be incapacitated, however the proper medical evaluations have not been performed, and a petition for conservatorship and/or guardianship have not been filed. There is enough question about Mr. Adair's capacity that his alleged verbal revocation of the Powers of Attorney cannot be accepted at this time. Plaintiff's formal allegations are vague and not credible. The financial allegations do not involve the personal funds of Mr. Adair, therefore this issue is not properly before the Court or involved in the Petition filed by Plaintiff.

This action is strictly governed by the South Carolina Uniform Power of Attorney Act as set out in *S.C. Code of Laws Ann. § 62-8-101, et seq.* As such, Plaintiff must prove that he has standing to bring an action under this Act by showing that he belongs to one of the classifications set out therein. Plaintiff is just an acquaintance of Mr. Adair who is not in a position to care for Mr. Adair or manage his assets, and he has failed to make such proof that he fits one of the classifications of the Act. Mr. Merck made motion

at the July 11, 2022 to dismiss the Petition of Plaintiff, and it appears that this relief is proper. Further, the Court notes that a fee affidavit totaling **\$2,670** was submitted by Mr. Bagwell for his work as *Guardian ad Litem*.

**THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:**

Defendant's motion to dismiss the Petition is granted, therefore this action is dismissed, with prejudice. The *Guardian ad Litem* fee shall be split evenly between the parties, requiring each side to remit **\$1,335** to Mr. Bagwell.

**IT IS SO ORDERED.**

---

R. Scott Sprouse  
Circuit Court Judge

Walhalla, South Carolina  
November \_\_\_\_, 2022



Oconee Common Pleas

**Case Caption:** Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,  
defendant, et al  
**Case Number:** 2022CP3700157  
**Type:** Order/Dismissal

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

This is the 3rd Affidavit of Catherine F Kerr  
In favor of the Plaintiff.

|                                   |   |                                      |
|-----------------------------------|---|--------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS         |
|                                   | ) |                                      |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157            |
|                                   | ) |                                      |
| Jirair Baghdassarian,             | ) |                                      |
|                                   | ) |                                      |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF CATHERINE F KERR</b> |
|                                   | ) |                                      |
| vs.                               | ) |                                      |
|                                   | ) |                                      |
| Judy Tupolo as Power of Attorney, | ) |                                      |
|                                   | ) |                                      |
| Defendant.                        | ) |                                      |
|                                   | ) |                                      |

FILED OCONEE COUNTY, SC  
MELISSA C. BORTON  
CLERK OF COURT  
2022 NOV - 8 A 8:18

My name is Catherine F. Kerr. I am 74 years old. I am a retired medical transcriptionist and office admin. My current residence is Truckee, CA where I have resided for 31 years.

I, Catherine F. Kerr, swear that the information in my sworn statement is truthful to the best of my knowledge and understanding

1. We have some very deep concerns about the health (both mental and physical) of the defendant, and her capacity to carry on her pseudo-role of POA.
2. The Defendant's ongoing MS causes her fatigue. She is known to take long naps in morning or afternoon due to this disability. Therefore it necessitates that she would not be available for full time care since she has trouble being able to care for herself.
3. The Defendant's diagnosis of cancer in the November 2019 necessitated her travel for treatment and remain in Texas for the next year and a half. (Except for a brief return for 3 weeks to establish POA over Donnie Wayne Adair.). During that time, according to her daughter, she went down to 90 lbs, her daughter was there for her, keeping her mother alive, and the Defendant was restricted to wheelchair for travel.

Copies to:

Atty (P) (D)  
DSS other Kerr  
Mailed ☒ Boxed ☐ handed ☐

ENTERED  
aw  
COMPUTER

4. The Defendant's claims (and subsequent report to the Guardian Ad Litem) that she has taken care of Don Adair for 4 years are unsubstantiated. We are concerned that she is giving false statement to the Guardian Ad Litem, and that her daughter Alexia is trying to cover, making conflicting statements. We know that one or the other or both are lying since the statements do not agree.

To clarify,

**2019 - Don Adair took care of himself.** Judy came to his office from time to time (between April and November) to ostensibly take care of office work (opening mail and receiving and recording tithes). She was not his caregiver. She was pushing herself on him at the time, and strategizing her takeover of Association funds and friends, by cutting off his close friends from communication with him. We don't see this as nurse or caregiver; we see this as cunning strategizer and usurper, the very role that Don Adair warned so many members about.

**2020 - Don Adair took care of himself.**

Defendant came to South Carolina for 3 weeks to coax Don Adair to sign POA, and left to return to Texas.

**2021 - Don Adair took care of himself from Jan to April.**

We also understand that from June to September, Don Adair could not live in the Seneca rental which was selected for his safety and comfort since Defendant, and her daughter, and her daughters husband were living there. So, what was supposed to be Don Adair living quarters was actually taken over by the Defendant and extended family. The Council at that time protested this mistreatment of Bro Don, and also kept on requesting that Don Adair have a cell phone. Because the Defendant did not agree with the Council, she dissolved it, digging up some old by Laws, applying certain by laws (council only elected from the field) while ignoring other bylaws (that officers must reside at headquarters). From September to December, Defendant was living in home with Bro Don, and then, because of her high level of exhaustion, she was told by her daughter to put him in Assisted Living.

**2022 - Don Adair was in Assisted Living from Jan to June** and was only removed from Assisted Living because of this ongoing Court case questioning the POA. Our phone call from Don Adair in January was recorded, and he complained that he did not want to be in Assisted Living, that Judy had left him there, and that he didn't know where she was (she had taken off for Texas again, and remained there until June). He said he didn't know if she was dead.

5. The Defendant's diagnosis of PTSD due to past trauma (whether in the military or elsewhere) has prevented her from being able to properly administer the legal responsibilities in relation to Donnie Wayne Adair, and especially in the case in the

Probate Court of Oconee County (Don Adair vs. Kevin Mueller) having to do with his deceased wife's estate. This matters have been pending for 4 years, due to the negligence of the Defendant.

6. The Defendant's self-appointed prophetic gift of dreams has affected decisions of the organization and her personal life. She has become a danger to the members of Don Adair's association because she has them believing in her dreams, and following her directives, thus making the Board fake and a puppet board, gleefully following her whims. Her self appointed status as Secretary and Treasurer bespeaks a kind of ignorance in Corporate matters, and the appointment to the Board of so many Assistant Vice Presidents is a custom to attract more position seekers, the very thing that Don Adair warned against.

7. The Organization's new Vice President has been selected and voted in due to the Defendant's dream.

8. The Defendant specifies that she has been "called by God" to be Donnie Wayne Adair's caregiver and nurse, totally disrespecting his wishes and desire.

9. Donnie Wayne Adair has clarified that he has no desire to have the Defendant as he caregiver nor his nurse. He has further testified that she has used such terms as "caregiver" or "nurse" to influence and sway people to listen to her rather than to him.

9. The Defendant has successfully lead a campaign of mudslinging and character defamation against some of Don and Marilyn Adair's most trusted and dearest friends from 2019 to the present. The fake Board has given license to her mistreatment and lies about former members and non-members. Rather than object to this misinformation or attempt to verify it, they blindly follow her sinister authority.

10. To further destabilize the situation, the Defendant has falsely accused this writer and close friend of Donnie Wayne Adair (Catherine KERR) of:

- Stealing funds from the Association;
- Trying to usurp and take over the Association;
- Trying to put my name on the bank accounts;
- Trying to destabilize the work in Zambia;
- Spreading rumors about Donnie Wayne Adair dying;
- Attempting to set up Donnie Wayne Adair's Last Will and Testament, where any funds of Donnie Wayne Adair or the Association would be coming to me.
- Trying to gain notoriety, wealth, and power by freely distributing the recordings of Don Adair studies.

These falsehoods are unsubstantiated, and yet her bogus Board continues to allow her to do this, without rebuking her. Thus they become partners in her lies. Most of these accusations fall right on her, because these are all the things she has done.

11. The Plaintiff, Jirair Baghdassarian, is not involved with Salem Association. He is not a member of any Davidian Association. He is an independent SDA and Davidian. He is a very active member of the Abundant Life SDA Church in Las Vegas. He distributes bread to the homeless. Just because he distributes bread to the homeless does not make him their caregiver.

In conclusion, the purpose of this Affidavit has been to substantiate that the Defendant has not been a caregiver for Don Adair for years, which is contrary to what she told the GAL. Further, the Defendant has been falsifying information to the Court and to the GAL in her statements, and her statements conflict with her daughter's statements. We further believe that that Defendant is not physically nor mentally capable of POA responsibilities, nor has she ever been. She has not adequately performed responsibilities of POA, and has further falsified information just so that it appears she is doing a good job.

I, Catherine F. Kerr, once again swear that the information in my sworn statement above is a complete representation of the facts to the best of my knowledge.

Respectfully submitted by

Catherine F. Kerr November 1, 2022  
Catherine F. Kerr

SEE LOOSE  
CERTIFICATE ATTACHED



# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Nevada

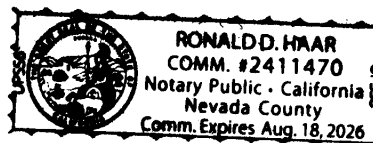
Subscribed and sworn to (or affirmed) before me on this 2<sup>nd</sup> day of November,  
2022 by Catherine F. Kerr

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Ronald D. Haar

Signature

(Seal)



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit of

(Title or description of attached document)

Catherine F. Kerr

(Title or description of attached document continued)

Number of Pages 4 Document Date 11/2/22

Additional information

## INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.

|                                   |   |                                          |
|-----------------------------------|---|------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS             |
|                                   | ) |                                          |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                |
|                                   | ) |                                          |
| Jirair Baghdassarian,             | ) |                                          |
|                                   | ) |                                          |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF Jirair Baghdassarian</b> |
|                                   | ) |                                          |
| vs.                               | ) |                                          |
|                                   | ) | Plaintiff                                |
| Judy Tupolo as Power of Attorney, | ) |                                          |
|                                   | ) |                                          |
| Defendant.                        | ) |                                          |
|                                   | ) |                                          |

*I swear under penalty of perjury that the below statement is true and accurate to the best of my knowledge.*

Comes Now.

We appreciate Mr. Bagwell's GAL and appreciate his opinion on the matter. However, he admitted he is not a physician nor an expert on the matter of dementia or cognitive, neurological, or mental illnesses.

We want to confirm our willingness to take all the recommendations mentioned in the GAL report very seriously. We have chosen a location for Don Adair where he will have 24 hours supervision and where he can be happy with minimal possible restrictions and maximal opportunities. We believe that the facility where he was staying, Foothills Assisted Living has taken very good care of him and since it is the closes at this moment, and since he has spent time in it, made acquaintances, and since staff and people seem to love him and care for him there, we believe that it would be a primary choice for him to return there at this moment. The difference is that when we become his caregiver, he will have more freedom to speak and communicate and have less restrictions over his personal and private affairs. His dignity will be saved from humiliation. He will be able to use whatever remaining faculties he still possesses safely. Our second choice would be a location of a sister religious association with similar beliefs where he will be very respected. Don Adair helped establish this Association and has spent some of his early career years in it, being mentored in the faith. He can practice his religious beliefs and fellowship with other people of similar beliefs. Donnie can still study and teach as much as he is able. He would not have to drive, and someone else would be driving for him when needed.

We want to emphasize the many positive things that Mr. Bagwell mentioned in his report as follows:

- Don Adair gets around well for his age.
- He exhibits a great deal of retention of his Biblical knowledge, which means he is still capable of providing Bible study and influencing people.

- He associates many memories, proving a very good long-term memory for his age.
- The encounter reminded him of his early years of Alzheimer's illness.
- He had 25 000 to 33 000 in social security earnings. We do not know what happened to that.
- Donnie has savings, a car, his personal property, and copyrights of his books. We know that she is selling the books and appropriating the money, and her website proves this. We have been told that she has also transferred the van's ownership to her daughter's name. She uses his personal property as the headquarters of the business she runs. She is admitting she is personally appropriating the money, such as using it for a luxurious renovation of her residence.
- Donnie is upset about Judy because she gives him many orders.
- "The Plaintiff, Jirair Baghdassarian, (Gerard) has professional experience with memory care patients. He is some sort of psychologist or psychiatrist that helps with care and diagnosing patients. Gerard is a long-time member of the Association and has met Donnie on several occasions."
- "Gerard's respect for Donnie is over-flowing, he sees Donnie as a preeminent teacher among the Association and has listened to Donnie's lessons as recently as this Spring. Gerard expressed that he has the time, desire, and resources to care for Donnie."
- Mr. Bagwell has found it evident that Plaintiff does not have malicious motives in talking to Don Adair or seeking to release him from Judy's control except for overflowing respect. Moreover, Mr. Bagwell has "no hesitations about Gerard possessing the desire and the resources to care for Donnie."
- Mr. Bagwell gives Plaintiff credit for his willingness to defer to a man with whom he does not have a family relationship.
- "Donnie still has the capacity to teach because his long-term memory is good".
- "Judy has used money that wasn't hers to the tune of \$100,000 or more. She admitted it to me, and I'm treating it as fact. There are plenty of other accusations that have been thrown at her: tithe money still coming in, a van she put in her daughter's name, Donnie's social security, just to name a few."
- "Gerard [Plaintiff]... seems to genuinely care for Donnie and wants to protect him from further humiliation by giving him back as much of his life as he can."
- "Judy took control of the Association"
- "Donnie lapses into frustration when talking about his relationship with Judy"
- "Donnie's long-term memory is still good and probably better than most." Consequently, Don Adair should still have enough memory to maintain his character and decision-making capacity, enabling him to understand who likes him and who does not. Long-term memory allows him to decide with whom he wants to live if he receives 24 hours assistance. he should remember who is or is not trustworthy to run the Association and the financial usage he toiled for 50 years long.
- "Donnie is in the beginning stages of a disease" meaning cognitive. If Don Adair is at the beginning of that stage, he should have at least 80 % of his faculties.
- "Without discovery and sworn testimony, I do not know if anyone will ever know the depth of Donnie, Marilyn, Judy, and the Association's financial mess." In other words, sworn testimony and further investigation are needed to know what financial mess Judy has inflicted on the Association. She admitted she took over \$100 000 to use for personal benefit when she was not the one that toiled for this money that accumulated from 50 years of Don Adair and his wife Marilyn toiling and gathering.

- Mr. Bagwell has understood that Don Adair did not appoint himself a salary. Whether the way he worked was logistically appropriate or not, he still ethically had the right to a salary from and from retirement from that money which she deprived him of while placing him in a rest home and not being supported by this money. We do not know what is paying for the rest home, but we suppose maybe private insurance or Medicare or part of his social security.

Plaintiff would like to clarify certain things that may be misunderstood.

- When Mr. Bagwell asked us if we believed Don Adair could drive, we answered that it was impossible to know from a distance. It is an assessment that should be done in person, and he should be taken to a physician to check his abilities for driving. Some things are impossible for us to know unless we assess a patient in person and for several days, if not weeks. Judy is not allowing any of that. She has held him hostage and made unilateral decisions against his will that we suspect are not for his benefit but rather to cover up her financial and emotional abuse and her control over the Association. We assure Mr. Bagwell that we are willing to comply with his recommendations on the matter.
- We also want to clarify any misunderstanding about allowing Don Adair to do what he wants. We meant that he should be regularly assessed by medical providers for his cognitive faculties and should be allowed to make decisions whose nature and consequences he understands without compromising his safety.
- The report leaves some questions that need to be answered, and since Judy's references have been widely used to expose her views on the matter, we would like to expose the other view.
- The issue between Don Adair and Judy is not simply about placing him in an assisted living facility. It goes beyond that. He has often been complaining about how condescending and abusive she was emotionally and spiritually with him. He is also aware that she is financially exploiting him and that she has illegally and illegitimately taken over the Association while depriving his followers of contacting him to have his opinion about the matter. We believe that Judy knows that the moment Don Adair speaks out, she will be exposed to the illegitimate takeover she has done, threatening all the financial and spiritual abuse she is committing. Including appropriating the \$104 000 that Don Adair has been gathering for 50 years to waste on a selfish, luxurious personal property renovation.
- Although Don Adair may not possess executive faculties to administrate an association yet, according to the GAL report, he still retains enough memory and intellectual power to teach Bible studies of spiritual values. That means that the report admits that Don Adair is still a teacher and still retains the faculties of a religious teacher that can influence the people in the Association. That is why she depicts him as mentally disturbed or ill, convincing members that his opinions should not be considered. That is why she is depriving him of all visits and social contact with the people of the Association, including board members and a former vice president.

- We believe we can take much better care of Don Adair than Judy. She may have provided him with his minimal physical needs. However, she did so by letting other people care for him, such as medical professionals, like his friend Alyssa Peters or the assisted living facility. She did not spend much time with him till this lawsuit happened, and she would spend most of her time in Texas having cancer treatments. Life is more than physical needs. Judy humiliated Don Adair and the report says truly that Plaintiff is trying to save him from humiliation. She neglected and abused his emotional, spiritual and social needs and trampled on his dignity.
- We have been told that she has been diagnosed with cancer and that she may have a terminal that will not enable her to take care of him much.
- The cost of his care was not from the association fund; it should have been so, and it was neither from her pocket nor from his. So, Judy did not take care of him besides spending a few months with him, which seemed catastrophic and made him miserable.
- I can testify that Judy was restricting him from having private phone calls and visit from his dear old friends, as I have testified in my former affidavit. I think enough evidence has been brought to court, including affidavits and audio recordings.
- It is not true that Judy is making a sacrifice to help Don Adair nor that she is carrying a burden.
- I have heard from others who formerly lived with Don Adair and observed how she was taking care of him. I was told that she would not even cook. She would order food, again from his money, which anyone could do on the phone. He did his laundry. When we called him in 2021 to check on his health, we even found out that he had swelling and was neglected for it. She was not even taking his vital signs. If this were care, it would be a poor quality of care.
- It is also not true that Judy worked or is working for free.
- Besides money and valuables disappearing, we must investigate how is his social security being spent and the part of the tithes that should be set aside for his retirement, a worker that established and built and saved for the Association for over 50 years should be entitled for retirement. What is clear is that she would not have cashed the \$104 000 if Don Adair had been able to speak up and warn the association members of her abuse.
- Judy has not made noticeable adjustments in her life to caring for Don Adair. She has neglected him for the care of others and left him miserable. When I called him in January, he told me that he had no idea where Judy was, which meant there was no contact between them. And when she was staying with him, it was even a greater catastrophe as it made him so miserable that he felt he admitted to Mr. Bagwell that he lapsed into frustration. Judy only made some adjustments in her life and took him back to her house after this motion had reached a late stage. She did so because she feared that otherwise, she might embarrassingly lose her case. The court knows he has been in an assisted living facility for a very long period because she did not want or could not take care of him. She planned to leave him there till he dies, as Don Adair testified on the recordings. She moved to South Carolina because of free rent and free home expenses paid by the Association. She can now enjoy a luxury home for free under the pretext of caring for Don Adair and because she is near the original headquarters of the Association that she has been plundering and financially exploiting for personal gain, as attested by the Gal report. Until this motion reached its late stages, Don Adair had probably not spent more than six months in that home.
- If the issue with her was only about her placing him in assisted living, then why is he still complaining about her, although she took him out?

- We believe that whatever adjustments Judy has made sure to take recently is to be short-lived as it is not sincere, and they came about only when she felt threatened by losing control over Don Adair's legacy and assets.
- The report has many answers but also leaves many accusations unanswered, such as stealing his private documents from him, the use of his social security, former credit cards, sale of his books, tithe money, the disappearance of valuables such as his \$14 000 printer, the disappearance of his dog and violin.
- As power of attorney, she should have consulted Don Adair concerning decisions when she did not.
- She did not act in the best of his interest.
- She deprived him of impartial legal advice.
- Out of desperation, after Marilyn died, Judy manipulated and decoyed Don Adair by acting as if she liked him, rubbing his feet at late hours of the night, stroking his cheeks, and playing with his hair, then accusing him of harassment. Don Adair was seduced into asking to marry her, but she refused, as attested by GAL report. Moreover, later when he understood her games, he said he would refuse to marry her even though she was the one who asked for marriage. It was too late when he realized that she was conning him. What would a woman who refused to marry a 90-year-old man and was flirting around with him and accusing him of sexual harassment do at a late hour of the night, being alone with him dressed lightly and indecently?
- Also, Judy took advantage of the fact that he was recovering from a transient ischemic attack and unable to understand what he signed to make him sign a power of attorney document he did not understand and used this document to serve herself mainly with minimal, if any care toward Don Adair.
- Judy was never promised any compensation to take care of Don Adair, and she decided to do so by imposing herself on him. She made him sign a POA when he was in a situation not understand what he signed, and he stated that she told him that "God told her that she is his nurse". So, she acted unilaterally and imposed herself on him, and her imposition negatively affected Don Adair. It deprived him of getting better care from other people such as us and others of his friends. It deprived him of happiness and caused him much frustration. She has no right to ask for any compensation of any kind. I have heard from Don Adair and other witnesses that she was using his credit card for personal use. Don Adair also accused her of using his social security. She was renting for herself from the tithes money that Don Adair's followers were sent to support a minister such as Don Adair partially so she would take care of him in that house. Instead, she used the money on herself and her friends while Don Adair barely stayed in that house for a few months, probably less than six months, until this motion was filed. She would place him with other people and spend the money on herself. Just the rental for the house was \$1800 a month, not to mention utilities and other expenses. Suppose she says she has a house in Texas. Why is it then that she is renting a house in Seneca with a presupposed office for Don Adair, the teacher and former manager of the Association when Don Adair is not even enjoying or living in that house?
- Stating that Judy has perfect authorization from the Association's board to make full use of the money exposes that so-called board as illegitimate and highly questionable. The report realizes that Judy has taken over the Association. The word "took over" says a lot. Either the Association belongs to its members and must follow a charter according to regulation presented to the

state, or whatever it does would be illegal or illegitimate. The problem is that were the members aware of what is happening; they would not be sending tithes anymore. However, because she has held Don Adair hostage and deprived him of speaking, she could deviate the tithes money from him to her. It is another means by which Judy has abused her power of attorney over Don Adair to declare him incompetent and incapable of making decisions, stealing his decision-making capacity and deviating to herself the money that would typically flow to the Association, contributing to his retirement money.

- The report admits well that all association members still have appreciation and esteem toward Don Adair. Why isn't she allowing him to speak then? All her occult behavior is a suspicious cover-up for her abuse and financial exploitation. In other words, she uses his name and fame for her own benefit.
- The difference between Don Adair's management of the Association and Judy's management is more than the length of time by which the money was used. Don Adair made the Association, and every member can testify of that. Don Adair gathered the money and built the resources when she depleted them. Adair has a reputation for attracting the tithes, while she does not. She needs to keep him hostage to benefit from his name and fame. That is financial, legal, and personal exploitation, besides emotional and spiritual abuse. Don Adair can testify to that. I still insist that he should be subpoenaed to the court. I requested the court to allow us to subpoena him so he could speak for himself. We kindly plead his honor to allow us to do so this time and send an expert to check on him after his medical conditions have been fulfilled, as explained above. Don Adair started the Association from scratch. She depleted resources that were available due to the efforts of Don Adair because of over 50 years of work.
- We need to understand that the legitimacy of the leadership and the Association is not the subject matter of this motion. However, since the report mentioned it, we must add that we have spoken to many members and board members of the associations that are not "pro-Judy" according to the report's terminology. They protest and contest the legitimacy of her board and her Association which has been taken over by deceit, specifically by abusing a power of attorney. She has used the name of Don Adair, accused him of being mentally unable to speak, and taught him to take his place and convince some people to do what she wants. That is another form of abuse of power of attorney. According to what we understood from the story, we are convinced that Judy did not act according to the charter of the Association. Neither she nor her board has any legal nor legitimate claim over the Association, its representation, its management nor its resources, including financial resources, namely the \$104 000 and the tithes being contested. I am afraid I also must disagree with the statement that factions are simply divided to of pro-Judy and anti-Judy. Many are not involved in politics, pro or against. They see a woman abusing and plundering an association, and they do not understand what is happening and do not wish to play politics. However, when asked, they would tell you that they are uncomfortable about what she is doing, or they hear secondhand information about Don Adair while the latter is not allowed to speak for himself.
- We have provided the website where Judy uses Don Adair's copyrights to sell books that belong to him and keep the profit for herself. She is also using the property that belongs to him, on 282 Davidian way, Tamassee SC, which is not only another form of financial abuse but, moreover, a means to provide her legitimacy because people send tithes to address rather than to a so-

called illegitimate board they cannot trust. We can also provide receipts proving she has been selling his books, per court's request.

- We believe that when Don Adair is allowed to speak again to his followers, the abuse will be reduced, if not eliminated, and people who support him for his work and reputation will resume supporting him directly instead of her. That is why she is holding him hostage and denying him advocacy, legal representation, and speech under the guise of protection and care. We have no trust in her intentions, nor do we see any evidence that she has provided him good care. She has abused him emotionally and spiritually. She has financially exploited him and abused her power of attorney illegally against the principal's best interest. Her power of attorney privileges should be suspended, and Don Adair's request to appoint us as power of attorney should be honored.
- The report admits, "Everyone involved in this case has spoken highly of the decades that Donnie and his wife Marilyn devoted themselves to service, study, and their fellow man." If this is the case, then Don Adair should truly be a matter of influence. Judy misuses the latter influence for personal benefit, deviating it from the principal's benefit.
- We do not believe that Judy acted according to the charter of the Association nor that she has any legitimate representation. We believe she has abused her POA to shut down Don Adair and impose herself as another Don Adair or his representative. Some have agreed to split, but that does not mean that whatever other faction is out there is less legitimate than hers. The only difference is that no one else has made a personal benefit from her illegitimate and illegal actions in the Association. The fact that her so-called board has given her license to waste what Don Adair has saved for 50 years, on a corrupt personal enterprise is, per se, clear evidence, that her so-called board has no legitimacy and that it is a counterfeit shadow or a puppet board, chosen by her, to cover up for her thefts. Don Adair never did what she did.
- Judy is the person who is exploiting and abusing the power of attorney privileges illegally to prevent Don Adair from speaking up. It is doubtless that Judy has abused her power of attorney to muzzle Don Adair and shift his reputation and address to hers to acquire forced appropriation of his legacy, land, Association, and reputation so that she could acquire tithes and money. She has abused her power of attorney privileges and used it against the principal's best interest without consulting him and against his explicit will, ignoring all his protests on the matter. Her POA should be suspended.
- "For decades, people from all over the world have sent the Association money and bought books from the Association, knowing that the money was used to support Donnie and Marilyn personally, along with supporting them in their ministry." Everybody agrees on the above statement from GAL report, but how can anyone prove that today people are not sending the tithes for the same reason and are sending it to support Judy? Members still think they are sending money to Adair's Association while they are not. How can we know if we do not allow Don Adair to speak publicly? I have met some and heard they were very disappointed, especially now that they realize what she is doing and how she is spending the money.
- The legitimacy of the Association is not the subject of this motion. Nevertheless, we believe that what she did is the unethical consumption of what he collected during the years from the material, spiritual, intellectual, reputational, and social resources.
- We welcome the report stating: "but never seems to have misappropriated funds to the tune of making himself wealthy. This is not a Jim Baker situation." This is not the case with Judy. A \$104



000 extorted for the renovation of a personal residence in Seneca, where a decent house can be bought for \$150 000, is a scandalous situation that needs to be investigated closely.

- Judy has home expenses in Austin, TX. We also suspect that she may very well be using association money or Don Adair's personal savings or income by abusing a power of attorney, as explained above, to pay the mortgage to buy the new house she is renovating. A thorough investigation of his income and the Association's expenses may prove that. A simple testimony of puppets that Judy installed as association board who explicitly covered up for her theft is not a reliable witness. We still need to suspend the power of attorney to investigate further.
- There is a difference between Don Adair and Judy, concerning the appropriation of association funds. Donnie used his resources to replenish the account, while Judy used her power of attorney to steal and exploit everything Don Adair built, accumulated, and acquired for over 50 years.
- We believe that whatever adjustments Judy made were to be near Don Adair's property and to control the association assets. Thanks to her take over she does not need to work anymore. She has fulfilled her lifetime dreams by making herself a prophet. You can find in her writings that she tells members whom to vote for because she is had dreams about it. It was a reasonable adjustment for her to be in a beautiful house near the center of control and be able to muzzle Don Adair and take over his legacy. Instead of adjustment, we may call it upgrade and usurpation through illegitimate hegemony, false imprisonment, and takeover of someone else's life.
- We do not believe that Judy will continue caring for Don Adair for the rest of his life. Until this motion, he has rarely lived with her. The cohabitation situation was catastrophic, and she did not do what no one else could have done for him. She left him in an assisted living facility for someone else to take care of him and removed him only when she felt threatened by this motion. What will change is when she feels the threat is gone, she will place him again in the same place without caring for his happiness, without consulting him, nor attempting to find a better place for him.
- The report says: "Judy said that her great love for Marilyn drove her to volunteer to care for Donnie." Our reply is that some witnesses claim that Judy hated Marilyn and did not have a good relationship with her.
- We believe Judy is a con artist and has made a very successful career abusing a vulnerable adult, fulfilling her dream of becoming a false prophet and suddenly acquiring a secondary considerable income resource without having to work anymore. I have heard from witnesses that her daughter also attempted to exploit gains from the Association by asking for high compensation for simple jobs. So, she has accumulated a future for herself and her family. Regarding caring for Don Adair, we believe it has been very unsuccessful, as life is not just about having shelter and food. Don Adair is miserable in his situation. It is also evident that he has better safe alternatives than those we mentioned above and in our previous affidavits.

Request:

The GAL report's testimonies given by Judy, her lawyer, and the letter from her so-called board should be ignored and rejected by the court since they are not presented as sworn affidavits in court. Consequently, we ask the court to ignore all statements and conclusions supporting the quality of Judy's care, the legitimacy of her board, and the justification of her use of the \$104 000 as baseless. They are unilateral, considering one side of the story while ignoring the other, and they are not presented as an affidavit. They are also contested by the reasons mentioned above in this letter.

Since the defense has not been able to reply to any of the six points requested in our former memorandum and reply to the defense's memorandum, and Judy has admitted some of the exploitations committed against Don Adair, namely the illegitimate seizure of \$104 000 that was to partially serve his retirement, since there are many allegations that need to be investigated about Judy relating to financial exploitation, since we have exposed above how she has spiritually and emotionally abused him by threats, social isolation and false claims, since Don Adair is frustrated by this situation which is making him miserable, since the report has shown that we have stepped further above Judy in not only providing basic needs for Don Adair but step further into providing him happiness, dignity and save him from humiliation, and since we have accepted and provided evidence that we are able to comply with all of the GAL report's recommendations, we request the court to permanently suspend all power of attorney or legal representation she possess and all powers she has transferred to others, from her party to Plaintiff's party, and to grant us compensation for our expenses and time working toward this endeavor.

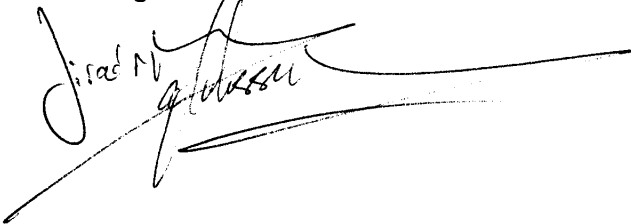
In case the court is not satisfied with our legal arguments and that the defense cannot defend and negate those arguments. In that case, we ask the court to grant us to subpoena more witnesses, including Don Adair, and to manage to have an expert opinion on Don Adair as requested above. The court can also, at least, grant us some clearance to investigate her abuses that the Gal report kept unclear. It is impossible to do so when Judy is preventing and suspiciously blocking all access to any information.

In case the court does not wish to grant us any of the above, we kindly request the court not to defer absolute power to Judy Tupolo but to respect South Carolina Law by allowing Don Adair many of the powers that South Carolina law allows him based on his present mental capacity. Mental evaluation should happen regularly, since mental cognition fluctuates, and it sometimes improves, while in other situations, it worsens.

With much thanks and appreciation.

Plaintiff

Jirair Baghdassafian

A handwritten signature in black ink, appearing to read 'Jirair Baghdassafian', with a long horizontal line extending to the right.

# Acknowledgment by Individual

WELLS  
FARGO

State of

County of

Nevada

Clark

On this 24 day of October, 20 22. Before me, Jessica Martinez  
Name of Notary Public

the undersigned Notary Public, personally appeared

Jirair M. Baghdassarian

Name of Signer(s)

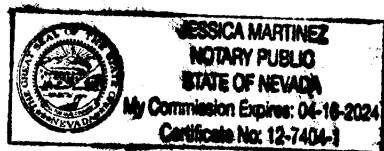
☐ Proved to me on the oath of \_\_\_\_\_

☐ Personally known to me

☒ Proved to me on the basis of satisfactory evidence NV DL 0001521095  
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Jessica Martinez  
(Signature of Notary Public)

My commission expires April 16, 2024

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Affidavit of Jirair Baghdassarian

Document Date

Number of Pages

10/24/2022

10

Signer(s) Other Than Named Above

Account Number (if applicable)



F001-000000DSG5350-01

Jirair Baghdassarian vs. Judy Tupolo

Response to the defendant Judy Tupolo's motion requesting a more definite statement.

2022062700157  
FILED OCONEE COUNTY, SC  
MELISSA C. BURTON  
CLERK OF COURT  
2022 JUN 27 A 11:35

1. The motion relates to the so-called Medical Power of attorney Judy Tupolo's claims to have, which is not registered in probate court, not has been presented by the defendant as evidence of its existence. Supposing that this power of attorney document exists, it needs to be verified of its legality and authenticity, and the plaintiff's request is to suspend it due to abuse and inappropriate use of power. The motion extends as well to the financial or legal power of attorney she obtained in July 2020. This is also being used as a pretense to forbid Donnie Wayne Adair from making any decision related to his personal life, such as finding another place to stay. The principal, Donnie Adair, had expressed to me by phone that he was not aware of the existence of such power of attorney and that when he signed the documents, he did not know what he was signing. He also explicitly orally and in written format revoked and rescinded any power of attorney he has signed unto her. His wish was not respected neither by her nor by the facility where he resides, nor are they giving him the opportunity to access for notary public so he could notarize his revocation.
2. The defendant has already expressed his understanding that our motion is based upon an "action questioning the construction of a power of attorney and/or the agent's conduct concerning the filed power of attorney. This has already been clearly stated in (1).
3. Exhibit A begins by stating that the main reason for our request is the deprivation of Donnie W. Adair from personal freedoms. There is enough evidence and witnesses to prove such a statement. The assisted living facility has already admitted that the reason why they are not allowing him any decision-making capacity, including receiving phone and personal visits, self-discharge, and requesting to leave the facility temporarily, is that he is not allowed to make any such decisions without the permission of his agent Judy Tupolo. Many people and old friends of his have attempted to call the facility and have been receiving the same reply. The rest of the allegations are based on our reasonable suspicions of financial and emotional abuse of Judy Tupolo toward the principal. The allegations placed are repetitions of what we heard from witnesses and found ourselves placing them in the format of forensic, not rhetoric questions, so they could be investigated further. One of the reasons we want every and each power of attorney to be suspended from Judy Tupolo is that the above questions represent serious suspicions that need to be investigated further, primarily by talking to the principal. This would not be possible while she is holding him like a hostage and depriving him of connection or advocacy she disapproves of. Consequently, any connection he can contact would be biased and under her control.
4. Abuse of power and deprivation of personal freedom is a "simple, concise, and direct."pleading. Anything thing added was the result of Judge Rice requesting us to add any information we could add to the motion so she would be able to make better-informed decisions on the matter.
5. The plaintiff has hereby above responded in numbered paragraphs as requested, limited to, as far as practicable, to a statement of a single set of circumstances. Nevertheless, we think this is simply a formality and a device used by the defendant to waste time and frustrate the course of the judicial process by excessive, unnecessary requests so that she could gain time and prolong

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the period of confinement, deprivation of freedom, and frustration of the principal. It may also be another device to delay investigations of the serious allegations of her financial and emotional abuse toward the principal.

6. There is no storytelling. There are serious allegations of abuse of power and deprivation of personal freedom. This is the format that the probate court requested from us. We see no reason why the plaintiff would be confused by our questioning except that they are trying to find another irrelevant device to waste time. The defendant has already used time-wasting devices by ignoring the court's notice concerning the first session that was adjourned and her request for continuance that adjourned the session for June.

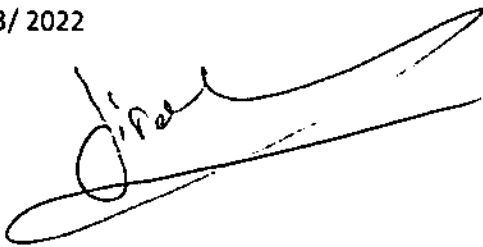
Wherefore the plaintiff respectfully solicits the following from the court.

1. Accept our above reply as valid and have our motion pursue its course in the scheduled hearing without delay, continuance, or rescheduling.
2. Do not extend any time for the defendant to delay any hearing, as our response should be clear and satisfactory.
3. Request that the defendant quit requesting unreasonable requests leading to frustrating the plaintiff and the principal in unnecessary correspondence, legal expenses, and suffering of the principal Don Adair in his confinement deprived of personal freedom.
4. Deny any other and further reliefs that the court does not deem reasonable, just or proper.

Respectfully Yours.

Jirair M Baghdassarian

06/23/ 2022

A handwritten signature in black ink, appearing to read 'Jirair', with a long, sweeping horizontal line underneath it.

|                                   |   |                                          |
|-----------------------------------|---|------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS             |
|                                   | ) |                                          |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                |
|                                   | ) |                                          |
| Jirair Baghdassarian,             | ) |                                          |
|                                   | ) |                                          |
| Plaintiff,                        | ) | <b>STATEMENT OF Jirair Baghdassarian</b> |
|                                   | ) |                                          |
| vs.                               | ) |                                          |
|                                   | ) | <b>Plaintiff</b>                         |
| Judy Tupolo as Power of Attorney, | ) |                                          |
|                                   | ) |                                          |
| Defendant.                        | ) |                                          |
|                                   | ) |                                          |

I undersigned, Jirair Baghdassarian, swear under oath that the following testimony is true to the best of knowledge.

In our former memorandum and reply to the defense's memorandum we have presented allegations based on Carolina Law proving that the defendant Judy Tupolo as agent in a presumed healthcare power of attorney that we have not seen yet, has deprived Mr Don Adair from some of his basic rights. Judy Tupolo is the presumed agent while Don Adair is the principal.

Judy purports that Mr. Don Adair is completely incompetent and therefore cannot make decisions and she has abused her presumed power of attorney privileges by acting as a court appointed guardian and by considering Don Adair as a fully incompetent ward that is not capable of no decisions at all.

Judy would prevent Don Adair would from receiving personal visits and phone calls. She has socially isolated him from his friends, legal counsel, and advocates. She has not consulted with him concerning his medical, financial, and personal affairs and acted unilaterally appropriating to herself all power over all his assets, properties, career, personal life, social relationship, medical decisions, financial funds and so forth. She has done so in defiance of SC law related to healthcare power of attorneys. We still have no proof that she has any document of medical power of attorney available.

Don Adair has revoked the power of attorney according to South Carolina Law and Judy has not respected the law in that matter and has requested others, including the facility where he is staying, to do the same. SC probate code of law SECTION 62-5-504 provides Don Adair, the principal the right to revoke the power of attorney. He did so on May 23<sup>rd</sup>, 2022, both orally and in written according to the law.

According to section 62-5-504 § 4 Judy should have consulted the principal concerning matters and decisions related to health care. She did not do as evidenced by the obvious fact that she was totally disregarding all his requests and objections.

As explained in our reply to the defense's memorandum Judy has breached duties named in section 62-8-114, including breaching the following clauses in the same section: (a)

An agent that has accepted appointment shall act: (1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and in the principal's best interest; (2) in good faith; and (3) only within the scope of authority granted in the power of attorney. (b) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall: (1) act loyally for the principal's benefit (2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

Don Adair has many reasonable expectations that she has totally ignored and has not acted according to his best interest. For example, he wanted a cellphone, he wanted to receive visits from old friends, bible students and acquaintances, He requested independent legal counsel, he wanted to transfer himself to another safe care than the present one, he wanted to address his followers as a Bible teacher. He wanted his funds to be reasonably spent differently, he wanted to discharge her favors as power of attorney and caregiver to the benefit of another reliable and safe one. She is also accused of many other breaches including emotional and spiritual abuse as well as financial exploitation. During and under her care many questionable disappearances of assets and funds that need to be investigated and whose investigation she is depriving others from doing. Judy has admitted of depleting the funds of over \$104, 000 from the association. That fund was gathered by Don Adair and was supposed to partially serve his retirement salary till his death. Don Adair says also he has no access to social security benefits nor any other of his savings. Mr. Bagwell, in court session and in his GAL report explains that there remains no savings or funds available for Don Adair, and that he does not expect any to be restored or returned to him, which makes us question what has she done with his savings. We also note the mysterious disappearance of his beloved dog and violin during her care. Judy has also admitted that she has been helped by the association that she took over thanks to the abuse of her power of attorney, to fund her mortgage into buying anew house, she has depleted the \$104, 000 mentioned above on a luxurious vain renovation of that house, and then she used the house to make income and profit from renting it out back to the treasury that gave her those funds. It sounds like someone who illegitimately steals money from someone then forces that person from borrowing it to make usury out of the stolen money from that same person. This is a blatant arrogant manifestation of financial abuse and corruption. She did all this thanks to the abuse of the presumed power of attorney privileges that allowed her to hide Don Adair from his public as a hostage. She used his name, his fame, his private property's address, his books, his copyrights, and his assets to claim the profits, the tithes and the legacy of the association and his intellectual property and his name and legacy to herself. She used his history and accomplishments against his will to make herself name and fame, and to put her hands his personal property and savings as well as on the association's tithes, income, and funds.

We have requested the defense to provide us several points to defend their actions and none of the points have answered so far.

We reiterate the points as following:

1. Present affidavits and documents proving our attempts or intentions to take advantage of Don Adair for financial gain and religious hegemony of personal beliefs or dogmas.
2. Present proof of an existence of a document or contract of a medical or healthcare power of attorney that it may be verified, and all the stipulations that provide scope and

privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges.

3. Prove scientifically or medically, with the help of a neutral medical and legal expert, that Don Adair has a terminal neurodegenerative disease that has already turned him legally and clinically incompetent based on reliable medical diagnostics and assessment.
4. Prove that Don Adair is clinically AND primarily legally incompetent, as explained in our reply to his Memorandum.
5. Prove that Judy Tupolo has been granted Guardianship powers with the specific transfer of rights as mentioned in our reply to argument 4 in our reply to the Defense's Memorandum and according to Section 62-5-304A "Rights and powers of ward and guardian."
6. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.
7. Allow Don Adair to return the document granting us officially Power of attorney Agency, witnessed and notarized, as we have mailed it to him and as he promised to process it and mail it back to us immediately.
8. 8. Reply to all the requests we have presented in our reply to his Memorandum.

None of the above has been presented so far:

1. We have seen some statements presented that are not sworn and cannot be considered as affidavits saying unfounded lies about us, based on biased opinions not on facts, and without any evidence. These lies can be considered under the category of defamation that can be legally pursued. They do not answer our request above nor should they be considered valid.
2. Judy has not presented any evidence of existence, since July 2019, of any medical power of attorney contract. This may mean that she has been using nonexistent powers and privileges. All we have seen so far is the financial power of attorney which does not entitle her any personal nor medical decisions over his life.
3. There has been no evidence nor presentation of any unbiased diagnostic imaging and report, clinical history nor any neutral medical diagnosis presenting a medical diagnosis from a competent medical authority, since July 2019, explaining why and



how they believe Don Adair has a neurodegenerative disease, such as Alzheimer's disease, that is turning him into a vegetative state.

4. Judy has not proven by a court order that Don Adair has been declared a legally incompetent ward since July 2019. She has not even proven his clinical incapacity.
5. She has not proven her status as guardian since that time. She has not even proven that she is his medical power of attorney. She has not demonstrated, based on according to Section 62-5-304A "Rights and powers of ward and guardian.", which powers have been taken away from Don Adair and provided to her to capacitate her from making the above-mentioned decisions on his behalf without consulting him in a reasonable manner.
6. She has not explained by what agency, powers or consent he has been moved without his explicit written consent.

The defense has, moreover, not justified the abuse by reasonably answering none of the requests we have presented in our reply to his Memorandum, that we reiterate as follows:

1. The defense must present proof of an existence of a document or contract of a medical power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges; AND
2. The defense must bring evidence of medical incapacity based on the procedure defined in section 62-5-502 (d) of the South Carolina probate code, including the medical diagnosis, the nature, extent, and expected duration of such incapacity in written format by two unbiased physicians chosen by the court;  
AND
3. The defense must demonstrate a judge's order in court that Don Adair has been deemed permanently and irreversibly legally incapacitated by a special court decision and that his status has become the status of a "ward" as defined in section 65-5-101 (24); AND
4. The defense must prove that the agent Judy Tupolo has been awarded legal guardianship privileges. Agency granted by Don Adair does not grant her privileges of contradicting the agent's wishes or will; AND
5. The defense must prove that, besides legal incapacitation, the specific being contested have been suspended from Don Adair and transferred to his legal guardian. Only a judge's decision can specify which rights have been taken away, the specific court decision, time, date, and duration of suspension; AND
6. Defense must prove that the below specific powers have been granted to her in guardianship status in court of law. These rights that cannot be taken away from anyone, even if legally incapacitated, without a court decision, are mentioned in SECTION 62-5-304A. "Rights and powers of ward and guardian. Of probate code: For detailed description and explanation see our reply to the defense's memorandum p. 9 and 10.

As Mr. Bagwell reports, Judy may have provided Don Adair with his basic physical needs but we are trying to save him from the humiliation he is in at the moment by restoring his dignity, allowing him to exercise the most of what remains of his intellectual and physical faculties, Our respect for him is overflowing. We share Mr. Bagwell's concern that any party could abuse an

elder when he is not able to defend himself and that it why we have always insisted that there should be no absolute power over an elder. That is why, as long as he is able to communicate and reason he should be allowed to make the decisions his intellectual faculties allow him to make safely. A living will or notarized advance directive may also help in avoiding abuse when the elder become fully incapacitated, in case it will happen.

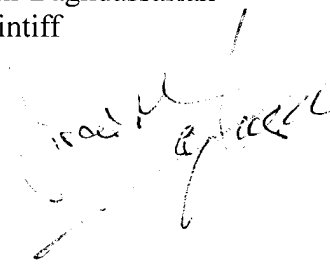
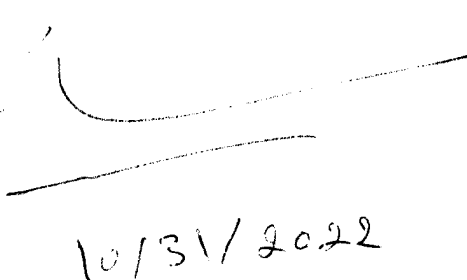
Since the defense has not been able to provide any of the justifications requested above, then our allegations presented in out reply to the defense's memorandum should be considered as valid reason for abuse of her presumed authority as healthcare power of attorney. All power of attorney privileges she has must be suspended. We request the honorable justice to grant Don Adair his wish to appoint us as his power of attorney, as attested on presented recordings, so we would be able to provide him safe care as mentioned above, and as explained in our former statements.

We also request the court to provide us financial indemnity from the defendant for all the time and costs inflicted upon us for our benevolent action to help our friend, brother and elder in our religious community.

Thank you

Respectfully yours

Jirair Baghdassarian  
Plaintiff

  
  
10/31/2022

# Acknowledgment by Individual

State of

County of

Nevada

Clark

On this 31 day of October, 20 22. Before me, Jessica Martinez  
Name of Notary Public

the undersigned Notary Public, personally appeared

Jirair Maurice Baghdassarian

Name of Signer(s)

- ☐ Proved to me on the oath of \_\_\_\_\_
- ☐ Personally known to me
- ☒ Proved to me on the basis of satisfactory evidence NV DL 0001521095 XP 04/25/2024  
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Jessica Martinez  
(Signature of Notary Public)

My commission expires 04.16.2024

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

Statement of Jirair M. Baghdassarian

Document Date

Number of Pages

10/31/2022

6

Signer(s) Other Than Named Above

Account Number (if applicable)



F001-000000DSG5350-01

STATE OF SOUTH CAROLINA  
COUNTY OF OconeeIN THE FAMILY COURT  
Circuit JUDICIAL CIRCUITJirair Baghdassarian

Plaintiff,

SUBPOENA IN A CIVIL CASE

Judy Tupolo

vs.

Defendant.

Docket No. 2022CP3700157TO: Donnie Wayne Adair and Foothills assisted Living, West Union, SC or whoever providing his care.☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.goto [www.sccourts.org/calendar/](http://www.sccourts.org/calendar/) -click "circuit" then  
virtual courtroom then Judge Sprouse's virtual courtroomPLACE OF TESTIMONY  
Virtual courtroom backup motion roster presided by Judge  
Honorable R Scott Sprouse

COURTROOM

DATE AND TIME July 12, 2022 at 2:00 pm☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number

Melissa C. Burton  
Clerk of Court Issuing Officer's SignatureJune 23, 2022  
DateMelissa C. Burton  
Print Name

Provide Litigant's Name, Address and Telephone Number

Jirair Baghdassarian 2580 La Cera Ave Las Vegas, NV 89121  
(702) 689-1459

Custodial Parent (if applicable):

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

# **PROOF OF SERVICE**

|                               |                                                      |                                                                                                                                                |
|-------------------------------|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| SERVED                        | DATE <u>7/8/2022</u>                                 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT \$ |
|                               | PLACE <u>999 W Union Rd<br/>West Union, SC 29986</u> |                                                                                                                                                |
| SERVED ON <u>Don Adair</u>    | MANNER OF SERVICE <u>personal</u>                    |                                                                                                                                                |
| SERVED BY <u>Isaiah Yoder</u> | TITLE <u>Deputy</u>                                  |                                                                                                                                                |

## **DECLARATION OF SERVER**

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on

Isaiah Yoder  
SIGNATURE OF SERVER

300 S Church St. Walhalla, SC 29986  
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d)

### **(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254F (05/2015)



need an independent expert Don Adair agrees upon who will examine him to determine competency. The law continues by allowing the latter independent examiner to petition the court to discharge the patient if he reports that the patient is not or is no longer mentally ill to cause an immediate serious threat to his health.

None of the above has been respected. They have acted in disrespect to Don Adair's fundamental human rights. They have trampled and disrespected SC law. Judy has acted maliciously abusing Power of attorney privileges to convince people and facilities that she has powers that she does not legally nor legitimately possess to commit all the allegations we have presented in this motion. She has not acted in the principal's best interest and has exploited his confinement to socially isolate him, emotionally and spiritually abuse him, and financially exploit him as admitted by her to the extortion and abuse of funds and other resources that should contribute to serving Don Adair's retirement. Many unadmitted abuses need to be further investigated, are highly suspected, and we believe the reason she is not allowing investigation is her guilt.

### **Case by case involvement of court instead of absolute power of guardian.**

Incompetency is often temporary and restricted to specific situations unless specified and incapacitation proven otherwise. It means that for each distinct decision a guardian must petition the court for that specific situation based on the circumstances and the mental condition of the ward at that particular time. Up-to-date and current evaluations must be done again every time and, in every situation, by two neutral medical providers appointed by the court to determine whether the guardian can make that decision at that time or not.

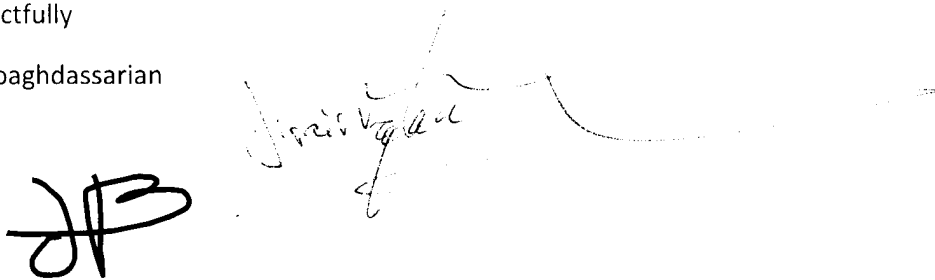
In sum

Judy acted unilaterally, without consulting the law and respective authorities. She bypassed and defied South Carolina law, and trampled on Don Adair's rights, all in the name of an agency that Don Adair was not aware he granted her. She did so maliciously, to cover up for her financial exploitation and emotional and spiritual abuse we have already addressed in former statements and affidavits. Consequently, all her Power of attorney privileges should be suspended.

In case the court finds it necessary we request the appointment of an independent investigator that Don Adair agrees upon. We can suggest some and send the court their resumes upon request.

Respectfully

Jirair baghdassarian



1           In the Court of Common Pleas of the  
2           State of South Carolina, County of Oconee

3

4                                           Case No.: 2022CP3700157

5   Jirair Baghdassarian,

6                                           Plaintiff(s),

7   vs.                                   **Transcript of Record**

8   Judy Tupolo,

9                                           Defendant(s) .

10

11

12                                       HEARING HELD VIA WEBEX

13

14

15                                       July 12, 2022

16

17

18

19

20   BEFORE:

21                                       The Honorable R. Scott Sprouse

22

23

24

25



1 APPEARANCES

2

3 **REPRESENTING THE PLAINTIFF:**

4 Jirair Baghdassarian, Pro Se

5

6

7 **REPRESENTING THE DEFENDANT:**

8 Trey Merck, Esquire

9 119 South Main Street, Suite B

10 Six Mile, South Carolina 29682

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1 PROCEEDINGS

2 THE COURT: Madam Clerk, call the next  
3 case.

4 THE CLERK: Case Number 2022CP3700157,  
5 Jirair Baghdassarian v Judy Tupolo. We have two motions  
6 on this roster. Plaintiff's motion for a temporary order  
7 of restraint, Defendant's motion for a more definite  
8 statement. Attorneys in this case, please state your  
9 name for the record.

10 MR. BAGHDASSARIAN: Hello, my name is  
11 Jirair Baghdassarian. Did you want me to say my name?

12 THE COURT: Mr. Baghdassarian, do you have  
13 an attorney?

14 MR. BAGHDASSARIAN: No, I am representing  
15 myself.

16 THE COURT: Okay. Now it looks like from  
17 the file, Mr. Merck represents the defendant. Is Mr.  
18 Merck present?

19 MR. BAGHDASSARIAN: I would like to object  
20 to that, because I think she is supposed to be here in  
21 person and not send somebody on her behalf, esp --

22 THE COURT: Mr. Baghdassarian, she is  
23 represented by counsel. I need to know if Mr. Merck is  
24 here.

25 MR. BAGHDASSARIAN: Okay.

1                   THE COURT: All right, I see Mr. Merck's  
2 name has popped up, okay.

3                   MR. BAGHDASSARIAN: Well, the notice -- I  
4 saw the notice notified on the website about six days  
5 ago. Weren't they supposed to notify of her absence at  
6 least 10 days ahead of time?

7                   THE COURT: What is the objection, Mr.  
8 Baghdassarian?

9                   MR. BAGHDASSARIAN: My objection is if she  
10 was supposed to be at the hearing, have someone  
11 representing her, shouldn't she have done that -- served  
12 me 10 days ahead of time as we are requested to do that  
13 by mail, ahead of the hearing.

14                  THE COURT: A party can retain counsel at  
15 any time prior to a hearing. Mr. Merck, you represent  
16 the defendant in this case?

17                  MR. MERCK: Yes, Your Honor.

18                  THE COURT: All right. Well, let's start  
19 with -- the first motion on the docket is Mr.  
20 Baghdassarian's motion for a temporary order of  
21 restraint. Let me hear from him, and then I will hear  
22 from Mr. Merck on the motion for a more definite  
23 statement. So, Mr. Baghdassarian.

24                  MR. BAGHDASSARIAN: Thank you, Your Honor.  
25 Thank you very much for allowing me to speak. So, Your

1 Honor, I know Don Adair for 20 years. He is one of the  
2 most well-known elders in our religious community. He  
3 has been, he has been a close friend. And he has been a  
4 good friend, has been on the historical camp of our  
5 denomination, which was founded in Texas. And he knew  
6 the founder in person. He is a writer known  
7 internationally as a bible teacher. I have heard lately,  
8 a year ago, that he is being restricted access to phone  
9 calls and to people and I got very concerned.

10 We lost track of him. Finally in end  
11 of January, probably January 23rd, I was able to  
12 find his phone number and found out he was in an  
13 assisted living facility. So I called him and was  
14 able to reach him. He expressed his frustration of  
15 being there. He said he refused -- he feels he is  
16 treated like a slave, and wanted me to take him out  
17 of the facility. I said, I am willing to do so and  
18 explained to him that there is a legal route to do  
19 so, that we need to give him access to legal counsel  
20 and document to revoke the power of attorney and  
21 sign himself out of the facility.

22 So I told him also that I need to  
23 call the people who are concerned about him, that he  
24 is welcome to stay at my place if he needed to. So  
25 he agreed on the revocation and expressed his

1     agreement to the plan. Suddenly, when we are on the  
2     conversation he tells me that the staff is listening  
3     to the phone conversation, that the power of  
4     attorney you need to call on is on the other line  
5     and that she has given the order that he should not  
6     talk to anyone anymore.

7                     So when I insisted that a power of  
8     attorney is not a guardian and that the man has not  
9     been deemed legally -- there is no evidence that he  
10    has been deemed legally incompetent or incapable.  
11    He is well-oriented and lucid and able to make a  
12    decision, such as with whom he could talk. So they  
13    were rude enough and hung up on me and refused to  
14    allow me any conversation.

15                    The phone was taken away from him  
16    against his will. He had expressed to me that he  
17    has been deprived from his freedom in that facility  
18    and that it is bothering him and that he does not  
19    wish to remain there. Judy texted me and accused me  
20    of being a vulture. And when I object and tell her  
21    she is infringing on his basic civil rights, she  
22    says she has the correct paperwork to do so. So I  
23    asked her to prove it. She refuses, saying she has  
24    no obligation to show me anything at all. So I try  
25    to connect with her daughter to mitigate, to say

1     sorry, I checked -- connected with the man that  
2     worked with her and the association she took over  
3     for Don Adair. So same results, being rude or  
4     evasive, elusive, not willing to reach any  
5     resolution or any compromise.

6                     I tried talking -- so it was, it was  
7     a tense situation for everyone. I have been in  
8     contact then with the police and filed reports of  
9     abuse. I was recommended to file a civil case with  
10    probate court, which was then transferred to Your  
11    Honor to civil court. And I am thankful, very  
12    thankful you are considering the case.

13                    So Judy has been depriving an adult  
14    man from his basic civil rights, basic freedom and  
15    decision making under the guise that he is legally  
16    incapacitated without any proof of his  
17    incapacitation. Even the facility where he was  
18    staying was treating her as if she was his guardian  
19    or caretaker, instead of an agent. They literally  
20    told me that he is under her, she is -- he is under  
21    her, therefore, he is under her jurisdiction and has  
22    to follow her direction, and that he is not able to  
23    make basic decisions. When I ask for any evidence,  
24    no one shows it to me. No one claims to have any  
25    court order or probation judgment legally

1     incapacitating the man.

2                     It was not until about four months  
3     later that Mr. Adair was able to reach me with a few  
4     phone calls. I am not sure really what happened,  
5     but I suspect, you know, possibly the phone numbers  
6     were taken away from him. But suddenly he is able  
7     to call. And I tested his cognitive ability on the  
8     phone and found that he was lucid, alert, conscious,  
9     and oriented to self, person, place, to time and  
10    situation.

11                    He had good long-term and short-term  
12    memory, as well as functional memory where he was  
13    able to follow set of instructions. I have all of  
14    these interviews recorded. Performed them step by  
15    step and then call me back and report the steps  
16    accomplished and the result of his endeavor.

17                    He also showed good judgment, knowing  
18    how to act in cases of emergency and what to do in  
19    situation of home fire and accident. Again, in the  
20    first conversation he revoked all power of attorney  
21    documents on the phone.

22                    And before I continue, Don Adair and  
23    the facility were subpoenaed to be here and they  
24    were served. So aren't they supposed to be present  
25    at this moment before I continue my speech?

1                   THE COURT: This is a non-testimonial  
2 hearing, this is a motion hearing. Now, I don't, I don't  
3 know what the status of -- did you issue subpoenas?

4                   MR. BAGHDASSARIAN: Correct. There were  
5 subpoenas for the facility taking care of him and  
6 subpoenas for Don Adair and he was served. And I can  
7 prove that he was served. I have several proofs and they  
8 are on the, on the Court's website, so I wonder why he is  
9 not -- yes, I have proof on the court website -- I wonder  
10 why he is not here.

11                  THE COURT: Okay. Let me look. Go ahead  
12 with your argument, I am going to look at the file.

13                  MR. BAGHDASSARIAN: Okay. So he has good  
14 term, short-term memory as well as functional memory. He  
15 also showed good judgment, knowing how to act in acts of  
16 emergency and what to do in situation of home fire  
17 accident. During the first conversation he revoked all  
18 power of attorney on the phone. I have it recorded and  
19 can play it during this hearing if necessary. What is  
20 more remarkable, he told me he never gave her any power  
21 of attorney, which means, according to him, that when he  
22 signed the documents he was not aware that he was signing  
23 -- what he was signing, nor what are the consequences of  
24 what he was signing.

25                         And I have been told by reliable



1 witnesses including Katherine Kerr that when she  
2 acquired the power of attorney from him he was  
3 recovering from a tanssinjunga (ck) attack. And his  
4 confirmation of the situation may have been  
5 questionable.

6 I instructed him how to revoke it  
7 orally and in writing. So he revoked it orally and  
8 I recorded it on my phone recording. And he also  
9 wrote it down, signed it, dated it, and wrote his  
10 name and recommended him to show it to every staff  
11 and caregiver he talked to in the facility. He  
12 agrees to do so.

13 He called me a few days later and  
14 said Judy took the document away from him by force,  
15 not according to his will. Against his will. I  
16 instructed him to write it again and to tell her to  
17 stay away from him and from his belongings. He said  
18 he will do so.

19 Then he called me again and let me  
20 know that the facility will not honor his  
21 revocation, neither orally or written. I sent Judy  
22 and the facility written letters notifying them of  
23 the revocation and citing the South Carolina probate  
24 court that mandates the validity of such revocation.  
25 South Carolina Probate Court Section 62-5-512 allows

1 the principal to revoke the power of attorney  
2 document in an oral statement. I quote, "An oral  
3 statement or any other act constituting notification  
4 by the principal to the agent or to a health care  
5 provider responsible for the principal's care of the  
6 principal's specific intent to revoke the health  
7 care power of attorney," unquote.

8 I asked him if he wants to appoint  
9 someone else, as far as this whole matter, he agreed  
10 that it would be neither me nor -- or someone else  
11 called Scott Smith who he requested me to call. Me  
12 and another friend of his, Katherine Kerr, attempted  
13 to call Scott several times but he was not -- he was  
14 not answering at the number that Don Adair gave me.

15 I sent -- I mailed him documents to  
16 revoke her and appoint me instead of her by mail  
17 because they were not accepting neither the oral or  
18 the written. They want paperwork, so I sent them  
19 paperwork. And since then, I don't hear from him, I  
20 don't hear anything, I don't know what is going on.  
21 And I request the subpoena and he is not showing. I  
22 am really surprised. This is not acceptable. It is  
23 just not acceptable.

24 The police, on Friday, served him for  
25 the second time. I hand-served him on the legal

1 basis of more than two weeks, about two weeks ago.  
2 And I have it notarized that I served him and served  
3 the facility. And then I called the police and they  
4 served them again on Monday. And they said he was  
5 served personally.

6 So I sent the documents with the  
7 restricted signature that he should -- only him  
8 could sign it, and instead I am surprised that  
9 someone else signed it at the facility and returned  
10 it back to me from him. And since then I don't hear  
11 anything from him. I don't know what is going on.

12 So I believe depriving someone from  
13 his basic civil rights without any legal capacity or  
14 permission from probate court or respective court is  
15 just an illegal act. So she and whoever isn't  
16 complying is not only breaking the law but has  
17 committed an unethical, illegal, and viscous act of  
18 false imprisonment without any legal justification,  
19 or moral justification.

20 Such act could be categorized as  
21 either a tort or a crime. I do not believe that she  
22 had honest or benevolent knowledge to do so. There  
23 are good reasons to believe based on what witnesses  
24 have heard, that her motives were to control his  
25 assets and his career, which she practically did.

1                   And she prevented him from  
2   communicating to his bible students and his close  
3   friends and to the people he used to teach and  
4   preach to. He came under her mercy, socially  
5   isolated, unable to defend himself, being deprived  
6   from democracy, counsel and legal advice. She took  
7   over his association, religious association, maybe  
8   what he was running, his career he built. He has  
9   built for, probably since the '70s. His career, his  
10   land, his properties, his friends, his social  
11   circle, his freedom, his headquarter, his financial  
12   resources, his credit card, his valuables to use  
13   them at her own whim, make herself a career and  
14   finances, usurping and stealing his resources and  
15   life.

16                   I heard he barely stayed with her in  
17   that house that she was renting as she rented a new  
18   facility that looked to be quite a luxury property  
19   and he just stayed with her a couple of months. He  
20   was living with someone else or he was living in a  
21   facility while using all of the assets and the  
22   moneys for her own pleasure.

23                   Someone in the association board  
24   called Carol Jones told me that he personally paid  
25   the first month, a grand, from the association

1 money. It was on the association that belongs to  
2 Don Adair. She also told me she took away over a  
3 hundred thousand dollars from the association's bank  
4 account. There were three people on the bank  
5 account, Carol Jones' wife and her. She, according  
6 to the rules, she was supposed to counsel before  
7 taking away the money, so she did not.

8 THE COURT: Hold on. Was there an  
9 objection?

10 MR. MERCK: Yes, Your Honor.

11 MR. MERCK: Yes, Your Honor, continued  
12 hearsay that he is bringing forth. So, of course,  
13 hearsay.

14 THE COURT: Okay. I am getting about  
15 every other word. Let's do this, let him finish and then  
16 I am going to hear from you. This, I don't think he  
17 submitted a memorandum and I am going to give him an  
18 opportunity to do that. It looks like you have submitted  
19 a memorandum.

20 MR. MERCK: Yes, sir.

21 THE COURT: So go ahead and finish, Mr.  
22 Baghdassarian. And then I will hear you.

23 MR. BAGHDASSARIAN: Even Judith told,  
24 herself when I talked to her on the phone, she admitted  
25 she took the money. Right. These are not -- I am not

1 really involved with their association directly, but this  
2 is what they told me. And she admitted she, she took the  
3 money and she has -- she does have the power of attorney.  
4 And, in fact, the books that belong to Don Adair and his  
5 (inaudible) are being sold by her. Well, actually what I  
6 know is that the issue with the location of the books are  
7 on a piece of land that is on a probate issue between him  
8 and relatives and she is not supposed to be doing that.  
9 So if she is -- obviously she admitted she took the money  
10 and Don Adair told me she took the money and also he told  
11 me she is using his Social Security and that -- she is  
12 using his Social Security and she steals his credit cards  
13 as well.

14                   And so she created all of this to  
15 herself, even admitted to me in person that she is  
16 keeping the money. There are witnesses that have  
17 sent letter (inaudible) emotional and financial  
18 abuse and expressing their concern about the  
19 situation. But the issue we are here is not about -  
20 is not totally about the financial abuse, this is  
21 one of the results of what is going on.

22                   The reason I am asking for a  
23 revocation is because he is being deprived from his  
24 basic rights without any proof of his incompetence.  
25 I can provide you the letters at your request, or if

1     you want me to read them right now I can do that.

2     And the revocation --

3                   THE COURT:   Hold on, Mr. Baghdassarian.  I  
4     am going to -- let's do this, Mr. Merck has submitted a  
5     memorandum which I don't know if you have had an  
6     opportunity to see that memorandum.

7                   MR. BAGHDASSARIAN:  When?  When did he  
8     submit it?  What I saw, whatever -- I didn't see a  
9     memorandum from him at all, I didn't even see on the web  
10    site.

11                  THE COURT:  All right.  I am going to give  
12    you an opportunity to respond, to review that and respond  
13    to it.  So summarize, summarize your argument now.  Now  
14    you -- what are you asking for in the hearing?

15                  MR. BAGHDASSARIAN:  We hereby courteously  
16    request the Honorable Justice a suspension of all power  
17    of attorneys.  Since the facility is not accepting any  
18    legal avenue to do so.  She has been abusing the  
19    document.  She has been acting and regarded as if she was  
20    his guardian.  And the facility seemed to be agreeing  
21    with her in a bias manner.  Accepting an invalid document  
22    that is being abused beyond its scope and capacity.

23                  I believe she will use and abuse as  
24    she has already done, any document signed by Don  
25    Adair that she has in possession to prevent anyone

1     that disagrees with her from accessing him and  
2     providing him the legal advice he needs to receive  
3     his freedom.

4                     Therefore, I believe any document  
5     that she has that provides her any status of any  
6     kind should be revoked. She also prevented from  
7     moving him to any other location where he could not  
8     be found, to prevent us from accessing him. I also  
9     request that the facility where he is staying will  
10    be commanded to allow to access-- give access to him  
11    so that we would be -- that he would be provided all  
12    legal procedures by providing him access to legal  
13    advice, notary, and witnesses that will allow  
14    appropriate dissertation of his legal rights. Thank  
15    you very much.

16                    THE COURT: Okay. And, Mr. Baghdassarian,  
17    are you related to Mr. Adair?

18                    MR. BAGHDASSARIAN: I am a good friend of  
19    his.

20                    THE COURT: You are just a friend. Okay,  
21    okay, I understand.

22                    All right, Mr. Merck, your response.

23                    MR. MERCK: Yes, Your Honor. Thank you.

24    So as I think Jirair -- as she has faithfully served as  
25    agent for Donnie Weiner (phonetic) Adair since 2020. She



1 has a health care power of attorney --

2 THE COURT: You are breaking up.

3 MR. MERCK: Your Honor --

4 THE COURT: I am getting about every other  
5 word.

6 MR. MERCK: Is it better now, Your Honor?

7 THE COURT: That is much better.

8 MR. MERCK: Okay. So, yes, Judy Tupolo  
9 does have a healthcare power of attorney and durable  
10 power of attorney for Mr. Adair. These were both  
11 executed July 27th, 2020. And the durable power of  
12 attorney was recorded. Now Mr. Adair has filed this  
13 action to have Ms. Tupolo removed as agent, however not  
14 only are his allegations real vague and to us don't seem  
15 to be credible, but we don't believe has standing to even  
16 bring this action. And that is the first focus of my  
17 memorandum that I filed.

18 THE COURT: Okay.

19 MR. MERCK: I would expect (ck) that he  
20 even to bring a motion, that he needs to show that he is  
21 entitled to some judicial relief. There is, under the  
22 South Carolina Uniform -- it specifically states who is  
23 allowed to seek judicial relief under these  
24 circumstances, and I have set that out in my memorandum.  
25 And he is none of these. He doesn't fit these criteria.



1 subpoenaed and -- last day -- and there are medical  
2 records that I have that show some -- may I think he was  
3 probably incapacitated -- I feel -- in evidence of that.  
4 But I don't want to present that because I believe the  
5 plaintiff is going to put this out in public. And so  
6 this is a vulnerable adult, so we just ask that you deny  
7 the motion and I just make a motion on the record to  
8 dismiss the case because he doesn't have standing. I  
9 think he has to show where he even has a right to bring  
10 an action, because I don't believe he does.

11                   And then on the motion for a more  
12 definite statement, that is just where before Ms.  
13 Tupolo retained me she had -- the issues were so  
14 vague that she filed a motion for him to come  
15 forward with a more -- complaint. But I don't  
16 believe, based on what he said today, that he is  
17 going to be able to do that, so really it would be  
18 more proper as a motion to dismiss. That is all I  
19 have, Your Honor.

20                   THE COURT: All right. This is what I  
21 want you to do. Mr. Baghdassarian has not had an  
22 opportunity to review your memorandum, so I would like  
23 you to send him a copy of that. And Mr. Baghdassarian, I  
24 will give you 10 days to file a formal, written response  
25 to his memoranda. I will give you an opportunity to

1 review that and I will take this matter under advisement  
2 so I can review the exhibits and the memorandum of law.

3 MR. BAGHDASSARIAN: Okay, but I do not  
4 understand, why didn't he serve me with this memorandum  
5 and it's not even on the website. I just checked the  
6 website today, it is not there. Can he just bring up a  
7 memorandum at the last moment without replying to me and  
8 I just, I think this is another attempt to waste time  
9 from Mr. Don --

10 THE COURT: Well, the memorandum has been  
11 filed with the Court. It is in the court file.

12 MR. BAGHDASSARIAN: I do not see it.  
13 Whatever Judy sent, I replied to it. My reply is there.

14 THE COURT: It is in this Court's file,  
15 and that is why I referenced it.

16 MR. BAGHDASSARIAN: When did he file it?

17 THE COURT: When I looked at the file it  
18 was there.

19 MR. BAGHDASSARIAN: When did --

20 THE COURT: So I am going to give you an  
21 opportunity to review it and respond to it. That is why  
22 I am giving you ten days to do that. I want you to have  
23 an opportunity to be heard on that issue.

24 MR. BAGHDASSARIAN: Thank you very much.  
25 Thank you very much, but I -- what I am asking you,

1    wasn't he supposed to file this memorandum ahead of time?  
2    He just reported six days ago that he is going to  
3    represent her. And I see no other documents on the  
4    website, nor have I been notified of any documents. Judy  
5    has already wasted time several times. First time, first  
6    time when there was a hearing about three months ago, she  
7    just ignored the notice. And she was avoiding any  
8    service, so she was trying to waste time in order to  
9    prolong the suffering of Mr. Don Adair.

10                   And then, in summary, when the court  
11    was supposed to happen in June, two days before, she  
12    requests to have legal advice, although she had  
13    since January to get legal advice. So she has been  
14    wasting time. This is a game of wasting time. And  
15    I request the Court not to listen to this because  
16    what has been done is not appropriate. If he really  
17    -- he should, he should have submitted that he is a  
18    representative at least ten days ahead of time and  
19    have submitted the referendum and send me a copy  
20    instead of doing it last moment.

21                   THE COURT: Well, that is why I am giving  
22    you an opportunity to respond to it. I am --

23                   MR. BAGHDASSARIAN: Your Honor, I thank  
24    you, but I just want to emphasize --

25                   THE COURT: A party has got a right to

1 retain counsel literally up to the time of the hearing.  
2 Now you correctly state that ordinarily affidavits and  
3 exhibits are filed ahead of time with the court, but I am  
4 not going to decide anything until you have had an  
5 opportunity to review it and respond to it. That is why  
6 I am going to give you ten days.

7 MR. BAGHDASSARIAN: All right.

8 THE COURT: So that would be the order of  
9 the Court. I am going to take this under advisement.  
10 And, Mr. Merck, you go ahead today and send that to Mr.  
11 Baghdassarian.

12 MR. BAGHDASSARIAN: Okay. Can I answer  
13 some of the things he said or --

14 THE COURT: I am going to give you -- I  
15 want you to answer that in writing so that I can review  
16 it. And I am going to give you ten days to do that. And  
17 particularly any law that you can tell me that gives you  
18 standing to file this suit. Because the basis of his  
19 argument is that you don't have standing to file this  
20 suit, so I particularly want you to respond to that and  
21 any law that you can cite for me in your written  
22 response.

23 MR. BAGHDASSARIAN: To file this lawsuit?

24 THE COURT: Yes, sir, anything that --  
25 standing, the ability to file the lawsuit. That is what

1 the motion to dismiss is on.

2 MR. BAGHDASSARIAN: Okay.

3 THE COURT: And he cited some cases and  
4 memorandum, and again I am not deciding it now because I  
5 know you haven't had an opportunity to look at it. So I  
6 am giving you that opportunity.

7 MR. BAGHDASSARIAN: Okay, all right.

8 THE COURT: Okay, that will be under  
9 advisement and we will go from there. Close the record.

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF OCONEE:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 4th day of June, 2023.

*Mona L. Manley /s/*  
MONA L. MANLEY  
Official South Carolina Court Reporter  
Circuit Reporter for the 10th Circuit  
(850) 893-6662  
mmanley@sccourts.org



|                                   |   |                                          |
|-----------------------------------|---|------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS             |
|                                   | ) |                                          |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                |
|                                   | ) |                                          |
| Jirair Baghdassarian,             | ) |                                          |
|                                   | ) |                                          |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF Jirair Baghdassarian</b> |
|                                   | ) |                                          |
| vs.                               | ) |                                          |
|                                   | ) |                                          |
| Judy Tupolo as Power of Attorney, | ) |                                          |
|                                   | ) |                                          |
| Defendant.                        | ) |                                          |
|                                   | ) |                                          |

I, hereby undersigned, Jirair Baghdassarian, swear under penalty of perjury that all states in this affidavit are true and correct to the best of my knowledge.

Facts:

- **Around May or June 2021.** (vaguely) I called his association number, and I could go through and talk to Mr. Adair. He informed me that he had foot swelling. I suspected mainly cardiac issues and possibly renal. I understand that his vital signs have not been taken by anyone lately and that he needs to take them. I informed him where to buy a blood pressure measurement machine and a pulse oximeter and take measurements daily and call me back with the results. I recommended he see his primary care provider and a cardiologist for that purpose. He agreed to do so. After that, I lost contact with him. Some friends were even surprised that I was able to reach him as he was practically unreachable for them because they said Judy was restricting his phone access. Some told me that he still had his cellphone when I called him but that it was taken away from him later. Judy admitted later that she is not allowing him to have a cellphone anymore.

- **September 2021.** I had a talk with Tyrell Jones, who was one of the board members of the association that Don Adair established and managed, and he informed me that he made a recent trip by car from Georgia to Seneca, South Carolina, to talk to Don Adair. She refuses to let him talk to Don Adair. He calls the Police, and she calls someone called Samuel Gonzalez to help her. Tyrell Jones let me know that Judy was not dressed appropriately (she was barely covered) and that she interfered to prevent him from talking to Don Adair. He made sure she promised the Police that Don Adair would not be placed in a facility or nursing, which she promised to do. Jones also informed me about how Judy took away the \$104,000 that was on the association account run and established by Don Adair on 282 Davidian Way, Tamassee, SC. He says there were three people on that account, him, his wife, and Judy. He was surprised she withdrew the money without the other people's permission. I understood that according to association rules, one person could not appropriate the money without the permission of others on the account.

Jones described himself and was described by others as one of Don Adair's right hands. Jones and another board member, Don Ponciera and Catherine Kerr, have told me that Adair had asked him to become vice president and that he asked him to use the \$104,000 for a rebuilding project on the same address at 282 Davidian way, and that Judy was obstructing the project. Tyrell Jones also told me that the first month rent for the place she is renting in Seneca, that was supposed to be the association's new headquarters and where Don Adair was paid from the association money and that it was Jones that paid it by check and that he had the receipt.

- **October 18, 2021.** I called Judy Tupolo and asked to talk to Don Adair. She allowed me to talk to him, but I noticed she was listening to the conversation. When I asked him about what he wanted or needed, he said he wanted a phone so that he could talk to people. Judy, hearing the conversation, interferes and says he cannot have a phone because he used to be scammed by telemarketers. I told her that they could not do so without a credit card if his credit card was taken away. She refuses and ends the conversation. I found it inappropriate that Don Adair had no access to a private conversation without her observing and intimidating him. During that conversation, Judy admitted to me that she had taken the \$104,000.

- **January 23, 2022.** I spoke with Don Adair on 01/23rd/2022. He told me he was upset that Judy Tupolo had left him in that facility with no other option. He told me also that he did not have any money because Judy Tupolo took away all his money. He requested my help, and I told him I was willing to help but that I could not do it unless he signed documents to revoke the Power of attorney he gave to Judy Tupolo and sign himself out of the Foothills Assisted living facility where he was. He agreed to the plan. He expressed his wish to talk to the Police also. During the conversation, he lets me know that someone has been listening to the conversation and that they heard it over and threatened to take him to the Police. I ask to talk to the staff, and the assistant takes the phone from him and lets me know that he has another phone call and that he's not supposed to talk to anybody. She told me it is the Power of attorney that was on the other line and that she made the decision. When I object and explain that the man has his rights, the assistant ignores me and refuses to give her name, then hangs up. Since then, I have been calling the facility again and attempting to ascend the chain by talking to managers. It was similar all over. They were rude and non-cooperative. They were very biased, openly defending Judy with absurd arguments they were not supposed to get involved with. Sometimes they refuse to give me names and hang up on me. It was useless to discuss anything with them, and they were obviously siding illegally with the agent against the principal. They literally tell me that "she is over him" and that she's the one that makes the decisions, not him. They refused to talk to me further and hung up.

- **A few minutes later.** I received a text message from Judy Tupolo saying that Don is officially diagnosed with Alzheimer's and dementia and memory loss, that any statement I'm trying to get from him is invalid, and that I have to go through her, his POA and quoting verbatim: "not be vulturistic preying on a 90 year man who's not in their right mind". When I object, she claims that what she has is legal, that he appointed her as his caretaker when he had the stroke. When I ask her to present proof of what she has, she refuses and ass me to get a copy from Oconee County court. When I object, stating that the one at the court is a general, not medical Power of attorney, and that gives her no right to be his caretaker, she answers: "the burden of proof is not mine." And refuses to discuss nor negotiate any further solution.

- **May 23, 2022.** I did not hear anything since then from Don Adair till he was able to call me on 05/23rd/2022. He was alert and well-oriented. He recognized where he was and recognized the month, the day, and the exact time of the conversation. During the conversation, he orally

revokes the Power of attorney for Judy Tupolo and writes down the revocation statement to show it to everyone in the facility and to Judy. He accuses Judy of stealing his money, and that is why he does not have any money left. He said he had \$17,000 in the bank, and she took it. He said he also had another \$104,000 in the bank, and she took that too.

- **May 27, 2022.** On a phone conversation on May 27, 2022, Don Adair told me that he has Judy was stealing the money he had gathered in the bank to nurture a schismatic group in Texas against his will. He told me he is in the facility of Foothills assisted living against his will and that he feels in confinement and that, although he had no option but to accept his confinement, this is still not fair. He said on the phone conversation that when Mr. Tyrell Jones drove from Atlanta to see him, Judy interfered and forbade him from talking to Mr. Jones although he wanted to talk to him. During the conversation, he confirmed that he had already revoked the Power of attorney he had granted to Judy Tupolo. I asked him to give me a short Bible study. He agreed and provided a recalling of verses and information that shows remarkable memory use for someone his age and a history of transient ischemic attack. He agreed to sign all documents necessary to appoint me as his Power of attorney. He expressed his wish to have his books back and be back in his office.

He also agreed not to sign anything nor consent to anyone without consulting me. He gave me the number of a friend called Scott Smith, so I could call him and inform him that he wanted to talk to him. I and someone else attempted calling Smith many times but unsuccessfully. He expressed his wish to talk to the judge (he knew I about this lawsuit. He was subpoenaed later with respect to his wishes).

- **May 31, 2022.** He leaves me a recorded message on the phone stating that he informed the facility about his revocation orally and in writing, but they have refused to honor his will. During the conversation I assessed his cognitive and functional level and found out that he showed good judgment on how to operate a vehicle, how to cook a meal, and how to turn off a fire. During this conference Don Adair expressed his concern that when she took him to a doctor to check his capacity to drive, and instead assessing him directly, the physician was basing his evaluation based on her history, request, and insistence. HE said she stole his car keys and cellphone. He also mentioned that he did not know what he was doing when he signed her any power of attorney signed to her, and that he had requested the lawyer Halliday who made it to annul it. He said it was dictated to him and that he had to sign it. He said that when he signed it no one told him what it was about. He insisted on talking to a judge in person. He said she told him that he was going to stay in foothills assisted living till he dies.

- **June 2, 2022.** Don Adair calls me and tells me that Judy went into his room again and stole the papers and instructions where he revoked the Power of attorney documents. He said she came yesterday and stole the tablets with his notes on them. He said he must hide things from her so she would not steal them. He informed me that Judy keeps warning him that I am his enemy but that he does not believe her since he believes I am his friend. He informed that he had already told her that he did not want her in his presence anymore, that she should stay away from him, and that he did not want to go with her anywhere anymore, but she was not respecting his wishes. He said he locks his door to prevent her from coming into his room when he's out of the room, but that she still finds a way to come in. It must be that the facility is providing her unlawful access, although Don Adair was told not to do so, orally and in writing. I also informed them of the matter by an official letter with a return receipt. A similar letter was sent to Judy as well. He agreed that he should not sign or consent to anything without contacting me and consulting me first. He wrote them again. He expressed his wishes to have his books back and be

in his office. He appoints me as his Power of attorney on the phone, pending the signing of papers which was sent to him. He said he could find two witnesses to witness the Power of attorney he wants to grant me if I mail him the documents. We believe that Judy must have intercepted the papers and stolen them against his will as she did with the other documents before and restricted and obstructed his mail communication after having done the same for personal visits and for phone communication. He wrote down the following statement and said he would show it to everyone: "I am appointing Jirair Baghdassarian as my Power of attorney. I will not sign anything. Nor will I consent to anything without consulting my advocate." He kept insisting that I needed to go there immediately and take him out of that facility. He wrote down the revocation to all of Judy's Power of attorney documents again. During the conversation, Don Adair told me he is continent for bowels and urine, and he does not use any diapers. He said he wanted to buy some herbs to treat frequency upon urination but that he did not have money.

**Mary Bottig Meyer's testimony:**

Mary Bottig has been contacting me since she was able to talk to Don Adair in early and mid-2021. She was telling me how afraid he was of the idea that Judy was coming back from Texas to stay with him, that he used to tell her that she used to treat him in an intimidating and condescending manner and deprive him of freedom. For instance, she took away his phone and threatened to put him in a nursing home if he would request an avocado. She also told me how she was threatening to accuse him of sexual harassment. I have heard him on recording state the same. She also told me how she used to control his phone during bible study conferences and dictate to him what to say. He used to confide to Mary about his astonishment that his dog died, possibly poisoned, and his violin disappeared mysteriously during Judy's presence and management of his daily affairs. I heard such an example once when I joined the phone conference. Mr. Stephen Gaines, who used to join the conferences, noticed the same issue. Catherine Kerr also told me that people who disagreed with her were booted out of the phone conference. I have heard other members and ex-members state how controlling she was and explain their disagreement with her to placing Don Adair in a facility where he is cut off from his religious family. I agree with them that Don Adair needs and wants to be in a place where he can pursue his religious career and contact his students and fellow brethren of his religious community. I am appalled by the idea that she cut him off from his friends and advocates and appropriated all his resources to her whim and desires.

Mary Bottig, Catherine Kerr, Tyrrell Jones, and Don Panciera reported to me that Judy used to manipulate to eliminate all those who would disagree with her by lying to Don Adair and to other members of the association to isolate them and take control of the association and its funds.

**Conclusion:**

I believe Judy appropriated his money, his association, his career, his tithes money, possibly his credit, his Bible students, his land, his books, his name, and his reputation for herself without his consent and against his will. She has deprived him of his freedom and held him



hostage, and socially isolated him by unlawful restraint, kidnapping, and false imprisonment to make it impossible for him to defend himself and receive advocacy, support, and legal advice. Judy has been selling Don Adair's publications online, as attested on the website she manages, [www.salemgadsda.org](http://www.salemgadsda.org). Her daughter never denied that. Samuel Gonzalez has been helping her by posting these books and selling them on Facebook, where I saw them posted, and they were seen by many who objected to that matter. These books come from a trailer on a piece of land that is a matter of contention between don Adair and his late wife's nephew, Kevin Mueller. No one was supposed to touch anything on the land until the probate court resolved. I have been told that by Kevin, his wife Melissa, and Catherine Kerr, who is well informed about the matter. If this is true, Judy would not have only abused her trust as an agent to Don Adair by acting against the principal's wishes and not according to his best interests, but she would be showing disrespect toward court procedures and authorities by illegally doing what is legally forbidden to do without a court order.

Several people have been complaining of her past flirtatious behavior with Don Adair, coming at the late time of the night to his place, tapping his cheeks, playing with his hair, and rubbing his feet. Her inappropriately light dress in the presence of an old man when Tyrell Jones came to visit him in September 2021 is also another example of flirtatious manipulation to keep him isolated. Don Adair explained that, despite her flirtatious behavior, she used to threaten to accuse him of sexual harassment. He was afraid that she would tell everyone that he needed to "behave" alluding to physical contact.

It is very suspicious that Don Adair could not reach me for four months between January 23 and May 23, although he stated that he attempted to do so. It is also suspicious that he said he lost the phone number in parallel with him, stating that Judy was stealing his documents, including phone numbers. It is also suspicious that he could only call me less than two weeks before the hearing related to his matter was scheduled on June 3 and that one of my main objections is him being deprived of communication. It is also suspicious that after June 2, I did not receive any call from him, although he was calling me several times a week from January 23 to June 2, and that he was very anxious to talk to me and receive the documents which were supposed to transfer the Power of attorney agency from Judy Tupolo to me. It is also suspicious that the mail I sent him was never returned when he was anxious to process it; when I did send him in, it reminded me of my phone number and asked him to call me for further instructions. All this does not seem an innocent coincidence to me, and I am sure Judy has interfered in the process by blocking all further communication and possibly stealing his mail. It is also noticeable that her attorney says that Don Adair was not at Foothills facility anymore during the hearing. It sounds like another attempt to kidnap him and hide him from his friends to prevent any form of advocacy and legal advice and deprive him of the chance to defend himself and receive second opinions. This is an apparent attempt to control this man's life and resources.

I am a Registered Nurse and a Family Nurse Practitioner and have been working with psychiatric and dementia patients for years. Having spoken recently for hours to Don Adair, I assessed his cognitive abilities, his orientation level and found that he was alert, conscious and oriented self, to person, to people, to place and to situation. He showed good judgment, good long term and short-term memory as well as a functional memory. I am very confident that he would pass a cognitive competency test. He was able to follow a list of instructions, to implement it and to call me back reporting the results of the instructions. It is obvious from the

facts I have directly witnessed and mentioned above that Judy has unlawfully deprived Don Adair from his basic rights and freedom. We were attempting and still are attempting to give him empowerment to make the choices he wants to do and can do. We see no human or ethical justification for her tyrannical behavior. We have seen no legal proof that a court of law has transferred these powers from him to her.

07/25/2022

Jirair Baghdassarian

A handwritten signature in black ink, appearing to read "Jirair", followed by a long, sweeping horizontal line that extends to the right.

# Acknowledgment by Individual

State of Nevada County of ClarkOn this 25 day of July, 2022 Before me, Eric Alas  
Name of Notary Public

the undersigned Notary Public, personally appeared

Jirair Maurice Baghdassarian

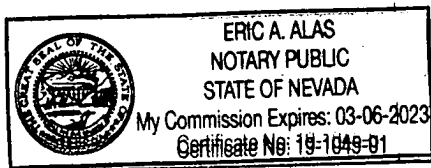
Name of Signer(s)

- ☐ Proved to me on the oath of \_\_\_\_\_
- ☐ Personally known to me
- ☒ Proved to me on the basis of satisfactory evidence NU DU

Ex: 04/25/24  
n of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

(Signature of Notary Public)

My commission expires 03/06/2023Optional: A thumbprint is  
only needed if state stat-  
utes require a thumbprint.Right Thumbprint  
of Signer

Top of thumb here

## For Bank Purposes Only

### Description of Attached Document

Type or Title of Document

Affidavit of ~~JE~~ Jirair Baghdassarian

Document Date

07/25/22

Number of Pages

6

Signer(s) Other Than Named Above

Account Number (if applicable)



F001-00000DSG5350-01

**FORM 1**  
**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2022-CP-37-00157

Jirair Baghdassarian

Appellant

v.

Judy Tupolo

Respondent,

NOTICE OF APPEAL

Jirair Baghdassarian appeals the order of the Honorable R. Scott Sprouse dated November 22, 2022. Appellant received written notice of entry of this order on December 5, 2022.

December 12, 2022

Jirair  
Baghdassarian  
2580 La Cara Ave  
Las Vegas NV 89121  
Representing self





## FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF Oconee  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP3700157

Jirair Baghdassarian  
PLAINTIFF(S)

Judy Tupolo as Power of Attorney et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);  
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:** ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Upon careful consideration of the filings by the parties, applicable law, report of the Guardian ad litem, and arguments at the hearing, the Court finds that the Plaintiff has failed to establish grounds for the Court to dissolve the power of attorney in question and grant the relief sought. Accordingly, this action is dismissed.

This order is without prejudice to either party's right to petition the Probate Court of Oconee County for a Conservatorship. It appears that this dispute centers around where the best care for Mr. Adair can be provided. That is a matter in the jurisdiction of the Probate Court. There also are allegations about church funds which are not properly before the Court.

Mr. Merck is directed to prepare a formal order within fifteen (15) days, setting forth full findings of fact and applicable law.

**ORDER INFORMATION**

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/07/2022 .

Probate Court Oconee County  
Jirair Baghdassarian for Jirair Baghdassarian  
Jirair Baghdassarian for Jirair Baghdassarian

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

## Court Reporter:

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Oconee Common Pleas

**Case Caption:** Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,  
defendant, et al  
**Case Number:** 2022CP3700157  
**Type:** Order/Electronic Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

THE STATE OF SOUTH CAROLINA )  
COUNTY OF OCONEE )

IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

Jirair Baghdassarian )

Case #.: 2022CP3700157

v. )

**ORDER**

Judy Tupolo as Power of Attorney, )  
DEFENDANT. )

Consistent with S.C. Code Regs. 65-12, pleadings are to be liberally construed with a view of substantial justice between the parties. Accordingly, the Court accepts Plaintiff's motion as properly filed [*see attached*] and compliant with S.C. Code Rules 59 and 60. However, the Court notes this submission erroneously inquires into the finances of Mr. Donnie Adair. Mr. Adair is not a party and his ability to pay or the state of his finances are immaterial to the Court. The Court previously ordered that the named parties split the GAL bill evenly and this remains the order of the Court.

Further, as stated in the order, the Form 4 issued on 11/08/2022 was without prejudice to either party's right to petition the Probate Court of Oconee County for a Conservatorship. However, this matter is dismissed with prejudice before this Circuit Court and there is no error in the order issued on 11/22/2022 setting forth such.

As to the other findings in this prior order, the Court carefully considered the record, pleadings, arguments of Counsel, and applicable law. Accordingly, the Court concludes that Plaintiff's motion for reconsideration pursuant to Rule 59(e), SCRCP be denied as there was no misunderstanding or failure to fully consider all arguments and issues at the hearing. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

Accordingly, Plaintiff's Motion is DENIED.

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

Jirair Baghdassarian

Plaintiff,

vs.

Judy Tupolo

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE circuit JUDICIAL CIRCUITAPPLICATION FOR WAIVER OF  
PAYMENT OF NEUTRAL FEESDocket No. 2022-CP-37-00157

|                       |                      |
|-----------------------|----------------------|
| NAME OF APPLICANT     | Jirair Baghdassarian |
| ADDRESS               | 2580 La Cara Ave     |
| CITY, STATE, ZIP CODE | Las Vegas Nv 89121   |
| TELEPHONE NUMBER(S)   | 702 689 1459         |

## 1. Are you presently employed?



Yes



No

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

| SALARY OR WAGES PER MONTH | NAME AND ADDRESS OF EMPLOYER                                                                                                                          | FULL OR PART TIME |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
|                           | We are halping Donnic wayne Adair in this case and what we mention here is his assests not ours, which we ignore its value but know that it is scarce |                   |

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month.

| SALARY OR WAGES PER MONTH | NAME AND ADDRESS OF EMPLOYER | TERMINATION DATE |
|---------------------------|------------------------------|------------------|
|                           | Don Adair Does not work      |                  |

## 2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support.

| NAME | AGE | RELATIONSHIP | AMOUNT OF SUPPORT |
|------|-----|--------------|-------------------|
| NA   |     |              |                   |
|      |     |              |                   |
|      |     |              |                   |
|      |     |              |                   |

SCADR150C (04/2021)

3. **Have you received within the past twelve (12) months any money from any of the following sources?**

- a. Business, profession or form of self-employment? Yes ☐ No ☐
- b. Rent payments, interest or dividends? Yes ☐ No ☐
- c. Pensions, annuities or life insurance payments? Yes ☐ No ☐
- d. Gifts or inheritances? Yes ☐ No ☐
- e. Any other sources? Yes ☐ No ☐

If the answer to any of the above is "yes," describe each source of money and state the amount received from each and by whom during the past twelve months.

| SOURCE OF MONEY                                                                              | AMOUNT |
|----------------------------------------------------------------------------------------------|--------|
| We do not know what he is doing. He may have some social security minor allowances. Not sure |        |
|                                                                                              |        |
|                                                                                              |        |

4. **Do you own cash, or do you have any money in a checking or savings account?**  
☐ Yes ☐ No

If the answer is "yes" state the total amount of the cash and owner: \$UNknown. Probably none

5. **Do you own any real estate, stocks, bonds, notes, or other valuable property (excluding ordinary household furnishings and clothing)?**  
☐ Yes ☐ No

If the answer is "yes," describe the property and state the appropriate value of the items owned and who owns it:

| PROPERTY                                                                          | AMOUNT |
|-----------------------------------------------------------------------------------|--------|
| There is some property in Tamasses we know of that Don Adair has minor share with |        |
|                                                                                   |        |

6. **What kind of motor vehicle do you and/or the alleged incapacitated individual own?**

Year:      Make:      Model:  
 Is it paid for? ☐ Yes ☐ No  
 If not, what is the monthly payment? \$

7. **How much do you owe (on liens, mortgages, other encumbrances or debts)?** \$

I do solemnly swear that the above information is a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, whether they are assets which I control, assets that any person is holding in trust for me, or in which I have any interest. I

SCADR150C (04/2021)

have not recently, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned here.

I do solemnly swear I am financially unable to pay the Neutral Fees associated with the mandatory mediation required by the Court.

This 28th day of November, 2022

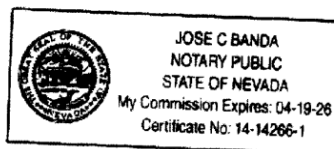
Subscribed and sworn to before me this

28<sup>th</sup> day of November, 2022

Applicant Signature

Notary Public for South Carolina

My Commission Expires: 04/19/26



.....  
The Application for Waiver of Payment of Neutral Fees is hereby ☐ Granted / ☐ Denied.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge/Clerk or Deputy Clerk

\_\_\_\_\_, South Carolina



Oconee Common Pleas

**Case Caption:** Jirair Baghdassarian VS Judy Tupolo as Power of Attorney ,  
defendant, et al  
**Case Number:** 2022CP3700157  
**Type:** Order/Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit



1           In the Court of Common Pleas of the  
2           State of South Carolina, County of Oconee

3

4                                           Case No.: 2017A0720100139

5   Jirair Baghdassarian,

6                                           Plaintiff(s),

7   vs.

**Transcript of Record**

8   Judy Tupolo,

9                                           Defendant(s).

10

11

12                                           HEARING HELD VIA WEBEX

13

14

15                                           October 25, 2022

16

17

18

19

20   BEFORE:

21                                           The Honorable R. Scott Sprouse

22

23

24

25

1 APPEARANCES

2

3 **REPRESENTING THE PLAINTIFF:**

4 Jirair Baghdassarian, Pro Se

5

6

7 **REPRESENTING THE DEFENDANT:**

8 Trey Merck, Esquire

9 119 South Main Street, Suite B  
10 Six Mile, South Carolina 29682

11

12 **SERVING AS GUARDIAN AD LITEM:**

13 Tjay Bagwell, Esquire

14 603 West Main Street  
15 Walhalla, South Carolina 29691

16

17

18

19

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24

25

1 PROCEEDINGS

2 THE COURT: What is our first case?

3 THE CLERK: Case number 2022CP3700157,  
4 Jirair Baghdarrarian versus Judy Tupolo. This is  
5 plaintiff's motion for temporary order of restraint.  
6 Attorneys on this case, please state your name for the  
7 record.

8 MR. BAGWELL: I am Tjay Bagwell, I am the  
9 guardian ad litem for Mr. Donnie Adair, who he might not  
10 be in the caption, but Ms. Tupolo -- Ms. Judy Tupolo is  
11 his current power of attorney.

12 THE COURT: I see Mr. Merck down here and  
13 then Mr. Baghdassarian. Gentlemen, can you hear me?

14 MR. BAGWELL: Yes, Your Honor.

15 MR. BAGWELL: I can hear, but it's cutting  
16 out a lot. I like hear half of the word maximum.

17 THE COURT: Okay. Mr. Merck, I can't see  
18 you. Can you hear?

19 MR. MERCK: I can hear you very well, Your  
20 Honor. You are good. I'm going to try to see if I can  
21 fix the camera.

22 MS. HALL: Judy Tupolo is here. Her  
23 daughter, Alexia Hall, who has been a witness to many  
24 things regarding the care of Don Adair.

25 THE COURT: Okay. I can see Mr. Merck

1 now.

2 MR. MERCK: Yes, sir.

3 THE COURT: This matter is set for a  
4 rehearing. The Court held an earlier hearing. This  
5 matter was sent to circuit court by order of the Oconee  
6 County probate court on the grounds that this was an  
7 action which was questioning the construction of a power  
8 of attorney or the agent's conduct as power of attorney.  
9 So, the probate court on February 28th, 2022 sent this  
10 matter to circuit court.

11 A hearing took place, which resulted  
12 in a form four order. And then a formal order was  
13 issued in which a guardian ad litem was appointed  
14 for Mr. Adair. Mr. Bagwell was appointed guardian  
15 ad litem so that the Court could be informed of the  
16 facts of the situation since there's great  
17 divergence of the versions given by the parties in  
18 the case and to be more informed and get accurate  
19 information, the Court felt that it was necessary  
20 for a guardian ad litem to be appointed.

21 The Court has received the report  
22 from the guardian ad litem. And the purpose of this  
23 hearing is for the guardian ad litem to put anything  
24 in the record that he feels necessary. And the  
25 Court will hear from each party after they have had

1 the opportunity -- well, it's been over a month,  
2 they have had the opportunity to review the  
3 guardian's report and filings have been received  
4 from both parties.

5 So, Mr. Bagwell, is there anything  
6 that you would like to put in the record as guardian  
7 ad litem for Mr. Adair?

8 MR. BAGWELL: Just briefly, Your Honor. I  
9 believe that Mr. Adair is in a bit of a good spot  
10 compared to some of the cases that we have done like this  
11 before. I don't believe that either the plaintiff or the  
12 defendant is actually going to be a bad option for his  
13 care. And I speak on that strictly speaking for Mr.  
14 Adair. And if you don't mind, I call him Donnie. That  
15 is what I did in my report.

16 The -- so many of the issues  
17 surrounding Donnie are also tied up with the church,  
18 the congregation, the organization that he invested  
19 his entire life in. And so he didn't have many  
20 possessions himself. He didn't have much money  
21 himself, comparatively speaking, much money himself.  
22 He does have a personal account that his social  
23 security is being deposited into. But as far as  
24 much land or many cars or large savings or anything  
25 like that, none of this was personal to him. And it

1 really revolves around this organization. I call it  
2 the association, I believe, in my report.

3 But it is part of a much larger  
4 religion, the Seventh-day Adventist, this branch of  
5 it that is located in Oconee County. Mr. -- Donnie  
6 has been dedicated his whole life, along with his  
7 wife Marilyn, late wife Marilyn I should say, really  
8 dedicated themselves to this. And so I hate to  
9 bring it up so much, but many of the troubles, many  
10 of the disagreements between the parties stem from  
11 how the money was used out of this religion, how  
12 the, how the -- how Donnie gets to interact with the  
13 current community in it. And so there has to be --  
14 I put it in my report, but there has to be a  
15 fundamental understanding that those two things are  
16 connected in the minds of the parties, in the minds  
17 of the community as a whole.

18 Now, as far as it mattering to the  
19 Court or not, that of course, is up to the Judge.  
20 But what I found is both the plaintiff and the  
21 defendant have -- I don't mean to make light by  
22 saying this, but they have said all of the right  
23 words in their care for Donnie, that they not only  
24 care for him, like love him personally, but they  
25 also want to see what is best for him.

1                   Now, the plaintiff is saying that  
2   from a bit of a distance, saying how much he  
3   respects Donnie, how close they have grown over  
4   means of electronic communication, mostly by phone,  
5   how he wants Donnie to be still heard by the word --  
6   still heard by the world and the congregation as  
7   long as Donnie can contribute to that.

8                   There was nothing but overflowing  
9   respect for Donnie and his position from the  
10  plaintiff. The defendant, when speaking with her,  
11  we talked a lot more about day-to-day stuff,  
12  personal care, what their schedule looks like, and  
13  so that is to be expected because the defendant has  
14  spent the last couple of years spending pretty much  
15  24 hours a day with Donnie. So the difference in  
16  how they see Donnie is evident.

17                  And the plaintiff, again, I didn't --  
18  I didn't check a degree or a business card or  
19  anything like that, but the plaintiff, through  
20  personal interview with me, through his own  
21  affidavits, has shown a great capacity to work with  
22  people that are losing their mental capacity like  
23  Donnie is doing. And so the plaintiff has -- I  
24  think that it is his job, literally, to work with  
25  folks like this in memory care. And so he is coming

1 at that with a particular advantage that I don't  
2 have, that most people in the world don't have, is  
3 that day-to-day experience with the memory care  
4 patients.

5                   The defendant, to her credit, has a  
6 lot of experience with Donnie already. Already  
7 knows his whims, already knows what upsets him or  
8 what the good days look like and what the bad days  
9 look like. So as far as Donnie's actual, physical,  
10 personal care, which I believe should be one of the  
11 most important things to me as his guardian ad  
12 litem, I don't know if there's really a bad option  
13 between the plaintiff and the defendant.

14                   Beyond that, beyond the actual  
15 physical care of Donnie's body and his mind is a  
16 much more mirky, much more complicated issue. I  
17 won't try to just revisit everything in my report.  
18 But briefly, there is no doubt in my mind that  
19 Donnie and Marilyn, his deceased wife, used money  
20 from the church for their personal benefit. I don't  
21 mean that in a bad way, because everybody knew that  
22 they were doing it. I grew up in a family that my  
23 dad was a pastor and my grandfather was a pastor, I  
24 know that churches support people, churches pay  
25 salaries. And just because Donnie and Marilyn



1     didn't draw a salary doesn't mean that they were bad  
2     people, they are just -- they are not accountants.  
3     They are ministers, they are not business people.  
4     And so they made some mistakes over the decades  
5     along the way in how they handled money. But I  
6     don't believe that they were stealing it. If I  
7     could do the air quotes, I don't believe that they  
8     were stealing the money at all.

9                     But when Donnie was no longer the  
10    head of this organization, it brought up a lot of  
11    complications. And those complications, from my  
12    outside perspective, split the association into a  
13    couple of factions. And I know that Judy is on the  
14    board, Judy the defendant, is on the board of one of  
15    those factions. But having Donnie in her care gives  
16    her a great deal of sway over one of those, one of  
17    those two factions. And with that sway, they used  
18    hundreds of -- a hundred thousand dollars, at least,  
19    and possibly more in a way that also -- I don't want  
20    to use the word "misappropriation", but it's  
21    misappropriation out in the open with everybody,  
22    with everybody's knowledge.

23                    Now that we don't have that  
24    centralized leadership with Donnie, now that  
25    misappropriation looks bad to one half of one

1 congregation, but it's completely approved by a  
2 different half of the congregation. And so, are  
3 these things important to Donnie's care? Maybe not  
4 as much as his, as the actual physical wellbeing,  
5 but they are a part of this story, a very complex,  
6 actually now, set of accounting records and tithes  
7 coming in and money being spent is, is complicated.

8               As I stated, there's no doubt in my  
9 mind that Judy has used this money for personal  
10 gain, it is -- but she used it with Donnie in her  
11 house. She took this money and fixed the house that  
12 she is on the deed on. The association doesn't own  
13 this property, Judy testified to me that she owns  
14 the property and used this association money to fix  
15 the house up. But now Donnie is living in that  
16 house. Is he getting a hundred thousand dollars  
17 worth of value from the renovations she made in the  
18 house? That is going to be arguable by either side.

19               But if -- this may be me speaking out  
20 of turn, but if I may say, that money is spent.  
21 Donnie is never getting it back. And, quite  
22 frankly, I don't know if it would help with his care  
23 or not. I understand that nursing homes are very  
24 expensive, but Donnie having very little personal  
25 property, very little income himself, would qualify

1 for Medicaid very soon, if not immediately, if it  
2 came to applying for Medicaid to pay for long term  
3 care moving forward.

4                   And so, Your Honor, I believe that I  
5 could probably ramble for a while longer, but the --  
6 in summary, Donnie, is -- Donnie's needs are met  
7 today. I believe if the plaintiff won this case,  
8 Donnie's needs would be met. If the defendant wins  
9 this case, I believe that his needs would be met.  
10 All of the stuff about the association may not  
11 matter to Donnie's actual needs, other than  
12 undoubtedly what the plaintiff will bring up is  
13 Donnie wants freedom. He wants to be able to teach,  
14 he wants to be able to interact with his  
15 congregation.

16                   But whichever, plaintiff or  
17 defendant, whichever side wins, that is only -- that  
18 is only half of the congregation that I believe  
19 Donnie is really going to communicate with because  
20 there is a political divide in the congregation that  
21 I don't know if it has anything to do with Donnie  
22 really anymore. He served his time and he is  
23 absolutely the elder, he is absolutely the super  
24 star of this association, but does it matter for his  
25 day-to-day care now? I can't say that it does.

1                   THE COURT: Mr. Bagwell, you anticipated  
2 my first question to you, and that is, as guardian ad  
3 litem do you believe that Mr. Adair's basic needs are  
4 being met?

5                   MR. BAGWELL: I believe that he is clean,  
6 fed, I believe that he gets to the doctor when he's  
7 supposed to. I think, based on the conversations with  
8 the plaintiff, I believe those needs could continue to be  
9 met. Again, that is words, that is the testimony coming  
10 this way. Donnie -- but when I met with him personally,  
11 he appeared clean, safe, well fed. He still walks around  
12 on his own, he doesn't even have to use a -- he is 90  
13 years old, doesn't have to use a cane or anything like  
14 that. He is actually, physically, in pretty good shape  
15 for a 90 year old. But he is -- his current needs are  
16 being met.

17                  THE COURT: And, as you know, this Court's  
18 involvement in these type matters is limited to the power  
19 of attorney. And based on your investigation, have you  
20 uncovered any evidence of abuse or fraud or breach of  
21 fiduciary duty in the use of the power of attorney?

22                  MR. BAGWELL: There's been no evidence of  
23 physical abuse at all. And so, again, in my -- I'm not a  
24 medical doctor, but in my, just my opinion, we will --  
25 I'm sure that there will be a difference in my answer

1 here based on if I was the plaintiff or the defendant,  
2 the only evidence of any abuse mentally or emotionally  
3 comes from the plaintiff and the affidavits of the folks  
4 that agree with the plaintiff, and that would be that  
5 Donnie is denied freedom and opportunity, that he should  
6 get to teach and to speak with the members of his  
7 congregation.

8                   So the -- I guess, the only evidence  
9 of any type of abuse would be that Judy is too --  
10 the defendant is too restrictive with Donnie and  
11 that he -- that he could live a fuller life but is  
12 unable to because he's not able to talk on the phone  
13 as much as he used to, not able to teach as much as  
14 he used to. So it is -- that is not evidence that  
15 he is being spoken to too harshly, not evidence that  
16 he's being bullied by Judy, other than Donnie  
17 doesn't get to do what he wants to do everyday  
18 because Judy doesn't let him. That is my only  
19 evidence.

20                   THE COURT: Now, you mentioned earlier  
21 about the congregation split. If Mr. Adair resided with  
22 the plaintiff in the case, do you feel that he would have  
23 communication with the other side of the congregation?

24                   MR. BAGWELL: Again, this is just coming  
25 from growing up in church-based households, if you will,

1 but I think Donnie -- Donnie's communication is going to  
2 be mostly limited to whichever side wins because each  
3 side is going to say that the other side is trying to  
4 poison Donnie's mind.

5 Donnie's mind is not what it used to  
6 be though. They, each side of this congregation  
7 split, is going to see the worst in the other side  
8 and it will -- so the opportunities for Donnie to  
9 teach will over time become limited anyways because  
10 of his disease, but will be restricted by whatever  
11 side wins.

12 And, again, teaching goes beyond a  
13 hobby for Donnie, it is a passion. It is what he  
14 wants to do most in this world. And he spent  
15 decades doing it. But I want to say that he is not  
16 the man that he used to be, but he still has  
17 something to contribute. But it will be, it will be  
18 bottle-necked, I believe, by one side or the other,  
19 just through the nature of, not the promises that  
20 the defendant or the plaintiff can make, just that  
21 they -- the congregation is split. And I know that  
22 is political and everybody wants a piece of the  
23 power.

24 THE COURT: Mr. Bagwell, and don't  
25 misconstrue this question because I know that you are not

1 a medical doctor, I'm not asking you for a medical  
2 opinion. But as his guardian ad litem, did you feel that  
3 Mr. Adair is capable of living by himself?

4 MR. BAGWELL: Absolutely not. He can be  
5 left alone in a room for a short period of time. But I  
6 would -- if I were taking him to the grocery store, I  
7 would keep him in my line of sight. If I -- he could  
8 probably be left alone to watch TV while his caregiver  
9 takes a shower or goes to the yard to water the plants.  
10 He could -- I have a set of nieces and nephews that are  
11 between two years old and eight years old, and he is more  
12 like the four or five year old, the niece that I have,  
13 that you can trust them to be alone in a room for a short  
14 time but not actually cook for themselves, bathe  
15 themselves properly, or take care of themselves in any  
16 way. He communicates like an adult when you are talking  
17 to his face, but he would not be able to live on his own,  
18 nor do I think he should be left for any long amount of  
19 time by himself.

20 THE COURT: Thank you. Thank you, Mr.  
21 Bagwell. Let me hear from the parties. I'll hear from  
22 the plaintiff, Mr. Baghdarrarian, first. And then I'll  
23 hear from Mr. Merck.

24 MR. BAGHDASSARIAN: Thank you, Your Honor.  
25 We do appreciate Mr. Bagwell's report and we will take it

1     into serious consideration. Of course he is not a  
2     medical professional, but he says things that are quite  
3     important. He may have seen things that I haven't  
4     because I talk to him on the phone. So, therefore, what  
5     I see and what I understand from Mr. Bagwell, is that he  
6     is at an early stage of dementia, according to Mr.  
7     Bagwell. That is his impression because he compared it  
8     with someone else, okay. And I'm not saying that this  
9     should necessarily be true, but I am going to take it as  
10    a consideration as true, just to move on with the  
11    arguments. And we will comply with what he said, provide  
12    him 24 hour assistance, as he requested.

13                 Now, as far as concerning the abuse,  
14    we never ask that Don Adair would be restricted to  
15    his decision as with whom he should talk. All we  
16    said is that he should have a phone and talk to  
17    whomever he wants to talk. And many of the  
18    complaints and affidavits that you see over there  
19    are actually people who never -- who have nothing to  
20    do with the association, have never been in the  
21    association. These are old friends like Lynn  
22    Bernowski, like Mr. M.J. Bingham. Actually M. J.  
23    Bingham's father was the mentor of Don Adair. And  
24    Don Adair helped build that association in Missouri.  
25    And he was very concerned that -- he is a friend of



1 his father and he knows him for more than 50 years.

2 He is not able to talk to him.

3                   So we are not asking that his  
4 communication would be restricted to our side or any  
5 of the sides, okay. I'm not with any faction,  
6 neither program or entity, nor do I have anything to  
7 do with whatever the fate of the association is  
8 going to be. He is my old friend and I was very  
9 upset and I heard a lot of, a lot of accusation of  
10 her abusing him financially. And I am going to talk  
11 about that. But the fact that she does not allow  
12 him to have a neutral legal counsel, the fact that  
13 she does not allow him to have a phone, she does not  
14 allow him to have a laptop, she does not allow him  
15 to talk to his friends who are not even part of that  
16 association is my objection.

17                   And I can assure you that if he  
18 goes -- if he does not want her, and Mr. Bagwell  
19 admits that he has an excellent long-term memory, he  
20 said it in his report. And somebody who has an  
21 excellent long-term memory remembers who are his  
22 friends, he remembers those people who like him,  
23 those people who do not like him. And the issue  
24 with him is not simply about her, you know -- the  
25 issue with her is not simply about putting him in an

1 assisted living facility, he had a lot of personal  
2 issues with her. He felt that she was bullying him,  
3 she was controlling -- she was restricting his  
4 decision in things just like having a phone and  
5 talking to his friends. So he really was not  
6 comfortable.

7                   In fact, I even, officially filed --  
8 Don Adair filed a case of abuse, financial abuse  
9 against her. He went to the fire station and filed  
10 -- Don Adair says that he does not want her. He  
11 appointed us as his power of attorney. And we do it  
12 not because we have anything to do with the  
13 association, because we are trying to help him to  
14 understand that Mr. Don Adair, Mr. Bagwell says,  
15 needs 24 hour assistance, which that is fine. There  
16 are things that he cannot make decisions for, that  
17 is fine. But he still knows who are his friends, he  
18 still knows to who he wants to talk, he still has an  
19 influence. Mr. Bagwell says that he is able to  
20 teach.

21                   So if Judy's, if Judy's purposes are  
22 not simply to take control of the association and  
23 the funds of association, so why doesn't she allow  
24 him to talk to his followers, okay? Mr. Bagwell  
25 admits that she took a hundred and four thousand

1     dollars from the association's funds, which  
2     partially belongs -- which is partially what is  
3     supposed to be used for Mr. Adair's -- Mr. Adair's  
4     retirement.

5                     She took it from something that he  
6     influenced. His reputation. Influenced those  
7     people to send tithes. And these tithes are being  
8     sent, is being sent because Don Adair has influence.  
9     But people, we are not here -- I mean, the other  
10    faction, the other faction that is anti-Judy is not  
11    even interested in having Don Adair talk to their  
12    faction as much as they are interested for Don Adair  
13    to talk to her faction. Because it is her faction  
14    that is not seeing the story, is not hearing the  
15    story that Don Adair wants to say.

16                    None of the faction are hearing it.  
17    And if they hear it I believe that they will change  
18    their mind as to who they send the tithes and how  
19    the money is being used. I have heard, I have heard  
20    statements of members who really did not know that  
21    she has used this money to buy personal property.  
22    She used the funds that he gathered for over 50  
23    years to buy personal property.

24                    Now to say that Don Adair is living  
25    with her, that is also something that happened when

1     this motion came to a late state.  Until this motion  
2     came to a late state, I do not believe he spent six  
3     months with her, based on the information I have,  
4     okay, and I am guesstimating, but I do not believe  
5     he lived, he spent six months with her during the  
6     whole two plus year period she had the power of  
7     attorney.  She did not want him.  She put him in an  
8     assisted living facility where he was restricted  
9     from talking to people.  He was not happy because of  
10    those restrictions.

11                   And now, you know, she complaints  
12    about this and she doesn't -- and she is using that  
13    reputation, she took that money to renovate, and I  
14    believe, I believe she is even using tithe money to  
15    buy that house.  She put it in her name.  She did  
16    not put it in the association's name under the alibi  
17    that she is taking care of Don Adair and she is  
18    spending money on the association.  But she put  
19    everything in her name so that her and her daughter  
20    and her family would inherit it.

21                   And, on top of that, her statement  
22    that I have just said right now, she is using that  
23    property to rent that property to the association,  
24    so she's making benefit every month.  She is making  
25    personal benefit.  And this is an abuse of her power

1 of attorney. She is using the power of attorney to  
2 use Don Adair's association and Don Adair's funds,  
3 and Don Adair's reputation to buy property, to  
4 renovate that property, and to rent that property to  
5 that same association. That is all personal  
6 benefit. That is against, that is against the law  
7 in South Carolina to use all of this for personal  
8 benefit.

9                   She -- I have heard from witnesses  
10 that she abused the power of attorney to put a van  
11 in her daughter's name. Things have been  
12 disappearing from his house. Don Adair is  
13 complaining. That is what I heard, okay. If that  
14 is wrong, then we need to investigate that, okay.  
15 So she is, yeah, so he's been complaining about  
16 that. And basically this is -- this is financial  
17 abuse, as well as emotional abuse to be isolated  
18 from the world when he's able to teach and he is  
19 able to talk and he has enough long-term memory to  
20 decide with whom he wants to live. So, that is a  
21 restriction.

22                   We even heard that until this motion  
23 came, he didn't have even a decent suit to go to  
24 church with. So all of this, and I don't think that  
25 right now she took him back because she felt she was

1 going to lose custody over him. And I don't think  
2 -- I think this is going to be short-lived. Because  
3 if over two years he doesn't spend six months with  
4 you, she spent a lot of time in Texas, and when she  
5 comes back sometimes she puts him in either an  
6 assisted living facility or with Alisa Peters  
7 (phonetic), one of his friends.

8                   And then spending money from his,  
9 money from his Social Security Social Security, not  
10 from the association's money, we do not believe  
11 that. And if they are really spending the  
12 association's money on him, then what -- how is it  
13 going when Mr. Bagwell says that he doesn't have  
14 anything? Mr. Bagwell says that he doesn't have  
15 anything, he's about to be taken care of by  
16 Medicaid.

17                   Well, actually what I have heard from  
18 witnesses is that the association was having \$10,000  
19 of income in tithes, and that is all based on the  
20 reputation and the teaching of Don Adair that he  
21 gathered for over 50 years, okay. So I believe that  
22 Don Adair, still, as Mr. Bagwell says, is of early  
23 stage, whatever it is, so he still have at least 80  
24 percent of his faculties and he's able to decide  
25 with whom he wants to live. And for her restricting

1 him from talking to people and make decisions that  
2 he's able to make, that by itself is a form of  
3 abuse, okay.

4                   The social isolation, the isolating  
5 him from legal advice, and then using all of this  
6 for a so-called charitable organization while she is  
7 benefiting from it. This is only the hundred forty  
8 four -- the hundred and four thousand. There are  
9 other things. How is the tithes being spent? We  
10 have already mentioned that she's selling his books,  
11 that is his copyright. She is selling it and it is  
12 on her website. I provided the website's name. She  
13 is selling it, that money, where is the money going?  
14 How come Don Adair says, I don't have any money, I  
15 don't want to be thrown on the street. He knew the  
16 consequences of leaving the facility. He says, I  
17 don't want to be thrown on the street. He got no  
18 option as to -- at all. If he still has 80 percent  
19 of his faculties, he should have let's say at least  
20 50 percent of the options. He's not even getting  
21 that. He is getting nothing.

22                   THE COURT: Thank you, Mr. Baghdassarian.  
23 Mr. Merck, let me hear from you.

24                   MR. MERCK: Yes, sir. Thank you very  
25 much. First of all, I would like to thank you very much

1     for Tjay Bagwell being appointed as guardian ad litem. I  
2     think Tjay has done an awesome job and really presented  
3     the situation as it is and as it could be or will be in  
4     the future. So I just really appreciate you for doing  
5     that, that really took a close look at the issues  
6     involved.

7                     And Tijay said that physically Don  
8     Adair is -- his needs are being met. So there's no  
9     real dispute to that. I think that we have to look  
10    at where this matter started from. There was some  
11    allegations that Judy was abusing this power of  
12    attorney. Judy was put in this position not really  
13    of her own volition, she didn't really sign up for  
14    this position. It wasn't like somebody presented it  
15    to her and it was a lucrative type position and she  
16    said, Yeah, I think I will do that. That wasn't the  
17    way this whole thing came about. There was a need  
18    there for Don Adair. She had at least enough  
19    knowledge and position to where she could  
20    potentially serve, but it wasn't -- it is not  
21    something that would be desired among a large number  
22    of people, to serve in the capacity that she has  
23    served, and she's done it as well as she can.

24                    And we really have to look at -- I  
25    know the plaintiff has said that, I guess supposedly



1 Don would have some money or some funds, but I think  
2 that the real dispute, if there is one, would be  
3 between Judy and the association. There is no real  
4 dispute here, it doesn't seem like, between Judy and  
5 Don. Judy is trying to do the best she can for him.

6 And any kind of issues related to her  
7 getting excess funds, if she did, the association  
8 wanted to take care of Don, which they do, and have.  
9 Those are really issues between her and the  
10 association, they are not really -- really should  
11 not be really before the Court. What we are here  
12 for is, I guess, as we have to remind ourselves, is  
13 that there were allegations that she was abusing her  
14 power of attorney. We have now looked at that.

15 Tjay was appointed, Tjay took a look,  
16 and he took a look at a lot of information and a lot  
17 of stuff, he talked to a lot of people. I know  
18 personally he did. He really did a comprehensive  
19 look at the situation. And his findings are,  
20 essentially, that the power of attorney is not being  
21 abused. So that is where we are at. That is his  
22 results. And that is, of course, in agreement with  
23 what we believe has transpired.

24 Judy ended up relocating all the way  
25 from Texas to take care of Don. She had probably a

1 better situation in Texas than she did here, but she  
2 did what she had to do. You know, sometimes in life  
3 we get lemons and we try to make lemonade, and I  
4 think that that is what Judy has tried to do. And  
5 it's been tough. I mean Don, even recently, he has  
6 gotten real aggressive with Judy. I think with both  
7 feet recently just kicked her in the chest as hard  
8 as he could and caused her some physical problems.  
9 And at times he's combative and difficult to  
10 control. So I think that the plaintiff is really  
11 kind of diminishing his mental status and what he is  
12 able to do and how much control he could be allowed,  
13 because at times he gets real paranoid and  
14 aggressive and abusive.

15                   And so we just ask you to, as we did  
16 before, we ask you to dismiss this action. We  
17 believe the power of attorney is being used properly  
18 and we believe the evidence shows that. And we  
19 don't believe that the plaintiff, even though they  
20 have made a lot of allegations, none of which have  
21 really panned out, we believe that the action should  
22 be dismissed, and that what is being done on behalf  
23 of Don is proper and is the best that can be done in  
24 the situation that we have. We would ask you to  
25 dismiss the action, Your Honor.

1                   THE COURT: Well, I notice each party has  
2     made some recent filings. The plaintiff responded to the  
3     guardian's report. I have reviewed that, but I want to  
4     go back and read it again. And then Mr. Merck, you made  
5     some filings recently that I want to look at. So I am  
6     going to take this under advisement. And thank you for  
7     your arguments today. I will send you -- and, Mr.  
8     Bagwell, have you submitted a fee affidavit for your  
9     time?

10                  MR. BAGWELL: I have not, Your Honor. I  
11     didn't know if we were finished or not, so I have not  
12     done that.

13                  THE COURT: Okay, well do that, submit  
14     that for the Court and then we will go from there.

15                  MR. BAGWELL: Yes, Your Honor.

16                  THE COURT: I'll be in touch, and I'll let  
17     everyone know what I have decided to do with this. Thank  
18     you. Thank you all for being here.

19                  MR. BAGHDASSARIAN: Is it okay if I answer  
20     the defense?

21                  THE COURT: Very briefly. But I'll read  
22     what you have submitted again.

23                  MR. BAGHDASSARIAN: Okay, all right. So  
24     Mr. Bagwell did not say that, in your presence and in his  
25     report, he did not say that Judy had -- did not abuse the

1 power of attorney. What he said is that his basic needs  
2 are met. He said he is in good hands from the sense of  
3 his basic needs are met. But he also said that Brother  
4 Don Adair has additional needs, which is his dignity, and  
5 his dignity and to live his life fullest. And he said  
6 that Mr. Baghdarrarian is the one who is caring for that,  
7 okay.

8                   As far as Judy, as far as Don Adair  
9 being upset at her, she imposed herself on him. He  
10 never chose her as his -- he never chose her as his  
11 caregiver. In fact, he did not even know what he  
12 signed when he signed his power of attorney and he  
13 contests that. He said that she told him that God  
14 had chosen her to be his nurse and she imposed  
15 herself on him.

16                   There are other people who want to  
17 take care of him. Actually we are offering  
18 ourselves and we know other people are offering  
19 themselves. And she is not allowing those people.  
20 She is not -- she just wants to have the exclusive  
21 for her, because she's financially abusing. And  
22 these things have to be investigated. And it is  
23 very difficult to investigate it if she's not  
24 allowing anything. She is using the power of  
25 attorney to deny that.

1                   Now, as far as the power of attorney,  
2 we have shown in our reply to Mr. Merck's memorandum  
3 that this power of attorney that she had, she did  
4 not have the jurisdiction to restrict him from  
5 things, including going into his room and stealing  
6 his private phone numbers and stealing his private  
7 notebooks and taking it from him, and using things  
8 and depriving him things. We said if she had  
9 jurisdiction over that, she should have had him  
10 checked by doctors and present that to the Court so  
11 that the Court will give her that jurisdiction and  
12 the Court will specify what jurisdiction she has and  
13 what jurisdictions she does not have.

14                   If you read, 60 percent of abuse come  
15 from family and caregivers, and that is why the law  
16 gives some rights to the person. We do not defer in  
17 the absolute. We do not say competent or  
18 incompetent. We have to say competent in this and  
19 incompetent in that. And Judy decided to declare,  
20 with the power of attorney that makes her only an  
21 agent, she does not make her her (SIC) guardian.

22                   So in that sense only. None of the  
23 six points that we mentioned in our reply to  
24 memorandum have been answered by either the report,  
25 nor by Mr. Merck, nor by the defense, or by anybody.

1 And they proved very, very clearly that she had the  
2 power -- the jurisdiction of the power of attorney  
3 and she has abused it.

4 And not until now we see no reply and  
5 have totally been ignored. All of the six points we  
6 have found, okay. So basically by that we can say  
7 that Mr. Bagwell did not say that she did not abuse  
8 the power of attorney. Mr. Bagwell said that we  
9 will go further above his basic needs in taking care  
10 of him, and that she -- there was no reply to those  
11 funds -- if they do not reply, how is it that she  
12 broke the jurisdiction of the power of attorney  
13 without getting, without getting authorization from  
14 the Court, then she has abused the power of attorney  
15 and it should be suspended.

16 MS. TUPOLO: May I say something?

17 THE COURT: No, ma'am, your attorney has  
18 articulated your position. I am going -- I am going to  
19 read everything again and I'll let you know my decision.  
20 Thank y'all. Close the record.

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF OCONEE:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 4th day of June, 2023.

*Mona L. Manley /s/*  
MONA L. MANLEY  
Official South Carolina Court Reporter  
Circuit Reporter for the 10th Circuit  
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|                         |   |                                       |
|-------------------------|---|---------------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS          |
|                         | ) |                                       |
| COUNTY OF OCONEE        | ) | C/A No.: 2022-CP-37-00157             |
| Jirair Baghdassarian    | ) |                                       |
| Plaintiff               | ) | <b>REPLY TO OPPOSITION MEMORANDUM</b> |
| vs.                     | ) | <b>IN SUPPORT OF MOTION FOR</b>       |
| Judy Tupolo             | ) | <b>TEMPORARY RESTRAINT</b>            |
| Defendant               | ) |                                       |

Comes now, this is our reply to the memorandum presented by the defense on July 12, 2022. We still have no proof of possession of medical power of attorney by Judy Tupolo nor attestation of medical and mental condition that supports their allegations. If the defense is not able to prove powers by demonstrating possession of the mentioned documents, their argument is void, should be dismissed and the agency suspended per Plaintiff's motion.

### Brief statement of facts:

The counsel for the defendant accused Plaintiff of ill intentions toward Donnie Wayne Adair. The counsel has neither shown any proof nor any history exposing any reason, present or former action, or appearance of an attempt to bring any harm or action of ill intent toward Don Adair. The latter is not just an "acquaintance", but rather a long-time friend known since 2002, a spiritual brother, and a respected elder in our religious community. He has been for us a spiritual mentor, a good friend, and a member of our religious family for over 20 years. The counsel's accusations should be dismissed for lack of evidence. They are a dishonest attempt of slander and defamation.

Plaintiff is not the only person that has attempted to contact Don Adair since January 2022. Many of his friends and those he communicated with were rejected or ignored when requesting access. It is unthinkable to state that all lifetime friends attempting to contact Don Adair to support him have nothing but malicious intent and that only Judy has the benevolent intent, despite her documented ill reputation on this matter. This paranoid behavior seems to be motivated by the fear of facing scrutiny and desperately concealing Defendant's abuse.

It should not be Plaintiff's obligation to hereby prove, beyond the shadow of a doubt, the allegations against the defendant Judy Tupolo, as this motion does not request any punitive action against her. It is simply requesting facilitating access to Don Adair, by suspending all Power of attorney status and privileges, until, and for the purpose of, further investigating the suspected allegations. Plaintiff and Don Adair have mutual rights to communicate with each other. Judy Tupolo has tyrannically imposed unreasonable restrictions over him with malicious intent of concealing and covering up by obstructing any scrutiny or investigation. Adair has expressed his concern about the way he is being



restricted by Judy and requested our help. He has revoked the agency he granted her and transferred it to us. She has not respected his wishes. She is abusing ungranted powers and revoked agencies.

If the counselor or the defendant believe this was a misunderstanding, we ask them to grant us access to Don Adair to finalize his wishes, solve the matter and dismiss the case under a provisional agreement testified in this court. If they are unwilling to do so, then they would be de facto contradicting themselves and admitting that they are not willing to cease from infringing on Don Adair's rights. The matter needs no further proof of any kind.

We kindly solicit the honorable justice to grant us access to Don Adair, according to his wish, by suspending any status or agency she is abusing to accomplish her restrictions. We also request that his location be disclosed and made accessible without manipulations, modifications, or restrictions by Judy and whoever or whichever institution provides him care and residence.

### 1. Reply to argument 1:

Defendant claims that we have no status according to Section 62-8-116 et seq.

We answer that the medical or health care power of attorney is not governed by Title 62 article 8, but rather by title 62, article 5, section 500 et seq., which does not mandate anywhere in its codes such status on anyone.

Nevertheless, we can add that we do have sufficient status per 62-8-116, as supported below.

SECTION 62-8-116. Judicial relief states the following:

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(1) the principal or the agent;

We are the agent as orally expressed by the principal, and we do represent the principal. We have filed this motion on behalf of Don Adair, whom Judy has been depriving of advocacy, legal counsel, and from an alternative agent of his choice. She has obstructed any means of communication needed to finalize a signed and witnessed agency. Don Adair has the status, he has explicitly, in writing and orally, revoked his Power of attorney from Judy Tupolo and transferred it to us. We have that on a recording. We will present the recordings to the court. We hoped that he could have testified of the matter in person during the last hearing when Adair was subpoenaed. We request to subpoena the documents to be served to Don Adair and signed by him according to his expressed wish. We would subpoena his witnessing concerning this matter and the subpoena where he was or is presently staying.

Section 62.8.116 (a) (2) provides status to "a guardian, conservator, or other fiduciary acting for the principal;"

Having been requested by Don Adair to be his representative in these legal and medical matters, Plaintiff should be considered the only legitimate fiduciary according to the principal's wish.

Section 62-8-116 (a) (3) authorizes a person authorized to make health care decisions for the principal; Plaintiff has been appointed as Power of attorney and representative by Don Adair.

Section 62-8-116 (a) provides status to (8) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare;

Plaintiff has demonstrated sufficient interest in the principal's welfare since he knew about his health issues in 2021. Plaintiff told him and told others he was welcome to stay at his place. He has also contacted Adair several times since then. During a phone conversation, around May or June 2021, Plaintiff called Adair and found out that his foot swelling was being neglected and provided him recommendations as to what to do about it. Plaintiff told him to call anytime for help and medical advice. Since Plaintiff talked to him in January 2022, he has been very concerned about his well-being and physical and mental health, and he has been trying to support him and provide him legal advice to grant him relief from his suffering.

Section 62-8-116 (a) (9) continues: a person asked to accept the Power of attorney.

Don Adair asked Plaintiff to become his Power of attorney. Plaintiff is a person asked to accept the Power of attorney that is being contested in this motion by both the facility where he resided and by the defendant and her counsel. That is the reason Plaintiff has not been allowed to access Don Adair to provide him support and advocacy.

## 2. Reply to argument 2:

The South Carolina court rule no. 240 defines the rules for filing a motion. Item 3) states that affidavits are to be filed in the absence of Appendix. The latter was presented to probate court as requested before the case was transferred to the circuit court for an online hearing. We found that subpoenas were strong evidence in a court hearing, as the judge would be able to talk to the caregivers and to Don Adair and be able to assess his level of competency personally.

Nevertheless, we will send affidavits and recordings to support our arguments with further witnessing and evidence. If lack of evidence was determined, we would like to subpoena Don Adair, Judy Tupolo, Terryl Jones and his wife, Mary Bottig, Don Panciera, Stephen Gaines, Jean Caleb Chavannes, Foothills assisted Living, the facility, or the person in charge of his care at present, the facility where he was treated in 2020, bank statements from the bank from which Judy Tupolo withdrew all association savings. We request a period of 60 days to process all subpoenas.

### 3. Reply to argument 3:

We have not seen any medical durable power of attorney that the defendant claims to possess. Until we see we will assume it is not existent and should not provide any status or powers related to Adair's medical conditions. Supposing that the document is presented, Judy has used powers not granted by law as evidenced below.

The defense claims that a power of attorney document is strictly governed by the South Carolina Uniform Power of Attorney Act as set out in S.C. Code of Laws Ann. § 62-8-101, et seq., but has failed show by which of the statutes granted in the above-mentioned code she has been granted power over the principal's daily life decisions, over his freedom of choice and speech, and against his will. We have nothing in the above-mentioned act that justifies or provides her any such jurisdiction. There is none, which means such privileges and powers have not been granted to her, and that she has acted against the principal's will, wishes and best interest. The agent should be exonerated according to section 62-8-115 (1) (A) through (D) and (2) for breach of duty committed dishonestly, in bad faith, with reckless indifference to the purposes of the power of attorney; through willful misconduct; and abuse of a confidential or fiduciary relationship with the principal.

Section 62-8-110 (3) terminates the power of attorney when the principal revoked it on January 23<sup>rd</sup> and again in May 23<sup>rd</sup>.

A health care power of attorney is governed by the South Carolina Law title 62, Article 5, Section 500 et Seq., entitled Health Care Powers of Attorneys.

Don Adair has the right to revoke his Power of attorney according to SECTION 62-5-512 entitled Revocation of health care power of attorney, and stating the following:

a) A health care power of attorney may be revoked in the following ways:

(1) by a writing, an oral statement, or any other act constituting notification by the principal to the agent or to a health care provider responsible for the principal's care of the principal's specific intent to revoke the health care power of attorney;

SECTION 62-5-504 that the medical power of attorney should include the following clause clarifying the above mentioned right of revocation: "YOU HAVE THE RIGHT TO REVOKE THIS DOCUMENT, AND TERMINATE YOUR AGENT'S AUTHORITY, BY INFORMING EITHER YOUR AGENT OR YOUR HEALTH CARE PROVIDER ORALLY OR IN WRITING."

Don Adair has revoked the power of attorney both orally and in writing on May 23<sup>rd</sup> 2022.

Judy Tupolo has abused her powers and has not acted according to the best interests of the principal. She has acted even against his will and should be permanently exonerated of all her agencies.

Judy has brought harm to Don Adair by committing the following illegal and criminal acts against Don Adair: Financial exploitation of a vulnerable adult, psychological abuse of a vulnerable adult, Kidnapping, unlawful restraint, false imprisonment, and larceny.

Judy has breached duties named in section 62-8-114, including breaching the following clauses in the same section:

(a) An agent that has accepted appointment shall act:

- (1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and in the principal's best interest;
- (2) in good faith; and
- (3) only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

- (1) act loyally for the principal's benefit
- (2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

The agent has abused her powers by neglecting to implement and overruling the following mandates defined in section 62-5-504 § 4 mandating that "In making any decision, my agent shall attempt to discuss the proposed decision with me to determine my desires if I am able to communicate in any way. If my agent cannot determine the choice I would want made, then my agent shall make a choice for me based upon what my agent believes to be in my best interests."

Judy has ignored to determine and respect the principal's desire in many decisions explained elsewhere in this response when Don Adair is able to communicate very clearly. Since the principal was able to determine a choice, the agent should have not contradicted the principal's choice as she persists in doing. Moreover, she has not acted based on what is the principal's best interest.

Explanation:

Judy Tupolo is accused of abusing her Power of attorney privileges and status in an illegal, unethical, and criminal manner. She has been persisting in using her Power of attorney privileges after revocation, and she has been using those powers to commit elder abuse against Donnie Wayne Adair. Allegations relate to a vulnerable adult's emotional and spiritual abuse and financial exploitation. She is also accused of illegal acts of false imprisonment, unlawful restraint, forced isolation, and forced confinement toward Don Adair, which is considered a tort and a prosecutable crime.

South Carolina law section 43- 35- 10 (11) states as follows: "Vulnerable adult" means a person eighteen years of age or older who has a physical or mental condition that substantially impairs the person from adequately providing for his or her care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.

Don Adair falls under the category of a "vulnerable adult due to impairment in the ability to provide for his own protection because of infirmities including, but not limited to his advanced age,

history of organic brain damage, physical, cognitive and emotional limitations, social isolation imposed on him by Judy Tupolo, as well as his status of being a resident in a facility.

According to South Carolina law section, 43- 35- 10 3), "Exploitation" means: (b) an improper, unlawful, or unauthorized use of the funds, assets, property, Power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person;

Judy Tupolo has personally admitted to Plaintiff to taking away the fund from the association's bank account that was founded and managed by Don Adair for about 50 years. Those funds were partially set aside for Adair's expenses and retirement, and she withdrew them without authorization from Don Adair and without authorization of other association board members whose name was on the account (see affidavit).

According to South Carolina law section 43- 35- 10 (10), "Psychological abuse" means deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of severe emotional distress.

Judy has been deliberately subjecting Don Adair to intimidation, degradation, confusion, and emotional distress by socially isolating him, threatening to place him in a facility at one time and at a later time placing him in those facilities against his will, by depriving him of phone calls, from social support, old friends, legal advice, former and present Bible students, spiritual and emotional support, his home, his office, his books, his favorite food, his car, his car keys, his privacy by taking away personal belongings and documents against his will, his choice of medical and financial agency, his choice of residency, his office and study materials, his students as Bible teacher, free use of his funds and finances. We know from Don Adair that he used to believe that Judy used to threaten to accuse him of sexual harassment. We can also add the suspicious and enigmatic way his favorite dog and lifetime companion, as well as his violin, to whom he is emotionally attached, have mysteriously disappeared since she began managing his life and affairs. She is also accused of draining and using other assets such as another bank account, the association tithe money, and of illegally selling Don Adair's copyrighted publications without his permission.

#### SECTION 16-3-910. Kidnapping.

"Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without the authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years unless sentenced for murder as provided in Section 16-3-20."

Judy Tupolo has unlawfully confined, inveigled, decoyed, and carried away Don Adair through intimidation, coercion, financial control, luring, social isolation, psychological abuse, flirting, bribery, biased medical statements, misinformation, and illegitimate abuse of a document of Power of attorney and by misrepresenting her authority over a vulnerable adult illegally (see affidavit).

Looking further at HISTORY: 1962 Code Section 16-91; 1952 Code Section 16-91; 1942 Code Section 1122; 1937 (40) 137; 1966 (54) 2151; 1974 (58) 2361; 1976 Act No. 684; 1991 Act No. 117, Section 1, according to Section 16-3-915. (A) "It is unlawful for a person to knowingly restrain another without consent, interfere substantially with his liberty, and expose him to a substantial risk of serious physical injury."

(B) "A person who violates the provisions of this section is guilty of the felony offense of unlawful restraint and, upon conviction, must be fined not more than five thousand dollars and imprisoned for not more than twenty years."

Judy has knowingly restrained Don Adair without consent and has interfered with his liberty by confining him to locations against his will and preventing him from having options to leave.

"Section 16-3-916. (A) "It is unlawful for a person to knowingly restrain another without consent and interfere substantially with his liberty."

(B) "A person who violates the provisions of this section is guilty of the misdemeanor offense of false imprisonment and, upon conviction, must be fined not more than one thousand dollars and imprisoned for not more than three years."

As explained above, Judy would be guilty of false imprisonment upon conviction.

SECTION 16-3-1050. "Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and willfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years."

By taking away without Don Adair's consent the documents he has written, Judy has also committed Petit and simple larceny according to SECTION 16-13-30. (A) "Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, ..."

We suspect also that she may have committed grand larceny according to SECTION 16-13-30. (B) considering the valuable items worth over \$2000 that have been disappearing from his place since Judy and her daughter appeared on the scene to manage his life and residence.

See affidavits for further facts supporting the allegations.



#### 4. Reply to argument 4:

The counsel boasts that Don Adair is incapacitated without presenting any evidence. We emphasize that "clinical capacity" or "competency" is different from "medical capacity" or "competency", and powers of attorney are different than power of a guardian. The defense is claiming Don Adair's legal incapacity and is usurping specific powers of guardian that can be granted only to a guardian only when specified by a court of law, under specific circumstances.

Don Adair does not have to prove his natural human rights to be free, and it is the defendant's burden to prove that these rights have been suspended. The defense claims Adair has dementia has gotten worse over time and "that at least by May 2022," he has become incapacitated. He even forbids Don Adair from witnessing this hearing without providing proof of his legal incapacitation. The defense has presented no proof of the above allegations. He is trying to prevent a judge from making decisions about Don Adair's competency when the whole matter is based upon such a decision. Only a judge, no one else, can decide legal competency. Depriving Don Adair of presenting in front of a judge to defend himself without evidence of legal incapacity is outrageous and an insult to Adair's rights, to human justice, and to the judge's jurisdiction, a ruthless and cunning means of making it impossible for him to defend himself under the pretense of a medical diagnosis. It would not be just to lose one's rights based on the whim of a physician's diagnosis. In that situation, anyone diagnosed with a memory deficiency by a biased physician, without even a second opinion, is prevented from his or her freedom, becoming under the mercy of someone else whom one has appointed, rightly or inadvertently, to be one's agent.

In determining "legal incompetence" or "legal incapacity" and special guardianship powers, the defense is requested the present the existence of the following since July 2020, when her alleged abuse began, to substantiate and justify the abuse, accusations, and demeaning attitude toward Don Adair. If any of the below six conditions were not fulfilled since July 2020, the defense would have no case in depriving Don Adair of any of his rights of witnessing in court, revoking and appointing Power of attorney agents, and making personal choices in his daily life as already argued above and further:

1. The defense must present proof of an existence of a document or contract of a medical power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges; AND
2. The defense must bring evidence of medical incapacity based on the procedure defined in section 62-5-502 (d) of the South Carolina probate code, including the medical diagnosis, the nature, extent, and expected duration of such incapacity in written format by two unbiased physicians chosen by the court; AND
3. The defense must demonstrate a judge's order in court that Don Adair has been deemed permanently and irreversibly legally incapacitated by a special court decision and that his status has become the status of a "ward" as defined in section 65-5-101 (24); AND
4. The defense must prove that the agent Judy Tupolo has been awarded legal guardianship privileges. Agency granted by Don Adair does not grant her privileges of contradicting the agent's wishes or will; AND

5. The defense must prove that, besides legal incapacitation, the specific being contested have been suspended from Don Adair and transferred to his legal guardian. Only a judge's decision can specify which rights have been taken away, the specific court decision, time, date, and duration of suspension; AND
6. Defense must prove that the below specific powers have been granted to her in guardianship status in court of law. These rights that cannot be taken away from anyone, even if legally incapacitated, without a court decision, are mentioned in SECTION 62-5-304A. "Rights and powers of ward and guardian. Of probate code:

(A) "The court shall set forth the rights and powers removed from the ward. To the extent rights are not removed, they are retained by the ward. Such rights and powers include the rights and powers to: ...

(2) reside in a place of the ward's choosing, and consent or withhold consent to any residential or custodial placement;

(3) travel without the consent of the guardian;

(4) give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, and physical examinations, care, treatment and therapies; ...

(6) consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;

(7) authorize disclosures of confidential information;

(8) operate a vehicle; ...

(11) consent to or refuse educational services;

(12) participate in social, religious or political activities;

(13) buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon the conservator under Section 62-5-422;

(14) make, modify, or terminate contracts;

(15) bring or defend any action at law or equity; and

(16) any other rights and powers that the court finds necessary to address."

Judy has illegally removed the powers mentioned above from Adair and transferred them to herself without soliciting the court to "set forth the rights and powers removed from the ward" as required by SECTION 62-5-304A (A)

Part (B) of the same section specifies that it is the court, not the guardian nor the Power of attorney agent, neither the status of legal or medical capacity or incapacitation, or the status of a ward, that provides such transfer of rights from the principal to the agent, or from the ward to the legal guardian. The following powers can be given to a guardian only, never to a power of attorney, under special conditions, and only when explicitly specified by a court order as mandated in Section 62-5-204A (B)

The section continues further to emphasize that:



" (C) Nothing in this section must be construed as removing any rights guaranteed by the Bill of Rights for Residents of Long-Term Care Facilities under Chapter 81, Title 44.

(D) The attorney-client privilege between the ward and the ward's counsel must not be removed by the appointment of a guardian."

Related to (C) we quote from the Bill of Rights:

(G) "Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract."

The above has not been respected. Judy entered his room without permission and stole his possessions, such as documents. We suspect that she has been stealing phone numbers from him also to prevent him from talking to people like Plaintiff.

(J) "...Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail...."

This has also not been respected in the residence facility as restrictions against visits have been unreasonable and under the whim and mercy of the Power of attorney, not the resident. We also question the reason why we did not receive the prepaid enclosed envelope we have sent him, and we suspect that it has been either stolen or restricted from being mailed by Judy Tupolo at the facility.

Concerning (C), we can add that Adair does not have a legal representative regarding his freedom of choice. Whatever lawyer she claims is representing him in a probate issue is considered biased since he is being paid and given instruction by the same Power of attorney being contested and therefore should not be considered appointed by the client. Thus, attorney-client privilege between the ward and the ward's counsel has been removed.

#### Additional important remarks:

Power of attorney powers are not guardianship powers.

It is notable that according to Title 62 South Carolina Probate Code, the Health Care Power of attorney has no guardianship powers.

SECTION 62-5-501. Defines an "Agent" or "health care agent" as "a"n individual designated in a health care power of attorney to make health care decisions on behalf of a principal."

The decisions are only related to health care, not personal or daily life decisions.

#### SECTION 62-5-502

(c) To the extent not inconsistent with this part, the provisions of the Adult Health Care Consent Act apply to making decisions by a health care agent and implementing those decisions by health care providers.

In other words, this agency is allowed to give orders to the health care providers, not to the patient, only when the patient is not able.

In determining "clinical incompetence" or "clinical incapacity", the same section continues:

(d) "In determining the effectiveness of a health care power of attorney, mental incompetence is to be determined according to the standards and procedures for inability to consent pursuant to Section 44-66-20(8), except that certification of mental incompetence by the agent may be substituted for certification by a second physician. If the certifying physician states that the principal's mental incompetence precludes the principal from making all health care decisions or all decisions concerning certain categories of health care, and that the principal's mental incompetence is permanent or of extended duration, no further certification is necessary in regard to the stated categories of health care decisions during the stated duration of mental incompetence unless the agent or the attending physician believes the principal may have regained capacity."

Looking closer at Section 44-66-20(8) we read the following:

(8) "Unable to consent" means unable to appreciate the nature and implications of the patient's condition and proposed health care, to make a reasoned decision concerning the proposed health care, or to communicate that decision in an unambiguous manner. This term does not apply to minors, and this chapter does not affect the delivery of health care to minors unless they are married or have been determined judicially to be emancipated. A patient's inability to consent must be certified by two licensed physicians, each of whom has examined the patient. However, in an emergency the patient's inability to consent may be certified by a health care professional responsible for the care of the patient if the health care professional states in writing in the patient's record that the delay occasioned by obtaining certification from two licensed physicians would be detrimental to the patient's health. A certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration. If a patient unable to consent is being admitted to hospice care pursuant to a physician certification of a terminal illness required by Medicare, that certification meets the certification requirements of this item."

The above close means that when a patient is unable to appreciate the nature and implications of his condition and proposed health care, to make a reasoned decision concerning the proposed health care, or communicate that decision, then "two licensed physicians" must present certification-related, specifically, and exclusively, to that time when that specific proposed health care treatment is needed or offered. That certification must document that the principal is "unable to consent", i.e., he has not the capacity to understand the nature and efficacy of the treatment or is unable to communicate it. In this case, the Power of attorney can consent on his behalf only to that specific treatment at that specific time. The situation is not permanent, nor does it relate to the patient's lifestyle or his wishes to perform daily activities he can perform. The provisional nature and limitations are clarified in the following paragraph, especially in the following: "certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration."

The above means that two physicians cannot simply say that the patient has dementia or Alzheimer's, and they cannot only say he is incapable. They must state the nature of the procedure, the nature of the inability to consent to the procedure by the principal and mention its "extent and probable duration."

Even if the principal is supposedly clinically incapacitated, the following principal's rights described in Section 62-5-504 have been abused by the agent:

- (1) Defines that an agent's decisions are restricted to health care decisions only when the principal cannot decide for himself.
- (2) The principal may dictate what treatments he does not wish to have
- (3) The "principal has the right to refuse treatments" if not declared legally incompetent. Notice that the two physicians mentioned in section 44-66-20 (8) do not determine legal competency but rather a medical incapacity related to the capacity to consent for treatment. Only a judge can determine legal competency in court. Determining legal incompetency or incapacity is a judicial process defined in the same article SECTION 62-5-303 (see further explanation below)
- (4) Right to revoke the power of attorney
- (5) The principal has the right for access to social worker, lawyer, or other person to explain to him or advocate for him. He has not been given that right.

We see that Power of attorney agents have no rights over the patient's personal decisions. It only gives Power to consent on behalf of the principal, only for a specific medical treatment, for a specific period where two physicians document a certification testifying that he cannot consent. They must also mention the extent and possible duration, which means it is not a permanent certification. A power of attorney cannot force treatment on the patient nor contradict his wishes, and it can only provide consent to medical professionals on the principal's behalf when he's unable to do so.

### Summary

Judy has not disclosed her medical Power of attorney contract with the stipulations disclosing her privileges. She has proven neither medical nor legal incapacity of Don Adair. Her Power of attorney agency has been abused since Don Adair has revoked them, and since she has been using them to socially isolate him, unlawfully restrain him, psychologically abuse him, and financially exploit him. Judy has not been able to prove that Don Adair's civil rights of freedom of choice in his lifestyle have been transferred to her. No matter what she does, unless she is a legal guardian and unless Adair has been declared a legally incompetent ward by a judge in a court of law specifying that his freedom of choice to choose where he lives, whom he talks to, and where to go, have been taken away from him, then she would her restraints are considered unlawful, and she has committed an illegal act by abusing her powers.

### We demand the defense fulfill the following conditions:

1. Present the Power of attorney documents to the court.
2. Prove Don Adair's legal incompetence by presenting proof of legal incompetency and his status of "ward as explained in the six points mentioned above.

3. Prove that rights of guardianship were granted to Judy Tupolo in July 2020, specified by a court judge, which of the rights mentioned in SECTION 62-5-304A, as explained in the 6 points above, have been removed from Don Adair and granted to her.
4. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.

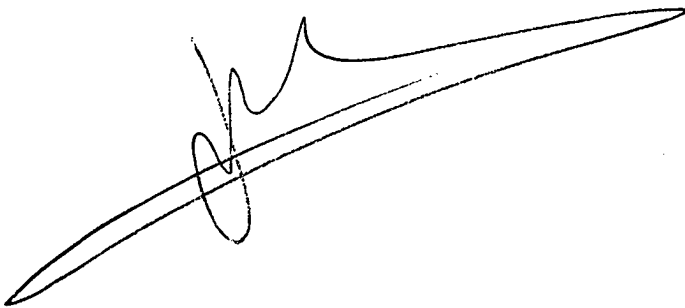
### Conclusion

Any power of attorney or other status related to Donnie Wayne Adair granted to Judy Tupolo should be suspended and relieved. The location and contact information for Don Adair should be disclosed. Any attempt to prevent contact with Don Adair, including relocating him, restraining access and communication, and hiding his location, should be forbidden. Any other attempt to isolate Don Adair and prevent him from meeting with us to provide him support, legal counsel, and advocacy, should be forbidden. The request of an allowance for enhanced redaction of any personal information on Mr. Adair and a Protective Order, should be denied. If the judge decides that more information is needed, we request an extension of 60 days to subpoena the witnesses and documents mentioned above in this response.

July 21<sup>st</sup> 2022

Plaintiff

Jirair Baghdassarian

A handwritten signature in black ink, appearing to be 'Jirair Baghdassarian', written over a horizontal line.

|                                   |   |                                          |
|-----------------------------------|---|------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS             |
|                                   | ) |                                          |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                |
|                                   | ) |                                          |
| Jirair Baghdassarian,             | ) |                                          |
|                                   | ) |                                          |
| Plaintiff,                        | ) | <b>STATEMENT OF Jirair Baghdassarian</b> |
|                                   | ) |                                          |
| vs.                               | ) |                                          |
|                                   | ) | <b>Plaintiff</b>                         |
| Judy Tupolo as Power of Attorney, | ) |                                          |
|                                   | ) |                                          |
| Defendant.                        | ) |                                          |
|                                   | ) |                                          |

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Plaintiff statement.

In our former Memorandum and reply to the defense's Memorandum, we have presented allegations based on Carolina Law proving that the defendant Judy Tupolo as an agent in a presumed healthcare power of attorney that we have not seen yet, has deprived Mr. Don Adair of some of his fundamental rights. Judy Tupolo is the presumed agent, while Don Adair is the principal.

Judy purports that Mr. Don Adair is entirely incompetent and, therefore, cannot make decisions. She has abused her presumed power of attorney privileges by acting as a court-appointed guardian and by considering Don Adair as an entirely incompetent ward that is not capable of no decisions at all.

Judy would prevent Don Adair would from receiving personal visits and phone calls. She has socially isolated him from his friends, legal counsel, and advocates. Judy has not consulted with him concerning his medical, financial, and personal affairs and acted unilaterally, appropriating to herself all power over all his assets, properties, career, personal life, social relationship, medical decisions, monetary funds, and so forth. She has done so in defiance of SC law related to a healthcare power of attorneys. We still need proof that she has any document of medical power of attorn1. ey available.

Don Adair has revoked the power of attorney according to South Carolina Law, and Judy has not respected the law in that matter and has requested others, including the facility where he is staying, to do the same. SC probate code of law SECTION 62-5-504 provides Don Adair, the principal, the right to revoke the power of attorney. He did so on May 23, 2022, both orally and in writing, according to the law.

According to section 62-5-504 § 4, Judy should have consulted the principal concerning matters and decisions related to health care, and she did not do as evidenced by the apparent fact that she disregarded all his requests and objections.

As explained in our reply to the defense's Memorandum, Judy has breached duties named in section 62-8-114, including contravening the following clauses in the same section: (a) An agent

that has accepted appointment shall act: (1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and in the principal's best interest; (2) in good faith; and (3) only within the scope of authority granted in the power of attorney. (b) Except as otherwise provided in the power of attorney, an agent that has accepted the appointment shall: (1) act loyally for the principal's benefit (2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

Don Adair has many reasonable expectations that she has ignored and has not acted according to his best interest. For example, he wanted a cellphone; he wanted to receive visits from old friends, bible students, and acquaintances. He requested independent legal counsel, he tried to transfer himself to another safe care than the present one, and he wanted to address his followers as a Bible teacher. He wanted his funds to be reasonably and differently spent. He wanted to discharge her favors as the power of attorney and caregiver to the benefit of another reliable and safe one. She is also accused of many other breaches, including emotional and spiritual abuse and financial exploitation. During and under her care, many questionable disappearances of assets and funds need to be investigated, and whose investigation she is depriving others of doing. Judy has admitted to depleting the funds of over \$104 000 from the association. That fund was gathered by Don Adair and was supposed to serve his retirement salary till his death partially. Don Adair says also he has no access to social security benefits nor any other of his savings. Mr. Bagwell, in court session and his GAL report, explains that there remains no savings or funds available for Don Adair and that he does not expect any to be restored or returned to him, which makes us question what she has done with his savings. We also note the mysterious disappearance of his beloved dog and violin during her care. Judy has also admitted that the association helped her fund the mortgage of the house she bought and that she has depleted the total \$104 000 association savings that DOn Adair has gathered through his lifetime career toward a luxurious vain renovation of that house. Then she used the house to make income and profit from renting it back to the treasury that gave her those funds. It sounds like someone who illegitimately steals money from someone else, then forces that person from borrowing it at high usury for profit made out of the stolen money. Thus, she manifested blatantly financial abuse and corruption. She did it all thanks to the abuse of the presumed power of attorney privileges that allowed her to hide Don Adair from the public as a hostage. She used his name, fame, private property address, books, copyrights, and assets to claim the association's profits, tithes, legacy, and intellectual property and name and legacy to herself. She used his history and accomplishments against his will to make herself a name and fame and to put her hands on his personal property, savings, and the association's tithes, income, and funds.

We have requested the defense to provide us with several points to defend their actions, and we are still waiting for the points to be answered.

We reiterate the points as follows:

1. Present affidavits and documents proving our attempts or intentions to take advantage of Don Adair for financial gain and religious hegemony of personal beliefs or dogmas.
2. Present proof of an existence of a document or contract of a medical or healthcare power of attorney that it may be verified, and all the stipulations that provide scope and



privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges.

3. Prove scientifically or medically, with the help of a neutral medical and legal expert, that Don Adair has a terminal neurodegenerative disease that has already turned him legally and clinically incompetent based on reliable medical diagnostics and assessment.
4. Prove that Don Adair is clinically AND primarily legally incompetent, as explained in our reply to his Memorandum.
5. Prove that Judy Tupolo has been granted Guardianship powers with the specific transfer of rights as mentioned in our reply to argument 4 in our reply to the Defense's Memorandum and according to Section 62-5-304A "Rights and powers of ward and guardian."
6. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.
7. Allow Don Adair to return the document granting us officially Power of attorney Agency, witnessed and notarized, as we have mailed it to him and as he promised to process it and mail it back to us immediately.
8. Reply to all the requests we have presented in our reply to his Memorandum.

None of the above has been presented so far:

1. We have seen some statements presented that are not sworn and cannot be considered as affidavits saying unfounded lies about us, based on biased opinions, not on facts, and without any evidence. These lies can be considered under the category of defamation that can be legally pursued. They do not answer our request above, nor should they be considered valid.
2. Judy has not presented any evidence of existence, since July 2019, of any medical power of attorney contract. It may mean that she has been using nonexistent powers and privileges, and all we have seen so far is the financial power of attorney, which does not entitle her to any personal or medical decisions over his life.
3. There has been no evidence nor presentation of any unbiased diagnostic imaging and report, clinical history, or neutral medical diagnosis presenting medical diagnosis from a competent medical authority since July 2019 explaining why and how they believe Don Adair has a neurodegenerative disease, such as Alzheimer's disease, that is turning him into a vegetative state.
4. Judy has not proven by a court order that Don Adair has been declared a legally incompetent ward since July 2019, and she has yet to prove his clinical incapacity.
5. She has yet to prove her status as guardian since that time, and she has yet to prove that she is his medical power of attorney. According to Section 62-5-304A "Rights and powers of ward and guardian.", she has not demonstrated which powers have been taken away from Don Adair. and provided to her, incapacitating her from making the abovementioned decisions on his behalf without reasonably consulting him.
6. She has yet to explain by what agency, powers, or consent he has been moved without explicit written permission.

The defense has, moreover, not justified the abuse by reasonably answering none of the requests we have presented in our reply to his Memorandum, which we reiterate as follows:

1. The defense must present proof of an existence of a document or contract of a medical power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to confirm its existence and examine its awarded privileges; AND
2. The defense must bring evidence of medical incapacity based on the procedure defined in section 62-5-502 (d) of the South Carolina probate code, including the medical diagnosis, the nature, extent, and expected duration of such incapacity in written format by two unbiased physicians chosen by the court;  
AND
3. The defense must demonstrate a judge's order in court that Don Adair has been deemed permanently and irreversibly legally incapacitated by a special court decision and that his status has become the status of a "ward" as defined in section 65-5-101 (24); AND
4. The defense must prove that the agent Judy Tupolo has been awarded legal guardianship privileges. Agency granted by Don Adair does not grant her privileges of contradicting the agent's wishes or will; AND
5. The defense must prove that, besides legal incapacitation, the specific being contested has been suspended from Don Adair and transferred to his legal guardian. Only a judge's decision can specify which rights have been taken away, the specific court decision, time, date, and duration of suspension; AND
6. Defense must prove that the below specific powers have been granted to her in guardianship status in a court of law. These rights that cannot be taken away from anyone, even if legally incapacitated, without a court decision are mentioned in SECTION 62-5-304A. "Rights and powers of ward and guardian. Of probate code: For a detailed description and explanation, see our reply to the defense's memorandum p. 9 and 10.

As Mr. Bagwell reports, Judy may have provided Don Adair with his basic physical needs, but we are trying to save him from the humiliation he is in at the moment by restoring his dignity, allowing him to exercise most of what remains of his intellectual and physical faculties. Our respect for him is overflowing. We share Mr. Bagwell's concern that any party could abuse an elder when he is not able to defend himself, and that is why we have always insisted that there should be no absolute power over an elder. That is why, as long as he is able to communicate and reason, he should be allowed to make the decisions his intellectual faculties allow him to make safely. A living will or notarized advance directive may also help in avoiding abuse when the elder becomes fully incapacitated, in case it happens. That is also the reason why the abovementioned law, SECTION 62-5-304A mandates a guardian to consult the court decision every time and in every circumstance, a decision necessitates taking away from the ward certain powers explained and listed in the law.

Mr. Adair is more than unhappy with Judy. He is obviously miserable and desperately trying to relieve himself from her clutches. This is attested by his complaints recorded and sent to court, by his constant request and pleading to us for help, and also recently by the defense's



statement that he has become aggressive and combative while living with Judy. This is a change in his status since the facility's affidavit and our discussion with them never show any complaint about combativeness or aggressivity. This must be the result of his despair and hopeless attempts to deliver himself from her.

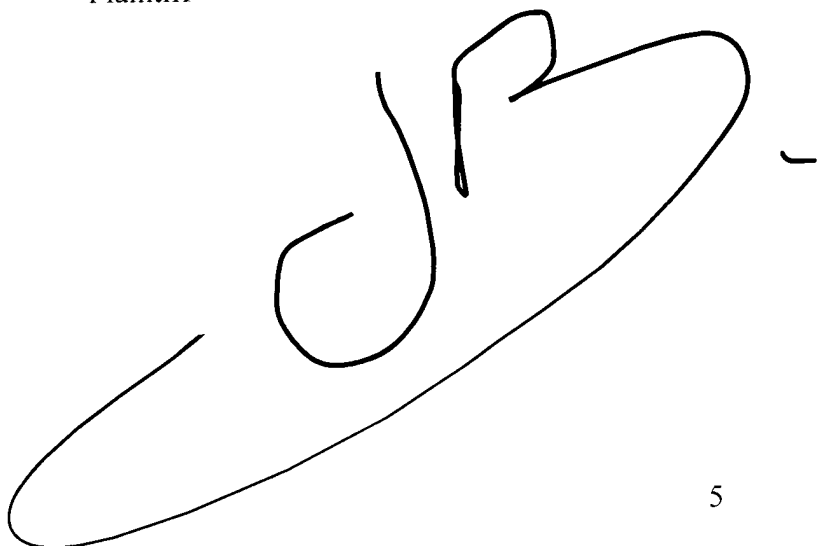
We believe Judy may have lied to the court by stating that she made adjustments in her life to take good care of him. She said that he has been living with her, in her home, since June 14, 2022, when police documents prove his presence in the same facility at a later time. Her appearance on the webcam at the hearing on October 25 and her notarized affidavit prove she was in Texas, not with Don Adair in SC, when he needed her most. Her care seems to have failed, according to her testimony, since Donnie seems to have had a fall that deteriorated his health.

Since the defense has not been able to provide any of the justifications requested above, our allegations presented in our reply to the defense's Memorandum should be considered valid reasons for abuse of her presumed authority as a healthcare power of attorney. All power of attorney privileges she has must be suspended. We request the honorable justice to grant Don Adair his wish to appoint us as his power of attorney, as attested on presented recordings, so we can provide him safe care as mentioned above and as explained in our former statements. We also request the court to provide us financial indemnity from the defendant for all the time and costs inflicted upon us for our benevolent action to help our friend, brother, and elder in our religious community.

If the court is not satisfied by the above evidence, we request to subpoena don Adair and other witnesses, and present an expert opinion to check on him so that he would have the advocacy that he deserves.

Thank you  
Respectfully yours

Jirair Baghdassarian  
Plaintiff

A large, stylized handwritten signature in black ink, appearing to be 'Jirair Baghdassarian', written over the printed name.

|                                   |   |                                                  |
|-----------------------------------|---|--------------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS                     |
|                                   | ) |                                                  |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                        |
|                                   | ) |                                                  |
| Jirair Baghdassarian,             | ) |                                                  |
|                                   | ) |                                                  |
| Plaintiff,                        | ) | <b>Memorandum in support of the motion filed</b> |
|                                   | ) |                                                  |
| vs.                               | ) | <b>by Plaintiff.</b>                             |
|                                   | ) |                                                  |
| Judy Tupolo as Power of Attorney, | ) |                                                  |
|                                   | ) |                                                  |
| Defendant.                        | ) |                                                  |
|                                   | ) |                                                  |

To clarify things we summarize our requests in the following:

Brief Statement:

Comes Now, we request the honorable justice to grant us relief, if possible, permanently, of all power of attorney and of any status that was provided to Judy Tupolo and any person she has appointed as secondary power of attorney, such as her daughter Alexia Hall. Judy has illegally abused a status to impose on Adair confinement and rules, not in the scope of her agency or jurisdiction. We believe she would use any status to keep imposing suffering and restrictions on him and us.

We request access to Don Adair so we would grant him the wishes he has been asking about the alternative agency and investigate the allegations presented in this motion. We request

that Judy and anyone related to her be prohibited from preventing us from communicating with and reaching Don Adair by any means, including changing and hiding his location or obstructing physical or remote access to him. We request that he would be allowed to go where he wants in a safe and reasonable manner to accomplish his requests.

We also request just financial compensation for all the massive amount of time and suffering wasted and for all the financial burden, time, harm, pain and expenses we have placed upon ourselves to cover the legal costs of this motion and to counteract the unjust acts imposed by the Defendant.

We request that all the defense allegations and accusations be dismissed if they cannot bring sufficient evidence of the following:

1. Present affidavits and documents proving our attempts or intentions to take advantage of Don Adair for financial gain and religious hegemony of personal beliefs or dogmas.
2. Present proof of an existence of a document or contract of a medical or healthcare power of attorney that it may be verified, and all the stipulations that provide scope and privileges would be scrutinized. We have not seen any such document yet to verify its existence and scrutinize its awarded privileges.
3. Prove scientifically or medically, with the help of a neutral medical and legal expert, that Don Adair has a terminal neurodegenerative disease that has already turned him legally and clinically incompetent based on reliable medical diagnostics and assessment.
4. Prove that Don Adair is clinically AND primarily legally incompetent, as explained in our reply to his Memorandum.
5. Prove that Judy Tupolo has been granted Guardianship powers with the specific transfer of rights as mentioned in our reply to argument 4 in our reply to the Defense's

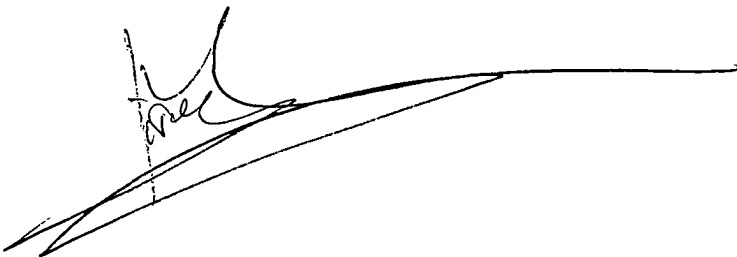
Memorandum and according to Section 62-5-304A "Rights and powers of ward and guardian."

6. Disclose the location of Don Adair and explain when, by what agency, powers or consent he has been moved.
7. Allow Don Adair to return the document granting us officially Power of attorney Agency, witnessed and notarized, as we have mailed it to him and as he promised to process it and mail it back to us immediately.
8. 8. Reply to all the requests we have presented in our reply to his Memorandum.

7/26/2022

Jirair Baghdassarian

Plaintiff

A handwritten signature in black ink, appearing to read 'Jirair', followed by a long, sweeping horizontal line that extends across the page.

This is the 3rd Affidavit of Catherine F Kerr  
In favor of the Plaintiff.

|                                   |   |                                      |
|-----------------------------------|---|--------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS         |
|                                   | ) |                                      |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157            |
|                                   | ) |                                      |
| Jirair Baghdassarian,             | ) |                                      |
|                                   | ) |                                      |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF CATHERINE F KERR</b> |
|                                   | ) |                                      |
| vs.                               | ) |                                      |
|                                   | ) |                                      |
| Judy Tupolo as Power of Attorney, | ) |                                      |
|                                   | ) |                                      |
| Defendant.                        | ) |                                      |
|                                   | ) |                                      |

FILED OCONEE COUNTY, SC  
MELISSA C. BORTON  
CLERK OF COURT  
2022 NOV - 8 A 8:18

My name is Catherine F. Kerr. I am 74 years old. I am a retired medical transcriptionist and office admin. My current residence is Truckee, CA where I have resided for 31 years.

I, Catherine F. Kerr, swear that the information in my sworn statement is truthful to the best of my knowledge and understanding

1. We have some very deep concerns about the health (both mental and physical) of the defendant, and her capacity to carry on her pseudo-role of POA.
2. The Defendant's ongoing MS causes her fatigue. She is known to take long naps in morning or afternoon due to this disability. Therefore it necessitates that she would not be available for full time care since she has trouble being able to care for herself.
3. The Defendant's diagnosis of cancer in the November 2019 necessitated her travel for treatment and remain in Texas for the next year and a half. (Except for a brief return for 3 weeks to establish POA over Donnie Wayne Adair.). During that time, according to her daughter, she went down to 90 lbs, her daughter was there for her, keeping her mother alive, and the Defendant was restricted to wheelchair for travel.

Copies to:

Atty (P) (D)  
DSS other Kerr  
Mailed ☒ Boxed ☐ handed ☐

ENTERED  
aw  
COMPUTER

4. The Defendant's claims (and subsequent report to the Guardian Ad Litem) that she has taken care of Don Adair for 4 years are unsubstantiated. We are concerned that she is giving false statement to the Guardian Ad Litem, and that her daughter Alexia is trying to cover, making conflicting statements. We know that one or the other or both are lying since the statements do not agree.

To clarify,

**2019 - Don Adair took care of himself.** Judy came to his office from time to time (between April and November) to ostensibly take care of office work (opening mail and receiving and recording tithes). She was not his caregiver. She was pushing herself on him at the time, and strategizing her takeover of Association funds and friends, by cutting off his close friends from communication with him. We don't see this as nurse or caregiver; we see this as cunning strategizer and usurper, the very role that Don Adair warned so many members about.

**2020 - Don Adair took care of himself.**

Defendant came to South Carolina for 3 weeks to coax Don Adair to sign POA, and left to return to Texas.

**2021 - Don Adair took care of himself from Jan to April.**

We also understand that from June to September, Don Adair could not live in the Seneca rental which was selected for his safety and comfort since Defendant, and her daughter, and her daughters husband were living there. So, what was supposed to be Don Adair living quarters was actually taken over by the Defendant and extended family. The Council at that time protested this mistreatment of Bro Don, and also kept on requesting that Don Adair have a cell phone. Because the Defendant did not agree with the Council, she dissolved it, digging up some old by Laws, applying certain by laws (council only elected from the field) while ignoring other bylaws (that officers must reside at headquarters). From September to December, Defendant was living in home with Bro Don, and then, because of her high level of exhaustion, she was told by her daughter to put him in Assisted Living.

**2022 - Don Adair was in Assisted Living from Jan to June** and was only removed from Assisted Living because of this ongoing Court case questioning the POA. Our phone call from Don Adair in January was recorded, and he complained that he did not want to be in Assisted Living, that Judy had left him there, and that he didn't know where she was (she had taken off for Texas again, and remained there until June). He said he didn't know if she was dead.

5. The Defendant's diagnosis of PTSD due to past trauma (whether in the military or elsewhere) has prevented her from being able to properly administer the legal responsibilities in relation to Donnie Wayne Adair, and especially in the case in the

Probate Court of Oconee County (Don Adair vs. Kevin Mueller) having to do with his deceased wife's estate. This matters have been pending for 4 years, due to the negligence of the Defendant.

6. The Defendant's self-appointed prophetic gift of dreams has affected decisions of the organization and her personal life. She has become a danger to the members of Don Adair's association because she has them believing in her dreams, and following her directives, thus making the Board fake and a puppet board, gleefully following her whims. Her self appointed status as Secretary and Treasurer bespeaks a kind of ignorance in Corporate matters, and the appointment to the Board of so many Assistant Vice Presidents is a custom to attract more position seekers, the very thing that Don Adair warned against.

7. The Organization's new Vice President has been selected and voted in due to the Defendant's dream.

8. The Defendant specifies that she has been "called by God" to be Donnie Wayne Adair's caregiver and nurse, totally disrespecting his wishes and desire.

9. Donnie Wayne Adair has clarified that he has no desire to have the Defendant as he caregiver nor his nurse. He has further testified that she has used such terms as "caregiver" or "nurse" to influence and sway people to listen to her rather than to him.

9. The Defendant has successfully lead a campaign of mudslinging and character defamation against some of Don and Marilyn Adair's most trusted and dearest friends from 2019 to the present. The fake Board has given license to her mistreatment and lies about former members and non-members. Rather than object to this misinformation or attempt to verify it, they blindly follow her sinister authority.

10. To further destabilize the situation, the Defendant has falsely accused this writer and close friend of Donnie Wayne Adair (Catherine KERR) of:

- Stealing funds from the Association;
- Trying to usurp and take over the Association;
- Trying to put my name on the bank accounts;
- Trying to destabilize the work in Zambia;
- Spreading rumors about Donnie Wayne Adair dying;
- Attempting to set up Donnie Wayne Adair's Last Will and Testament, where any funds of Donnie Wayne Adair or the Association would be coming to me.
- Trying to gain notoriety, wealth, and power by freely distributing the recordings of Don Adair studies.

These falsehoods are unsubstantiated, and yet her bogus Board continues to allow her to do this, without rebuking her. Thus they become partners in her lies. Most of these accusations fall right on her, because these are all the things she has done.

11. The Plaintiff, Jirair Baghdassarian, is not involved with Salem Association. He is not a member of any Davidian Association. He is an independent SDA and Davidian. He is a very active member of the Abundant Life SDA Church in Las Vegas. He distributes bread to the homeless. Just because he distributes bread to the homeless does not make him their caregiver.

In conclusion, the purpose of this Affidavit has been to substantiate that the Defendant has not been a caregiver for Don Adair for years, which is contrary to what she told the GAL. Further, the Defendant has been falsifying information to the Court and to the GAL in her statements, and her statements conflict with her daughter's statements. We further believe that that Defendant is not physically nor mentally capable of POA responsibilities, nor has she ever been. She has not adequately performed responsibilities of POA, and has further falsified information just so that it appears she is doing a good job.

I, Catherine F. Kerr, once again swear that the information in my sworn statement above is a complete representation of the facts to the best of my knowledge.

Respectfully submitted by

Catherine F. Kerr November 1, 2022  
Catherine F. Kerr

SEE LOOSE  
CERTIFICATE ATTACHED



# JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Nevada

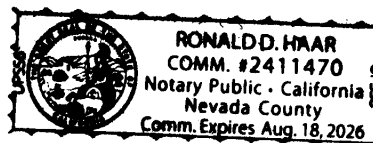
Subscribed and sworn to (or affirmed) before me on this 2<sup>nd</sup> day of November,  
2022 by Catherine F. Kerr

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Ronald D. Haar

Signature

(Seal)



## OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit of

(Title or description of attached document)

Catherine F. Kerr

(Title or description of attached document continued)

Number of Pages 4 Document Date 11/2/22

Additional information

## INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.

10/25/2022

To Whom It May Concern:

This is a response to Jirair complaint.

I've known Don Adair since 2002 and I have been actively involved in his religious organization that he and his wife Marilyn Adair managed for about 43 years. I visited them often for four years when I was active military living six hours away and maintained contact as often as possible during my military career. I retired in 2016. Shortly after Marilyn's death in Oct 2018, I and two other group members arrived to assist him. Prior to this I was informed by Catherine Kerr that Don's late wife's relative were going on the property and taking mail looking for donations sent in by supporters. A local friend Elissa Peters who house sat for Don informed me that Kevin Mueller came to the property taking carpenter tools and whatever else he wanted, and that an organization file cabinet was missing. Don trusted them to house sit at times when Elissa couldn't. Kevin Mueller also drove off with the cargo van his aunt, Don's late wife was driving and told Don that the property now belonged to them and he had to leave. Shortly afterwards Kevin's dad Carl Mueller took Don to court, making an unsuccessful attempt to evict Don from the trailer he and his late wife were living in.

After Marilyn Adair's death, I asked Catherine Kerr two months in a row to go with me to check on Don. She refused both times. Late January, she suddenly tells me that she is meeting another association member, Donald Panciera at the organization, they were going to check on him. This only gave me five days to prepare to meet them and I was glad to go and check on Don as I did not want to be with him alone. His wife and I were close friends.

**Feb 2019** When I arrived to South Carolina, Catherine Kerr and I shared one room in a Air BNB home for one and half months. I then discovered the real reason for her sudden willingness to visit Don. She told me that Don sent her about two and half months' worth of members' tithe money in mid-January. However, she was advised that she should go and get her name put on the association accounts. Don kept the funds hidden and was afraid that Kevin and his dad would find them, so he quickly sent them to her without counting the amount (he never dealt with the funds because his late wife did. Don would never leave the property unless someone was house sitting so the funds were accumulating for a few months or more). He asked Catherine to keep the monies until the situation between the relatives got settled.

When Donald Panciera arrived three days later, Don appointed the three of us as council members. A meeting was held where Catherine Kerr proposed to be the secretary, Donald Panciera the Treasurer and Don continue as vice president. Catherine and Donald proposed that the funds be sent to their homes to care for Don and the association, which Don refused. Catherine was in tears yelling, "But you promised you would send me the tithe." They continued a heated argument of where the funds should go. Don called me out of the room and proposed to me, I asked him why he doesn't marry Catherine who was willing to marry him, and he said because he didn't trust her and her son. Being recently retired and with my medical background in nursing, my only interest in coming to South Carolina was to see about Don's health condition offering him moral support for his recent bereavement. I honored him and his wife for their long years of gospel service and believed in the cause they promoted.



I was in much distress as I found out the true nature of Catherine and Donald's visit, and on top of Don proposing to me. They actually came to clean up the junk laying around the property and then shut down the organization property, run the business from their homes and put Don in a nursing home. I told them I would look after him and it wasn't time to put him in a nursing home yet. Don at that time voiced that he wanted me as his nurse still making attempts to marry me. After I told him no and my purpose was only to look after him, he began mistreating me and put unfavorable things about me in his newsletter and hope that he would find a wife.

During our stay Catherine was paid to shop and fix food for Don while I tended to his health needs without pay. I noticed a health decline, an unsteady stumbling gait with numerous bouts of forgetfulness and mental confusion. I immediately arranged for a doctor's physical and mental evaluation. In the interim I assessed that his legs were swollen recommending that he stop drinking salt water every morning. The swelling immediately disappeared. Catherine suddenly left due to problems with her son's

banking account funds dwindling, while Donald left a few weeks earlier after he did not become treasurer. I was voted in as Secretary treasurer and continued working with Don helping with some of the association functions of his late wife.

August 2019 his initial mental evaluation and brain CT Scan found him positive for dementia and Alzheimer's disease in a mild state. (see Dr's notes for 2019-5/2022). I assisted him on the premise for 10 months.

**November 2019** I was diagnosed with stage 3 breast cancer and had to return to my home in Texas for chemotherapy treatments. During this time, I continued to help him run the business, ensuring his basic needs were met, hiring local personal friends who also updated me on his condition and people calling the association.

While I was away, Catherine Kerr and a few of her friends, who were in contact with him were well aware of his dementia and attempted to turn him against me, causing him further confusion and causing discord between us. However, no one volunteered to physically assist him and move to South Carolina, so our work relations remained intact, plus after he saw that I was committed to God's cause, I was the only one he trusted in close working relations.

**June 2020** Mr. Adair suffered a stroke with one sided movement impairment, was hospitalized a few days and then sent to rehabilitation for over three weeks where he was able to successfully walk again, we spoke daily. He told me Catherine Kerr called him and said that she'll have the brethren praying for him. Later that day in the evening, a Hispanic member called me saying a long-time member called him crying saying Don had died. I assured him Don was alive and recovering well in Rehab. Don's neighbor who met Catherine seeing her once confirmed that Catherine Kerr called her about Don's whereabouts, and she informed her of his health status.

Retired and living in California, Catherine continually tries to keep up with Don's whereabouts and will go on a search (the latest was the Foothills Living Assisted home) for where he is living with a purpose. Over the years of knowing Don, she accumulated most of his bible study recordings, all his articles and book compilations in hopes that when he expires, she could take over his operation and assets. She gave me a USB port with all of his studies to that time, all his articles and the main books that he compiled.



She asked me to keep this silent as those articles are copyrighted, and she was not given permission by Don. or the association to accumulate or disperse them. Yet she never cared enough to come and support him physically after his wife's death but came only to put him in a nursing home and shut down the operation in South Carolina. She is the person with a keen interest and the main person behind taking me to court. As such, has put her friend Jirair up to doing it. Yet Jirair hasn't seen Don in 20 years and knows nothing about him except what Catherine Kerr tells him. He also admitted in court that Catherine Kerr is helping him with this case.

**July 2020** During this time I was in cancer remission but still receiving treatments about once a month and getting bi-weekly physical therapy for frozen shoulder, side effects of prolonged breast cancer surgery. However, I was well enough to visit him as soon as he was discharged home, taking him to his follow up doctor's visits with the various specialty doctors.

I arrived 30 minutes just before three prior members arrived to visit the association property. They also said they were informed that Don expired but were surprised to see him well and working in the office. These same people a while back asked Don if they could gain the association once he expired. He refused and they no longer supported him but have now returned after many years of no contact. This somewhat frightened Don and he started thinking about the possibility of death.

We discussed his business affairs and after-life arrangements of his assets and his wishes for the business. (Settling after life earthly affairs was remote. He held on to the belief that he will never die but be translated alive to heaven and be one of the 144,000). Numerous people in the past made unsuccessful attempts to gain any of his or the association assets, he held on to his long-time position as vice president. However, the fear and repercussions of another stroke, and after numerous doctor's visits with his health concerns addressed, he finally expressed that he was willing to place me as the executor of his assets, and that he wanted all his educational works and assets to go to the organization. He additionally expressed that he desired to make me his durable and healthcare power of attorney. These wishes were written up by his attorney, Emily Morrison's office, signed by Mr. Adair and two witnesses in July 2020.

After three weeks visit, I returned to Texas to continue my treatments but ensured he had accompaniment to his doctor's appointments for the next few months. He then gained the ability to drive independently. I continued scheduling his doctor visits remaining informed of the outcomes, reminding him, and ensuring he makes his doctor appointments.

**March 2021** after completing my treatments, but still recovering from cancer. treatments after affects, I returned to South Carolina and found his dementia had worsened and removed him from his living environment which was deplorable. I was his live in caretaker until December 2021 when I could no longer care for him and hope to remain in cancer remission. His dementia worsened with him becoming agitated and suspicious refusing to comply with household safety measures, such as not going down the stairs or using a cane. Additionally, he refused to take his dementia medication which caused him to be more agitated and combative. He was reluctantly transferred to Foothills Assisted Living

It was during this time that Jirair and his associates sought out where he was living. Jirair had no long term or recent organization affiliation, but suddenly showed a keen interest in Mr. Adair's new living facility and promised to remove him from this home. Ironically, this happened shortly after the organization begin to assert a poised media presence, launched and updated our new website and



featured Don Adair's books for sale. We simply continued the mission of the organization fulfilling its' purpose, but this time through a broader media exposure. Mr. Adair labored for the organization most of his life as a writer, an educator, and compiled and sold his books.

Ever since then, Jirair has done a myriad of attempts to get the power of attorney revoked. He taped recorded Mr. Adair saying he was held against his will at the home, and he wants to leave. He led a social media campaign against me, made numerous false accusations, harassed me about not allowing him to speak to Mr. Adair and harassed the nursing home for not letting him speak to Don. The nursing home complied with my wishes because they saw that Don was incapacitated and knew the history of people trying to gain the organization and Don's lifetime works.

**May 3-14-2022**, he sent a spy Charles Angweni AKA Kaka to the organization where I was living. He insisted on living there, during this time he was trusted to gain access to Don Adair and take him out of the Assisted Living Home where Don resided. However, he made attempts to gain access to paperwork relating to Don's care and financial matters He took Don to two banks where the association banked for years but gained no information. (These funds were removed by me and placed into another association bank account to avoid the new VP from taking them for investments. His name was on the account). Kaka then proceeded to take Don to the Fire Station and from there filed a fraudulent report against me and additionally had Don make a statement to them that the Power of Attorney be revoked from me, and appoint himself Kaka as the new POA, and that the POA be revoked by the next week (see report).

The next week came and Jirair and his associated Catherine Kerr once again started calling the Rest Home demanding to speak to Don as I am no longer the POA, the Home denied their request and hung up the phone three times. Jirair persistently called three times in a row, after the home denied his request, and he finally stopped calling after he was threatened with a harassment complaint to the Sheriff's office. A few days later, Catherine Kerr called and insisting to speak to Don also stating that I'm no longer the POA, she was denied. A few days later she called again saying that Don's attorney Andrew Holliday, wanted to talk to him, she was denied as well because the Assisted living home knew Don was incapacitated, suffering hallucination bouts, delusions about being married and being able to fly. Shortly afterwards, I took Don out of the home in order to protect him and save the home from continual harassments which made me feel so bad that they had to be involved in this manner.

So sadly, today this predatory pursuit continues with various Davidian group leaders and prior members preying on an elderly demented man who's spent his life sacrificing for God's cause. Catherine Kerr and Jirair had these people to write letters to the courts to support their case against me. They haven't seen or talk to Don in years. This is very shameful that so called Christians could stoop to deceptive means for selfish gain. Truthfully, I'm so sorry that it has gotten to the point where the courts and you have become involved, contrary to bible teachings that "we are not to take our brother to court," but work out disputes among the believers.

Additionally, the board helped me to purchase the house at 115 Davidian Way (sub-lease with an option to buy) because the association didn't have credit-worthiness to qualify for a business loan. The \$104K belonged to the organization, not Don. Part of those association funds went to help rebuilding, payroll etc. Don's personal funds are separate and went to pay for his needs, day care with Palmetto Care and Foothills Living Assisted care, as well as scammers in his demented state. I already have a retirement home in Texas and didn't need another home. We've cared and treated Don with utmost respect ensuring his comfort. Additionally, I and the organizational board have paid for about half for all his



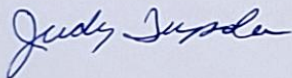
burial arrangements, which is paid in full. I continue to take him to follow up doctor visits for his condition and monitor any other health needs.

In addition, Don in his right mind wanted me to help him with the association and to be his caretaker. I was the only one here for him that he trusted, others left because of his personality, and he refused to pay people or offered meager pay. I love him and his wife for all their labors of sacrifice for gospel of Jesus Christ and His kingdom. I now render my services from a heart of gratitude, receiving meager pay for my licensed RN profession and military experience, and since February 2022 have not received pay.

In closing, I and the association board will continue to ensure Don's physical and healthcare needs are met until his very end. I pray that this letter will give you a background understanding as to why this case has ended up in your office and in the court system. May God bless you with the "spirit of discernment" in your work as the truth is what stands forever, and may He help you decipher the truth in these conflicting voices. Thank you so much for all that you are doing for Mr. Adair.

PS. This conflict story is written in our November 2021 Newsletter and will show that I did not make this up, the story about me and Catherine Kerr and the split went to all our members for an update.

Very respectfully yours,



Judy Tupolo

**TEXAS ORDINARY CERTIFICATE OF ACKNOWLEDGMENT**  
 Civil Practice & Remedies Code § 121.007

The State of Texas

County of Bexar

Before me,

Erica Garcia, Notary Public  
 Name and Character of Notarizing Officer,  
 e.g., "John Smith, Notary Public"

on this day personally appeared

Judy Tupolo  
 Name of Signer

☐ known to me

☐ proved to me on the oath of

\_\_\_\_\_  
 Name of Credible Witness

☐ proved to me through \_\_\_\_\_

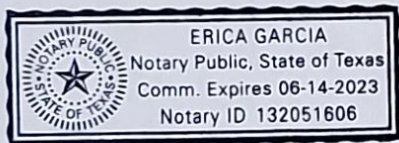
Texas DL  
 Description of Identity Card or Document

to be the person whose name is subscribed to  
 the foregoing instrument and acknowledged  
 to me that he/she executed the same for the  
 purposes and consideration therein expressed.

Given under my hand and seal of office this

25<sup>th</sup> day of October, 2022  
 Day Month Year

EJ  
 Signature of Notarizing Officer



Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or  
 fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Personal Statement

Document Date: 10-25-22 Number of Pages: 6<sup>pgs</sup> 5

Signer(s) Other Than Named Above: \_\_\_\_\_

|                                   |   |                              |
|-----------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS |
|                                   | ) |                              |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157    |
|                                   | ) |                              |
| Jirair Baghdassarian,             | ) |                              |
|                                   | ) |                              |
| Plaintiff,                        | ) | <b>Affidavit of.</b>         |
|                                   | ) |                              |
| vs.                               | ) | <b>Jirair Baghdassarian</b>  |
|                                   | ) |                              |
| Judy Tupolo as Power of Attorney, | ) | <b>Plaintiff.</b>            |
|                                   | ) |                              |
| Defendant.                        | ) |                              |
| _____                             | ) |                              |

FILED OCONEE COUNTY, SC  
MELISSA G. BURTON  
CLERK OF COURT  
2022 NOV - 1 P 1:44

I, jirair Baghdassarian swear under oath that the above statement is true and accurate to the best of my knowledge.

### Statement of fact and expert's opinion.

The honorable Judge Sprouse requested our expert opinion on the cognitive capacity of Don Adair and how competent he could be in living by himself, and whether he needs 24 hours supervision regularly.

We thank Mr. Bagwell for his trust and acknowledgment that we specialize in Neurology and psychiatry, the two specialties directly involved in dementia and cognitive impairments in all ages, including elderlies.

Being an expert in this field, we can witness this based on the phone conversations we had with Don Adair from January till June 2022. The talks were often long ones. One lasted over an hour, close to two hours, and Don Adair showed a remarkable capacity to focus for a very long period. He rarely, if ever, repeated the same question twice unless it was an issue of spelling or hearing. We have not seen any evidence of loss of focus or short-term memory that is impaired enough to make him a threat to himself or others.

Saying that Don Adair needs 24-hour supervision must be based on something that we have not heard or seen, neither from the reports we have had from the facility where he was residing nor from Mr. Bagwell nor Judy nor our conversations with him. Nevertheless, for a patient his age it is recommended that he should not live alone, but rather have someone visit him regularly to help him organize his household and environment. We Agree with Mr. Bagwell that someone the age of Don Adair, who may have a history of vascular dementia, should have



lost many of the life skills to enable him to live with full independence. It would be safer if he lived with someone to monitor him. We do not know how many hours of monitoring he needs as this is not possible to determine with the restricted access, we have to Don Adair and his medical records.

## Neurodegeneration and cognitive condition

Based on reports from Don Adair and other witnesses, we understood that Don Adair was not in a cognitive condition that permitted him to understand he was signing a power of attorney when he signed the documents of the Power of attorney to Judy Tupolo, since he was recovering from a stroke and was challenged at that time. Presently, he seems to understand things better. Having taken these two events and compared them, we can only deduct that his situation improved and not worsened, making us suspect vascular dementia rather than Alzheimer's disease. This is, in fact confirmed by the affidavit presented by Kymberly Nichols, manager of Foothills assisted living in her affidavit from July 2022. Mr. Bagwell should be able to testify that we suggested to him that, although we have not been given access to his file and to personal access to Don Adair to check his situation, the first diagnosis we could suspect at this point is vascular dementia due to former transient ischemic attack. Vascular dementia is not considered a neurodegenerative disease such as Alzheimer and does not have to be terminal nor debilitating in many situations. It results from temporary brain damage secondary to reduced blood flow from a stroke or TIA. This type of brain damage does not worsen more than the natural aging process. Vascular damage resulting from TIA may improve, which was the case with Don Adair. Diagnosing Alzheimer's based on one visit is impossible. No neurologist in the whole world can do it. This fact is even more true for a lay person who is neither a neurologist nor a medical or healthcare provider.

## Extent of independent living

Saying that Don Adair needs 24 hours assistance is based on a lay impression or personal observation based on the reasoning that Don Adair has a defective short-term memory and may forget cooking tools on fire. But is there anyone that has not forgotten cooking tools on fire? Do we deprive them of their freedom, make them mentally incompetent and treat them like five years old because there is a possibility, they may forget a cooking pot on fire? I do not know anyone that has not, or is not capable of, forgetting a cooking pot on the stove. If we think that the person has a high chance of igniting a fire and becoming a threat to himself and others, wouldn't it be easier to secure the stove than to deprive him of all his freedom and keep him under forced supervision for 24 hours? It is very inconvenient, impractical, and burdensome, physically, financially, and mentally to both caregiver and patient to babysit. Patients should be provided a sitter only in acute situations. They are only locked up in institutions when they are in terminal stages of their dementia and are constantly wandering around. Without person-to-person

long term observation of Don Adair and without accessing his clinical files it would be very difficult for us to confirm he is in that stage. In fact, his phone conversation confirm what GAL report has already announced, that he should be an early, not a late stage of dementia,

Even if that person needed 24 hours assistance because he can forget a pot on fire, does that entitle someone from detaining him against his will when he has another safe choice to make? Does it prevent him from receiving a phone from his friends privately without being spied on and without monitoring and restricting visits and conversations? Safety should not be a reason to deprive someone from his or her individuality, dignity and privacy.

## Delusions.

There have been suggestions that Mr. Adair is having delusions, namely, stating that he believes he can fly, that he is married to the Sheriff's daughter, and that he has called the police at times for fire in his house. The statements are vague but may or may not be result of confusion and delusions. We note Don Adair did have a fire in his house in the past and may have turned inquisitive about it. When he requested to go to the fire department for that purpose, he filed a claim of abuse against Judy. As far as him marrying the Sheriff's daughter, it may be that he has met someone somewhere, sometimes and she convinced him that she married him or wants to marry him and that she is related the sheriff or someone in law enforcement. These stories must be investigated further to verify their veracity.

Concerning the flying, we know that Don Adair has been one of the champions of last day events prophecies and biblical eschatology related to God using flying saucers to save his people giving them capacity to fly. The statement is very vague, as flying could mean anything. We could use an airplane to fly. We are supposing that Mr. Don Adair may be confused "at times" as Kim Nichols testifies in her affidavit. But the term "at times" does not mean all the time, nor does it mean most of the time. We understand from Nichols statement that "Mr. Adair could make his needs known". Analyzing the statements, we understand that the normal baseline situation for Don Adair was to understand well his needs and appropriately communicate them in a successful manner. The "at times" confusion seems to have been the exception, not the baseline regular situation.

We also do not know what medications Don Adair is having as some medication elderly people with dementia take may cause confusion, hallucinations and delusions.

Moreover, our concern should not be whether these delusions are happening or not as much as to whether they are endangering his safety. For example, does Don Adair attempt to stand on a cliff and fly to the point where he would inadvertently commit suicide? Would his belief about the fire or missing wife make him threaten to hurt anyone? Most importantly, related to our discussion, what we care about mostly is whether his delusions affect his understanding of the nature of the power of attorney, its revocation and the consequences of that revocation and the appointment of another power of attorney. Our reply on the latter matter would confidently be negative. When we spoke to Don Adair about the power of attorney and its revocation, we had not heard any sign of delusion, confusion or hallucination that may have interfered with his comprehension of the nature of the power of attorney,

its revocation and the consequences of revoking it and appointing someone else. People can be delusional, hallucinatory, and schizophrenic and still be living a free totally independently. We have many years working with psychiatric patients in wards and in private to clinic to know for a fact that a status or diagnosis of mental illness associated with delusion is not reason for involuntary confinement. We have taken in consideration the affidavit of Kim Nichols as it is the only letter sent in a format of a sworn statement that qualifies to be an affidavit. None of the rest qualify for that status and should not be taken seriously.

## Comment on the pictures.

We also found the pictures that were sent by the attorney about Don Adair living a place as compared with his dwelling in the new home in Seneca. We would like to say that we have visited Don Adair in 2018, We will post a video testifying of our visit. Marilyn was alive at that time but was on her death bed. He was in his full mental powers at that time and has not suffered a TIA nor was he diagnosed with any cognitive disease. We noticed that his house looked like a shack and that it had some sanitary issues. We understood that Don Adair was adapted to that level of living level and that it was not necessary a result of confusion. IN our history doing home health care visits we have seen many patients living in such a condition, with their full mental powers, and having what for them is considered as a "normal life". Nevertheless, it is expected that thing should have worsened after his transient ischemic attack as he should have lost some faculties in self-care. That is why we believe that it may not be safe for Don Adair to live alone and that he needs to have someone with him, at least few hours of the day to help him arrange his environment. How many hours of supervision he needs daily, we still cannot tell without assessing him in person.

## Don Adair's supposed fall

Alexia Hall claims that his situation has worsened since GAL report and that he needs to be in a nursing home at this moment. If her statements were found to be true then we will consult with Don Adair to place him in a skilled nursing facility after appropriate assessment. However, we still insist that Don Adair should have the freedom and privacy that he deserves, namely talking to whomever he wishes to talk to, including to Judy Tupolo and her team. We have no intention from forbidding him from talking to anyone at all.

Alexia and Judy claim that Don Adair needs constant supervision and needs their so-called continuous care to remain in good health. But then she says he had a fall which worsened his condition and may have led to hospitalization. Why did Don Adair fall when she supposedly is providing him 24 hours care and supervision and when the continuity of her care is supposed to be irreplaceable. What are they doing in Texas when Don Adair is supposed to be under their tight constant supervision and when he is in a critical condition needing their dire help? Did she place him in a nursing home when she is telling the court that she has committed to have him live with her? Where is he now?

## Suggested tests

We suggested that Don Adair be assessed with a preliminary mental cognitive test called MMSE or mini mental status exam.

See link : [Microsoft Word - Mini-Mental State Examination.doc \(heartinstitutehd.com\)](#)

For a more detailed assessment we suggest more specialized tests, Such as the ACED test or the Assessment of Capacity for Everyday Decision Making. Our evaluation should be based on concrete graded objective tests and not on countertransference consisting of a vague comparison between a single short visit with someone we have met somewhere in the past. For example, if we see a person having a dark lump on his skin and compare him with another person who also has a dark lump and was diagnosed with melanoma, which is a very lethal form of cancer, does that mean that the first person also has cancer? Not at all. A lump could be anything benign, from a mole to a tattoo or a bruise, which is very vague.

Similarly, the diagnosis of Don Adair with Alzheimer's should be based on clinical evidence. In the past, they needed an autopsy to confirm Alzheimer's, and today's PET scan where, if positive, would show an above-normal elevation of Beta Amyloid 42. Only a specialized PET scan can confirm diagnosis, not a regular CT scan as Judy is claiming. A CT scan is not as sensitive as an MRI in showing changes in brain matter, but none of the latter can confirm Alzheimer's disease. See the following link for further information:

<https://go.exlibris.link/PxtLhdM0>

While Vascular dementia is not characterized by steady decline and can improve, Alzheimer's is considered a terminal neurodegenerative disease characterized by a constant gradual cognitive decline, beyond the normal decline of natural aging, until the affected person turns into a vegetative state and dies.

We have not seen evidence of a neuro-vegetative state related to Don Adair. Moreover, even if that neurodegenerative state exists, what we are concerned with, at this time, is Don Adair's present capacity to decide for himself related to his revoking and granting Power of attorney.

After talking to Don Adair on the phone, we do not have any doubt about his capacity to make the decision mentioned above. He was fully capable and competent of revoking any medical power of attorney he has provided to Judy in the past. He did revoke it the legal manner and Judy is no more his power of attorney.

## How to determine competency.

It is a false assumption that if someone makes a decision that others may consider as harmful, unsafe, or unhealthy, that such a person would be incompetent. Most people overeat, drink and practice unsafe sex. Many people today use illicit and licit recreational drugs such as marijuana. Some people choose to have an order of Do Not Resuscitate DNR in case of an emergency, such as a cardiac attack that requires defibrillation or a respiratory arrest that may require intubation. DNR orders forbids providers from resuscitating them in those conditions, even if they were dying. Just because their decisions are not considered best by many, no one has the right nor jurisdiction to view them as incompetent. Why?

Because he or she understands the nature of their choice and the consequences of making that choice. For example, a homeless person can decide to be homeless, if they understand the nature of being homeless and the result of living such a life, if that person is not hurting anyone else.

So, the question we should be asking is the following: Does Don Adair understand the nature of revoking Judy's Power of attorney and choosing someone else as Power of attorney? Our answer is certainly affirmative. When we spoke to him, he was alert, conscious, and oriented to self, person, place, time, and situation; this is attested to recordings.

Although Don Adair denies understanding the meaning of what he signed in 2019, he clearly understood the reason for his false imprisonment as we described it to him. We explained to him that the document he signed for her is providing her, though illegally, a pretext for making decisions on his behalf. So, Don Adair clearly understands the nature of the Power of attorney document, as proven by the recordings that we have presented to the court. Don Adair was also explained how to technically revoke a power of attorney according to South Carolina Law. We explained to him how to revoke orally and in writing. He wrote down all information and executed them in the letter. He called us back several days later.

The next question would be, does he understand the nature of his choice? The answer would also be certainly affirmative. Based on the recordings we have presented from the phone conversations we have had with him, Don Adair has understood the consequences of revoking the Power of attorney. He understands that Judy would cease making decisions for him and that Plaintiff would be able to use the document to sign him out from a facility and place him in a different location that would be safe and where he would have access to a phone. Don Adair had specific and detailed questions on these matters, showing that he understood the nature of our explanation and the possibilities where he can invest and use the Power of attorney. For example, he asked me if he could drive again, and my answer was that this would depend on what the doctor said after the assessment. He understood the nature of the evaluation since he was accusing Judy of taking him to a doctor who did not assess him personally but instead yielded to Judy's instructions. In other words, he understood the nature of the physical assessment necessary to produce a recommendation related to the capacity to drive or not. He asked me if he could come back to his former office. He also understood that this was not a promise we could

guarantee him as Judy was in control of that office. The only thing we could promise him is that he would be welcome at my private residence if he wishes to.

For further reading on the matter of competency and capacity, we find the following document very useful, current and reliable:  
<https://www.nbasw-atsnb.ca/assets/Uploads/toolkit-for-primary-care-capacity-assessment.pdf>

## Rights of a ward and a principal.

Concerning the rights of a principal or a ward we reiterate what we have already expressed in our former replies and memoranda:

In our reply to the defense's memorandum we have exposed the difference between clinical incapacity and legal incompetency.

## **Clinical capacity and incapacitation**

Clinical incapacity of a principal requires the agent to provide consent to providers on behalf of the principal concerning certain medical procedures, interventions, or treatments, only when the principal is not able to communicate and when unable to understand the nature of the procedure or its consequences. A power of attorney agent, in that situation, may provide consent to providers only when related to specific medical procedures and after evaluating two medical professionals who must document that the principal cannot consent. The agent cannot force the principal to accept the treatment if the latter refuses to do so.

The determination of clinical incapacity is usually temporary and restricted to a specific medical intervention or procedure unless permanent and terminal is documented and proven. It must be testified and confirmed by two medical providers.

All of this has yet to be respected. For one, Judy has yet to be able to present to the court her possession of medical or healthcare Power of attorney documents legally prepared since July 2019. She has never done so. For two, she has extended her choices beyond the medical decisions to decisions controlling his daily life. She would decide who is to be his caretaker, where he should live, with whom he can talk or communicate, how, when, and whereto he is to be discharged, whether he can have a phone, and who can speak to him. She would even go into his room in the facility and steal private property from him, including his personal notebook and his phone numbers. We can subpoena the facility to testify of that. She refused to recognize his legal revocation of the power of attorney and our appointment as power of attorney and tore out the written evidence, according to Mr. Adair. He said he had to hide them from her because she would and did come and steal them and deprive him from them. If the GAL report says there is no money left for Don Adair and if he is in a safe facility, why is she afraid of his old friends

talking to him? She has gone beyond the jurisdiction of her Power of attorney. What is there left to steal when she seems to have depleted everything, some things to her explicit admission.

## **Rights to revocation of power of attorney**

According to SC probate codes of law, Mr. Adair has the right to revoke his Power of attorney, and he has done so according to the law. None respected that because the facility was following Judy's orders, who had no guardianship powers over him.

SECTION 62-5-504 provides authority to the principal to revoke his Power of attorney orally. The medical Power of attorney should include the following clause clarifying the revocation rights mentioned above: "YOU HAVE THE RIGHT TO REVOKE THIS DOCUMENT, AND TERMINATE YOUR AGENT'S AUTHORITY, BY INFORMING EITHER YOUR AGENT OR YOUR HEALTH CARE PROVIDER ORALLY OR IN WRITING."

As medical experts, our NPI is 1760068365; we have been working with one of the top neurology companies in Las Vegas since September 2021. We specialize in psychiatry at Duke University, NC, and are performing clinical practice with one of the leading psychiatrists in Las Vegas in several nursing homes in the area. In these nursing homes, we constantly evaluate cognition in elderly and dementia patients. We can provide our resume and evidence of the above per request of the court. We are a medical authority with jurisdiction and expertise to rule upon clinical and legal competency matters.

We can testify and confirm, based on the extensive phone conversations we had with Don between January 2021 and June 2021, that he fully and unequivocally had the mental capacity and legal competency to understand the nature of the Power of attorney he was revoking and the consequences of its revocation and that he had the full right and Power to do so. He has legally revoked his Power of attorney according to SC probate code section 62-5-504. He did so both orally and in writing. We have the evidence and copies of the recording sent to the court. Judy did not respect his wish, and she stole from him the written revocation to wipe out evidence. We believe she did so maliciously to cover up for her abuse because she did not want him, nor anyone else, to investigate and expose her financial and emotional abuse. She did not act in his best interest, and her Power of attorney privileges have been revoked. Don Adair appointed us as his Power of attorney, as attested by the same recordings on file.

## **Legal competency and incompetence.**

We have explained that legal competency relates to more personal issues in the patient's life. Judy had assumed and used guardian powers when she had none. Don Adair has not been declared a ward, and no court has specified which powers of the ones we enumerated in our former reply have been taken away from him and transferred to her. It is imperative to understand that caregiver abuse is widespread, and no guardian nor caregiver should have absolute Power over a ward.

SC probate code SECTION 62-5-304A defines the "Rights and powers of ward and guardian".

The above probate code defines as follows:

(A) "The court shall set forth the rights and powers removed from the ward. To the extent rights are not removed, they are retained by the ward. Such rights and powers include the rights and powers to: ...

(2) reside in a place of the ward's choosing, and consent or withhold consent to any residential or custodial placement;

(3) travel without the consent of the guardian;

(4) give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, and physical examinations, care, treatment and therapies; ...

(6) consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;

(7) authorize disclosures of confidential information; (8) operate a vehicle; ...

(11) consent to or refuse educational services;

(12) participate in social, religious or political activities;

(13) buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon the conservator under Section 62-5-422;

(14) make, modify, or terminate contracts;

(15) bring or defend any action at law or equity; and

(16) any other rights and powers that the court finds necessary to address." Judy has illegally removed the powers mentioned above from Adair and transferred them to herself without soliciting the court to "set forth the rights and powers removed from the ward" as required by SECTION 62-5-304A (A)

Part (B) of the same section specifies that it is the court, not the guardian nor the Power of attorney agent, neither the status of legal or medical capacity or incapacitation, or the status of a ward, that provides such transfer of rights from the principal to the agent, or from the ward to the legal guardian. The following powers can be given to a guardian only, never to a power of attorney, under special conditions, and only when explicitly specified by court order as mandated in Section 62-5-204A (B)

Judy has not respected any of the above. She has abused her Power of attorney privileges by acting as a guardian and has mandated the facility to consider her Power of attorney as guardian powers. We feel sorry the facility was in the middle of this, not knowing what to do, but they had to respect her wishes based on her false claims, which is considered an abuse of Power.

Judy had considered and convinced others to consider Don Adair as a Ward that has lost legal capacity in determining the above-mentioned rights that, according to section 62-5-304A should be retained by Don Adair even if he were considered legally incompetent (which he wasn't), and even if she were appointed a guardian by a court (which she wasn't), unless specified by a court of justice. She thus deprived him of his fundamental rights illegally and for unethical, malicious reasons.



## Legal hold or Involuntary Mental Health commitment.

If Judy felt there was an imminent danger or threat to the patient's life, then she could have requested a legal, medical provider, or law enforcement authority to request a temporary legal hold until a judge decides on Don Adair's competency. A legal hold is not permanent. It is temporary. Having worked in psychiatric wards, where we often confine patients with dementia and Alzheimer's disease, I have placed patients on legal hold in NV, and I know that such hold cannot exceed 72 hours, during which the authorized entity that issues the hold must prove that there is an imminent threat on the person's life or danger to others. We have not seen any evidence of that so far with Don Adair. In South Carolina, a legal hold is called involuntary mental health commitment. It is acted upon when one feels an imminent threat to a person's life. It is defined in South Carolina Code of Laws, title 44, chapter 17, article 5, entitled Custody and Admission of Persons Requiring Immediate Care. Section 44-17-410 regulates "Emergency admission of person likely to cause serious harm; It states as follows:

**"SECTION 44-17-410.** Emergency admission of person likely to cause serious harm; procedures; court review; assessment by examiners; initiation of emergency commitment procedures; hearing; right to counsel.

A person may be admitted to a public or private hospital, mental health clinic, or mental health facility for emergency admission upon:

(1) written affidavit under oath by a person stating:

(a) a belief that an individual is a person with a mental illness as defined in Section 44-23-10(21) and because of this condition there is the likelihood of serious harm as defined in Section 44-23-10(13) to himself or others if not immediately hospitalized;

(b) the specific type of serious harm thought probable if the person is not immediately hospitalized and the factual basis for this belief;

(2) a certification in triplicate by at least one licensed physician stating that the physician has examined the person and is of the opinion that the person is mentally ill and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized. The certification must contain the grounds for the opinion. A person for whom a certificate has been issued may not be admitted on the basis of that certificate after the expiration of three calendar days after the date of the examination;

(3) within forty-eight hours after admission, exclusive of Saturdays, Sundays, and legal holidays, the place of admission shall forward the affidavit and certification to the probate court of the county in which the person resides or, in extenuating circumstances, where the acts or conduct leading to the hospitalization occurred.

Within forty-eight hours of receipt of the affidavit and certification exclusive of Saturdays, Sundays, and legal holidays, the court shall conduct a preliminary review of all the evidence to

determine if probable cause exists to continue emergency detention of the patient. If the court finds that probable cause does not exist, it shall issue an order of release for the patient. Upon a finding of probable cause, the court shall make a written order detailing its findings and may order the continued detention of the patient.

With each affidavit and certification, the treatment facility shall provide the court with a designated examiner appointment form listing the names of two designated examiners at the treatment facility.

If the court appoints these two designated examiners, the examination must be performed at the treatment facility and a report must be submitted to the court within seven days from the date of admission. The court may appoint independent designated examiners who shall submit a report to the court within the time allotted above. In the process of examination by the designated examiners, previous hospitalization records must be considered. At least one of the examiners appointed by the court must be a licensed physician. The examiners' reports must include the grounds for the examiners' conclusions.

If the report of the designated examiners is that the patient is not mentally ill to the extent that involuntary treatment is required and reasons have been set forth in the report, the court shall dismiss the petition and the patient must be discharged immediately by the facility unless the designated examiners report that the patient is a chemically dependent person in need of emergency commitment and that procedures have been initiated pursuant to Section 44-52-50. In which case, emergency commitment procedures must be complied with in accordance with Chapter 52, and the facility shall transfer the patient to an appropriate treatment facility as defined by Section 44-52-10, provided that confirmation has been obtained from the facility that a bed is available; transportation must be provided by the department.

If the report of the designated examiners is that the patient is mentally ill and involuntary treatment is required, the court may order that the person be detained, appoint counsel for the patient if counsel has not been retained, and fix a date for a full hearing to be held pursuant to Section 44-17-570 within fifteen days from the date of admission. The court shall give notice of the hearing pursuant to Section 44-17-420.

The examiners' report must be available to the person's counsel before the full hearing. The person must be given the opportunity to request an independent designated examiner pursuant to Section 44-17-530.

If before the hearing, the designated examiners determine that the patient is no longer mentally ill to the extent that involuntary treatment is required, they shall cause a supplemental report to be submitted to the court. If the court receives a supplemental report at least forty-eight hours before the hearing stating that the patient is no longer mentally ill to the extent involuntary treatment is required, and setting forth the reasons for the examiners' conclusions, the court shall dismiss the petition and the patient must be discharged immediately by the facility. "

None of the above has been respected by Judy while detaining don Adair against his will.

## Explanation

Let us explain it briefly to make it clearer.

Don Adair has been detained against his will under the pretext that there is a threat to his life. Judy is not his guardian; he has not been declared a ward, and she has not taken specific authorization from the court to detain him as section 62—5-304A of the SC probate code mandates.

To place the temporary hold, or involuntary commitment, the above conditions should have been met when they were not.

Par. (1) says that there should have been a written affidavit by a person stating that (a) the person has a mental illness whose condition is likely to cause serious harm to himself or others if not immediately hospitalized or detained. That means there should be an immediate emergent threat to life, and without acting emergently, the patient may have serious harm to his health. (b) the specific belief why the person is at risk of harm to himself or others if not immediately hospitalized or detained against his will. (2) there should be a certification in triplicate by at least one licensed physician stating that the physician has examined the person and agrees of his mental illness and that his condition is likely to cause harm to himself through neglect, inability to care for self, or personal injury or other if not immediately admitted or detained. The certificate should explain the grounds of the medical opinion and cannot serve more than three calendar days after the examination date. (3) within 48 business hours, an affidavit and certification should be forwarded to probate court to conduct a preliminary review of all evidence to decide upon the validity of the certification and determine if emergency detention should be continued or discontinued. The facility shall provide the probate court with a designated examiner appointment form listing two of them from the facility. The court may or may not appoint these two examiners, but they cannot be appointed without probate court designation following legal procedure. If the facility's two examiners were appointed, they must submit their report to the court within seven days from the date of admission. If the court appoints another independent examiner, he shall submit information within the same period. At least one of the examiners must be a licensed physician. The report must include the grounds of the decision. If the court decides that there is insufficient evidence that the mental illness requires immediate treatment, the court will dismiss the petition and release the petition. In the opposite situation, the court may order the patient to be detained, appoint a counsel to advocate for the patient, and fix a date for a full hearing, whose date is announced under section 44-17-420. The examiner's report must be available to the person's counsel before the full hearing.

### **Right for designation of independent examiner.**

The person (Don Adair) must be given a chance to request an independent examiner, a situation which we have been ordering from the beginning in our reply to the memorandum. We said we

need an independent expert Don Adair agrees upon who will examine him to determine competency. The law continues by allowing the latter independent examiner to petition the court to discharge the patient if he reports that the patient is not or is no longer mentally ill to cause an immediate serious threat to his health.

None of the above has been respected. They have acted in disrespect to Don Adair's fundamental human rights. They have trampled and disrespected SC law. Judy has acted maliciously abusing Power of attorney privileges to convince people and facilities that she has powers that she does not legally nor legitimately possess to commit all the allegations we have presented in this motion. She has not acted in the principal's best interest and has exploited his confinement to socially isolate him, emotionally and spiritually abuse him, and financially exploit him as admitted by her to the extortion and abuse of funds and other resources that should contribute to serving Don Adair's retirement. Many unadmitted abuses need to be further investigated, are highly suspected, and we believe the reason she is not allowing investigation is her guilt.

### **Case by case involvement of court instead of absolute power of guardian.**

Incompetency is often temporary and restricted to specific situations unless specified and incapacitation proven otherwise. It means that for each distinct decision a guardian must petition the court for that specific situation based on the circumstances and the mental condition of the ward at that particular time. Up-to-date and current evaluations must be done again every time and, in every situation, by two neutral medical providers appointed by the court to determine whether the guardian can make that decision at that time or not.

In sum

Judy acted unilaterally, without consulting the law and respective authorities. She bypassed and defied South Carolina law, and trampled on Don Adair's rights, all in the name of an agency that Don Adair was not aware he granted her. She did so maliciously, to cover up for her financial exploitation and emotional and spiritual abuse we have already addressed in former statements and affidavits. Consequently, all her Power of attorney privileges should be suspended.

In case the court finds it necessary we request the appointment of an independent investigator that Don Adair agrees upon. We can suggest some and send the court their resumes upon request.

Respectfully

Jirair baghdassarian

P.S. it is ironical that Judy declares Don Adair as mentally incompetent needing to be deprived of constant supervision and that she made adjustments in her life to serve him by moving him to a new house she bought in Tamassee SC, while we see her during the court session on the 25<sup>th</sup> of October, on zoom session, with her daughter Alexia Hall, without Don Adair's presence in the room, in Texas. This is attested further by the notarized statements she has posted and that were notarized on Oct 25<sup>th</sup> in the county of Texas, Bexar County. If she is the only caregiver as she claims, if he needs constant supervision, if he lives with her in SC new home and she adjusted in her life to be with him and care for him and if she removed him from a facility, how come she is in Texas now with her daughter and her husband instead of being with him in Texas. We think Judy may have lied to the court by providing false information to Mr. Bagwell to influence his report. Her lies to the court should be investigated further and be considered as grounds to invalidate her defensive statements. In fact, Judy, in her statement from Oct 25, 2022, said that Don Adair was moved out of the facility between May 3<sup>rd</sup> and May 14<sup>th</sup> 2022. This seem to be a lie since the police have served Don Adair at the address of Foothills assisted living as attested by the accompanied service statement from June 8<sup>th</sup>, 2022. We will attach the statement to prove that Judy was lying about moving Don Adair from the facility and by May 14 when he was still residing in the facility on June 8<sup>th</sup>. Alexia said he just fell and should be a skilled nursing facility. Is he in a facility now? How come she has not made the claimed adjustment in her life to be around him when he fell, and was, most likely, hospitalized, and needs her mostly to care for him as she claims? We see contradictions, and suspect lies and dishonesty in her claims. That is why we request to subpoena Don Adair, the hospital where he was hospitalized lately and Foothills Assisted Living facility to confirm whether Judy is truly lying about caring for him or not or whether she has not made the life adjustments she has claimed in a court of justice.

# Acknowledgment by Individual

State of Nevada County of Clark

On this 28 day of October, 20 22. Before me, Eric Alas  
Name of Notary Public

the undersigned Notary Public, personally appeared

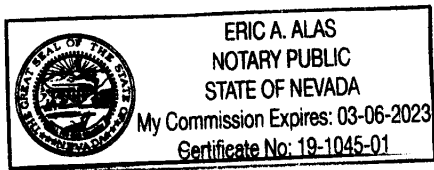
Sirair Maurice Baghdassarian

Name of Signer(s)

- ☐ Proved to me on the oath of \_\_\_\_\_
- ☐ Personally known to me
- ☒ Proved to me on the basis of satisfactory evidence NVDL:0001521095, Ex:04/25/24  
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

A handwritten signature in black ink, appearing to be "Eric Alas", written over a horizontal line.

(Signature of Notary Public)

My commission expires 03/06/2023

Optional: A thumbprint is  
only needed if state stat-  
utes require a thumbprint.

Right Thumbprint  
of Signer

Top of thumb here

For Bank Purposes Only

Description of Attached Document

Type or Title of Document

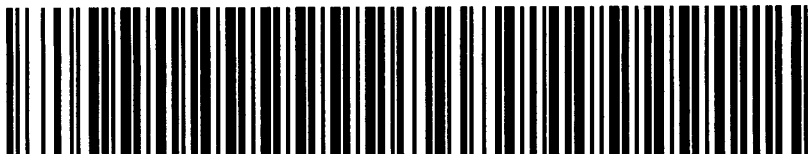
Affidavit of Sirair Baghdassarian Plaintiff

Document Date

Number of Pages

Signer(s) Other Than Named Above

Account Number (if applicable)



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|                                   |   |                                          |
|-----------------------------------|---|------------------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS             |
|                                   | ) |                                          |
| COUNTY OF OCONEE.                 | ) | C/A NO.: 2022-CP-37-00157                |
|                                   | ) |                                          |
| Jirair Baghdassarian,             | ) |                                          |
|                                   | ) |                                          |
| Plaintiff,                        | ) | <b>AFFIDAVIT OF Jirair Baghdassarian</b> |
|                                   | ) |                                          |
| vs.                               | ) |                                          |
|                                   | ) | <b>Plaintiff</b>                         |
| Judy Tupolo as Power of Attorney, | ) |                                          |
|                                   | ) |                                          |
| Defendant.                        | ) |                                          |
| _____                             | ) |                                          |

I undersigned, Jirair Baghdassarian, swear under oath that the following testimony is true to the best of knowledge.

**Statement of facts:**

We believe Judy Tupolo has been abusing her power of attorney that Don Adair has granted to her without understanding what he was signing. She has used it to exploit him financially and abuse him emotionally. She has not consulted him in any decision related to his financial, personal and medical affairs, and she has not acted to the best of his interest. Consequently, we believe all power of attorney she possessed including those she has granted by extension to anyone else, should be suspended permanently and a recognition of the power of attorney Don Adair has granted or attempted to grant to the plaintiff on May 23<sup>rd</sup>, 2022 should be recognized.

We believe that Don Adair has many faculties that he was able to use that Judy Tupolo was not respecting and that she has treated him as an inmate stripped from his dignity and from living to the best of his faculties.

If Don Adair was to be considered as incompetent by the court, we request the court to appoint us or to consult with us one someone we would agree upon as Guardian over him. We also wish that the court would specify what are the faculties that Don Adair cannot use instead of considering him fully incompetent of any decision, so that he could use his decision-making capacities and faculties with a least restrictive manner.

We have talked on the phone with Don Adair for a sufficient period to find out that Mr. Adair is capable of many faculties such as deciding with whom he wants to live, with whom to talk and with whom he wants to associate. We believe also that he has the right and the capacity to decide

the location where he wants to live as long as there is at least one person to assist him and monitor him in that location.

We understand that during the many occasions Don Adair has been talking to us on the phone, from January to Mya 2022, he was alert, conscious and oriented to self, place, person, time and situation. He was asked questions about daily living and safety, such as how to cook his favorite meal and how to turn off a fire and he was able to respond accurately and correctly. He was also given a list of tasks on the phone, such as inform the staff at the assisted living about the revocation of power of attorney, orally and in written. Don Adair was able to accomplish the task and was able to call us back and report that he has accomplished it and provide us feedback of the results. Consequently, we think he has a good long-term memory, an acceptable short term memory and a functional executive memory as well as a good judgment, at least at certain times.

We were not able to determine on the phone how many hours of monitoring and assistance Don Adair needs per 24 hours, as this would require further assessment in person which may take several days if not weeks to determine.

**Plan:**

If our power of attorney was recognized by the court or if we were appointed guardianship, our plan would be to discuss with Don Adair what would be the best plan for his care. There are many options he could choose from.

Plan 1: Don Adair can stay in a group home or smaller size assisted living with less than 10 residents, near his former workplace in South Carolina, where he can be provided more individualized care and where he has access to a personal cellphone and a laptop enabling him to have some communication and religious work as tolerated, in a least restrictive manner.

Plan 2: If Don Adair wishes, he would be welcome to stay in Plaintiff's private residence in Las Vegas NV, where plaintiff can keep close supervision over him, assess him closer and find out with him how plans can be accomplished to the best of his interest.

Plan 3: We would like to find the possibility to place Don Adair in a private residence near his former workplace and headquarters in South Carolina, with a person assisting him depending on his need for assistance, after proper assessment is done. This option would not be possible without recovering the financial assets and incomes, including tithes that Judy has unlawfully, unethically and illegitimately appropriated. We will be striving to pursue her legally on this matter in order to provide Don Adair with his rights.



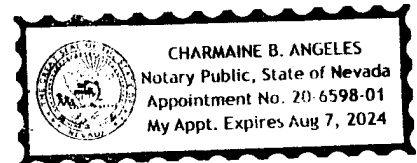
9/9/2022

Undersigned  
Jirair Baghdassarian  
Plaintiff

*Jirair Baghdassarian*

*[Large stylized signature]*

State of Nevada  
County of Clark  
Signed and sworn before me on  
September 9, 2022 by JIRAIR MAURICE BAGHDASSARIAN  
*[Signature]*  
Notary Public



Attached to : Affidavit of Jirair Baghdassarian dtd. 9/9/2022  
3 pages