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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT, CHESTER COUNTY

The Honorable Paul M. Burch, Circuit Court Judge

Appellate Case No. 2025-001021

Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield
(as incapacitated person)Appellant,

v.

Merri Rowe Thomas,Respondent,

AND

Merri Rowe ThomasRespondent,

v.

Jai Anne Bullin,Appellant.

RECORD ON APPEAL

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I certify that this Record on Appeal contains no matter which is irrelevant to this appeal.

Respectfully Submitted,

SMITH HUDSON LAW, LLC

/s/ Joseph O. Smith

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February 5, 2026

Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(as incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

ORDER STRIKING
THE CASE FROM ANY DOCKET
PURSUANT TO RULE 40(J), SCRPC

This matter came before this Court on February 14, 2022, upon the request of the Plaintiffs, Jai Anne Bullin and Robert D. Rayfield as Guardians and Conservators for Lillian Anne Brown Rayfield (as incapacitated person) (collectively, “Plaintiffs”), to have their Amended Complaint stricken from any docket pursuant to Rule 40(j), SCRPC. In response to Plaintiffs’ request, the Defendant, Merri Rowe Thomas (“Defendant”), has agreed in writing—as evidenced by her attorney’s electronic signature shown below—that this case may be stricken pursuant to Rule 40(j), SCRPC, on the following conditions:

1. Should this case be restored upon motion made within one (1) year of the date stricken, the statute of limitations shall be tolled as to all consenting Parties during the time the case is stricken and that any unexpired portion of the statute of limitations on the date the case was stricken shall remain and begin to run on the date that the case is restored.

2. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant shall have the right to amend her Answer to assert one or more counterclaims against either or both of Plaintiff(s) or one or more third-party claims against a non-Party without

any objection of Plaintiffs, who shall waive such objection by having this case stricken hereby. Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lillian Anne Rayfield and in their individual capacity.

3. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move this case to a non-jury roster without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the placement of this case onto a non-jury roster.

4. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move the Court to have this case transferred to a different venue—including without limitation, York County, South Carolina in which a substantial portion of the transaction(s) at issue in this case occurred—without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the change of venue.

5. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move the Court to have a Special Referee appointed to or in this case without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the appointment of a Special Referee to or in this case.

6. Should this case fail to be restored upon motion made within one (1) year of the date stricken, this case shall be dismissed with prejudice in its entirety.

Plaintiffs have not objected to any of the foregoing conditions.

NOW, **THEREFORE**, for good and sufficient cause shown, it is hereby **ORDERED**, **ADJUDGED, AND DECREED** that this case shall be stricken from any docket as of the date of this Order, pursuant to Rule 40(j), SCRCP, and subject to the foregoing conditions.

IT IS SO ORDERED.

The Honorable Brian M. Gibbons
Circuit Judge

Chester, South Carolina

February __, 2022

Drafted and submitted by:

/s/ Chan M. Ahn

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Counsel for the Defendant

Lake Wylie, South Carolina

February 15, 2022



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Dismissal Rule 40J

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2022-02-15 12:09:37 page 5 of 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

**ORDER GRANTING PLAINTIFFS’
MOTION TO ALTER OR AMEND
JUDGMENT**

This matter came before the Court for a virtual hearing on June 1, 2022 on the Plaintiffs’ Motion to Alter or Amend Judgment. Present in the virtual hearing were the undersigned, Thomas B. Roper, Attorney for Plaintiffs and Chan M. Ahn, attorney for the Defendant. The parties were previously before this court on February 14, 2022, at which time the Court granted the Plaintiffs’ Motion to Strike The Case From Any Docket pursuant to rule 40(J), SCRCP.

FINDINGS OF FACT

At the time of this prior hearing, the Court granted the Plaintiffs’ motion with certain conditions. Counsel for the Defendant submitted an Order Striking The Case From Any Docket pursuant to Rule 40(J) SCRCP and submitted it to the court on February 15, 2022. This order contained the conditions upon which the Defendant consented to the Rule 40(j), SCRCP motion. The conditions were announced to the Court by the attorney for the Defendant. The attorney for the Plaintiffs filed a Motion to Alter or Amend Judgment due to the alleged fact that the order contained conditions which were neither announced by the Defendant’s attorney nor consented to by the Plaintiffs’ attorney. This motion set forth four issues to which the Plaintiffs objected.

Thereafter, the attorney for the Plaintiffs obtained a transcript of the hearing held on February 14, 2022. At the time of the hearing on June 1, 2022, the first and fourth objections set forth in the Plaintiffs' motion were withdrawn and the issues raised in items 2 and 3 were heard for argument.

The Plaintiffs' motion objected to the fact that the Plaintiffs were required to waive any statute of limitations defense as to the plaintiffs in their capacity of guardians and conservators. The Plaintiffs' motion also objected to the required waiving of any applicable statute of limitations defense to be asserted by Jai Anne Bullin and Robert D. Rayfield in their individual capacity. At the hearing on June 1, 2022, the Court, together with counsel for the parties, reviewed the transcript from the hearing on February 14, 2022, which revealed that the attorney for the Defendant did not set forth any conditions relating to the waiver of the statute of limitations defense by either Jai Ann Bullin and Robert D. Rayfield as guardians and conservators nor as to Jai Anne Bullin and Robert D. Rayfield, individually.

CONCLUSION OF LAW

Based upon the facts set forth above, the last sentence of paragraph 2 of the order dated February 15, 2022, which states: "Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lilliam Anne Rayfield and in their individual capacity" shall be stricken from the Order.

The basis for this ruling is Rule 59(e), SCRCPP.

In addition, this Court sua sponte amends the order of February 15, 2022 pursuant to Rule 60(a), SCRCPP, which provides as follows: "Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court

at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.” The stricken portion of the order of February 15, 2022 is “Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lilliam Anne Rayfield and in their individual capacity.”.

NOW THEREFORE, IT IS HEREBY ORDERED ADJUDGED AND DECREED that the following provision from this Court’s order dated February 15, 2022, shall be stricken pursuant to Rule 59(e), SCRCPP, “Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lilliam Anne Rayfield and in their individual capacity.”.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the following provisions from this Court’s order dated February 15, 2022, shall be stricken pursuant to Rule 60(a), SCRCPP, “Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lilliam Anne Rayfield and in their individual capacity.”

IT IS SO ORDERED.

[JUDGE SIGNATURE PAGE TO FOLLOW]

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
 JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-12-00445

 Jai Anne Bullin, et al

 Merri Rowe Thomas,

 PLAINTIFF(S)

 DEFENDANT(S)

Submitted by: Thomas B. Roper 1721 Ebenezer Road, Suite 295 Rock Hill, South Carolina 29732	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> 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 order ends does not end the case.
 Additional Information for the Clerk : _____

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 (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (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.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the ____ day of _____, 2022 and a copy mailed first class or placed in the appropriate attorney's box on this ____ day of _____, 2022 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas B. Roper

1721 Ebenezer Road, Suite 295

Rock Hill, South, Carolina 29732

ATTORNEY FOR THE PLAINTIFFS

Chan M. Ahn

4381 Charlotte Hwy, Suite 103

Lake Wylie, South Carolina 29710

ATTORNEY FOR THE DEFENDANT

CLERK OF COURT

Court Reporter: Elise Peruzzi

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-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

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.



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Judgment Amended and Form 4

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2022-06-08 10:34:21 page 6 of 6

Jai Anne Bullin et al
PLAINTIFF(S)

Merri Rowe Thomas
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:

This matter comes before the court by way of Plaintiff's motion to restore under SCRPC 40(j) as well a motion to amend pursuant to SCRPC 15. Following arguments of counsel, the court took this matter under advisement. After further review and deliberation, the court respectfully grants both motions. The court finds the intent and spirit of SCRPC 40(j) to prevail over Rule 11 and its technicalities. Additionally, the court finds, while the motion to amend would have been better suited as a motion to substitute under SCRPC 25, it is appropriate for the plaintiff to amend the the pleadings to reflect the proper parties.

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 03/31/2023 .

Robert D Rayfield as Guardians and Conservators for Lillian Anne Bro

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.



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Electronic Form 4

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2023-03-31 12:11:05 page 3 of 3

Jai Anne Bullin et al
PLAINTIFF(S)

Merri Rowe Thomas 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:

Failure to prosecute.

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 02/21/2025 .

Jai Anne Bullin
 Jai Anne Bullin
 Robert D Rayfield as Guardians and Conservators for Lillian Anne Bro

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.



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas , defendant, et al
Case Number: 2023CP1200170
Type: Order/Electronic Form 4

So Ordered

s/Paul M. Burch, Judge #2048

Electronically signed on 2025-02-21 10:26:08 page 3 of 3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (as incapacitated person),)
)
 Plaintiff,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
)
 _____)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
)
 vs.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)
 _____)
)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-12-00170

ORDER

**ORDER DENYING PLAINTIFF’S MOTION
TO AMEND OR ALTER JUDGMENT**

This matter came before this Court on March 19, 2025, upon the *Motion to Amend or Alter Judgment* filed on March 3, 2025, by the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (as incapacitated person) (“Plaintiff”).

At the hearing of Plaintiff’s *Motion to Amend or Alter Judgment* (“Motion”), Plaintiff and her counsel, Thomas B. Roper, Esq., were present. The Defendant, Merri Rowe Thomas (“Defendant”), and her counsel, Chan M. Ahn, Esq., were also present at the hearing.

Prior to said hearing, counsel for Defendant filed a memorandum of law in opposition to Plaintiff's Motion¹, to which Plaintiff did not respond in writing. The memorandum of law submitted by counsel for Defendant was based on extensive and in-depth legal research and analyses.

At the hearing, the merits of Plaintiff's Motion were hotly debated by the Parties' counsel.

Upon careful consideration of the procedural history of this case, along with the Parties' filings and oral arguments, and upon careful review of the applicable law in South Carolina, the Court finds as follows:

FACTS/PROCEDURAL HISTORY

This action was originally filed on September 7, 2017. In this action, Plaintiff alleges, *inter alia*, that Defendant, who is Plaintiff's own biological sister, engaged in such tortious conduct as exertion of undue influence over the Parties' biological mother to procure a quitclaim deed for certain tract of land located in Chester County, South Carolina.

On February 14, 2022, this case was called for trial after being placed upon this Court's Jury Roster for eleven (11) months or so. Prior to the trial and pursuant to this Court's instructions, Defendant timely filed and served multiple pretrial documents, including *Defendant's Pretrial Brief*, *Defendant's Motion in Limine*, *Defendant's Potential Trial Exhibits*, and *Defendant's Proposed Jury Instructions*. Additionally, Defendant served multiple requests for trial testimony and subpoenas upon several witnesses in preparation for the scheduled trial.

On the first day of the scheduled trial, Plaintiff did not appear in court. A lengthy discussion, *in camera*, about Plaintiff's absence in Court ensued. During this discussion, counsel

¹ *Defendant and Third-Party Plaintiff Merri Rowe Thomas's Reply in Opposition to Plaintiff's Motion to Alter or Amend Judgment* was filed with the Court on March 18, 2025.

for Plaintiff offered an explanation that Plaintiff's absence resulted from the Parties' mother's alleged injury and sudden illness of her two (2) caregivers. However, no evidence showing said injury or illness—such as medical records, physician letters, and Affidavits—was submitted.

Based upon Plaintiff's unexpected absence unsupported by documentary evidence, counsel for Defendant announced Defendant's intent to pursue an involuntary dismissal/non-suit, pursuant to Rule 41(b), SCRCP. Subsequently, counsel for the Parties explored at length the possibility of striking the case from any docket, pursuant to Rule 40(j), SCRCP, under certain conditions.

On February 15, 2022, the Court entered an *Order/Dismissal Rule 40J*².

On March 31, 2023, upon Plaintiff's motion, the Court entered a *Form 4 Order* restoring this action under Rule 40(j), SCRCP.

On April 26, 2023, Defendant timely filed her *Answer* to Plaintiff's *Second Amended Complaint*, along with her Counterclaims against Plaintiff and Third-Party Claims against Third-Party Defendant Jai Anne Bullin ("Third-Party Defendant").

On June 26, 2023, Plaintiff and Third-Party Defendant filed their responses to Defendant's Counterclaims and Third-Party Claims.

Following these responses, neither Plaintiff nor Third-Party Defendant took any action regarding this action for over twenty (20) months³. In fact, both Plaintiff and Third-Party Defendant did absolutely nothing in connection with this action.

² This Order was partially amended on June 8, 2022.

³ The Court record clearly shows that nothing was filed by either Plaintiff or Third-Party Defendant from June 27, 2023, through March 2, 2025. During this period, neither Plaintiff nor Third-Party Defendant engaged in discovery, settlement discussion, or any correspondence with Defendant or her counsel in connection with this action. At the hearing, the Civil Coordinator for the Chester County Clerk of Court informed the Court that multiple correspondence to Plaintiff's counsel for Plaintiff's action and/or status report failed to produce any response.

On February 21, 2025, the Court issued a *Form 4 Order* dismissing this case in its entirety for “[f]ailure to prosecute.”

On March 3, 2025, Plaintiff filed the Motion, challenging the validity of the Court’s decision to dismiss this case.

STANDARD OF REVIEW

Whether an action should be dismissed for failure to prosecute is left to the discretion of the trial court judge, and his decision will not be disturbed, except upon a clear showing of an abuse of discretion. *Small v. Mungo*, 254, S.C. 438, 442, 175 S.E.2d 802,804 (1970).

LAW/ANALYSIS

“The plaintiff has the burden of prosecuting her action, and the trial court may properly dismiss an action for plaintiff’s unreasonable neglect in proceeding with her cause.” *Don Shevey & Spires, Inc. v. Am. Motors Realty Corp.*, 279 S.C. 58, 60, 301 S.E.2d 757, 758 (1983). “This authority is necessary if the courts are to control and efficiently manage an ever-expanding docket.” *Id.* As the Supreme Court of South Carolina has emphasized, “[this Court’s] decision [to dismiss a case for failure to prosecute] will not be disturbed except upon a clear showing of an abuse of such discretion.” *Small, supra*, 254, S.C. at 442, 175 S.E.2d at 804 (emphasis added).

Here, the Motion relies on two (2) affidavits executed by Plaintiff’s attorney⁴ and his Administrative Assistant. However, these affidavits fail to show that the Court abused its discretion in dismissing this case. They merely reference the *Notice of ADR* issued by this Court on or around November 29, 2023, without even attempting to explain how it tends to show that

⁴ Notably, the affidavit of Plaintiff’s attorney (*Affidavit of Tomas B. Roper*) filed along with the Motion is not properly executed, lacking the affiant’s signature or a Notary Public’s verification. Based on such deficiency, Defendant’s counsel argued that this “affidavit” should be disregarded.

this Court abused its discretion. They are devoid of any facts relevant to any cogent argument regarding this Court's error or abuse of discretion. Neither the Motion nor the accompanying affidavits cite any legal authorities under which the Court's decision may be challenged. Because the Motion is devoid of any facts or law forming the basis for a challenge to the Court's prior ruling, it cannot show that the Court abused its discretion. Absent a clear showing of the Court's abuse of discretion, this Court's decision cannot and will not be disturbed. *See Small, supra*, 254, S.C. at 442, 175 S.E.2d at 804. Therefore, there is nothing to amend or alter.

Furthermore, the Motion is technically defective in that the Movant failed to comply with Rule 59(g), SCRCPC, which provides that "[a] party filing a written motion under [Rule 59, SCRCPC] shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion."

Based on the foregoing facts, procedural history, and legal authorities in South Carolina and upon careful consideration of the Parties' filings and oral arguments, the Court finds that the Motion is wholly without merit. Accordingly, the Motion must be **DENIED** in its entirety.

CONCLUSION

For the foregoing reasons, Plaintiff's *Motion to Amend or Alter Judgment* is hereby **DENIED**.

IT IS SO ORDERED.

[ELECTRONIC SIGNATURE PAGE TO FOLLOW]

Drafted and submitted by:

AHN LAW FIRM, LLC

/s/ Chan M. Ahn

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

54 Marina Road

Suite 105

Lake Wylie, SC 29710

Telephone: (803) 810-4373

COUNSEL FOR DEFENDANT/

THIRD-PARTY PLAINTIFF

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-12-00170

Jai Anne Bullin as Guardian and Conservator for
 Lillian Anne Brown Rayfield (as incapacitated person),

Merri Rowe Thomas,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Chan M. Ahn (S.C. Bar No. 102173) on behalf of Defendant

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), 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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

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 (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (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.

Circuit Court Judge

Judge Code

Date

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:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

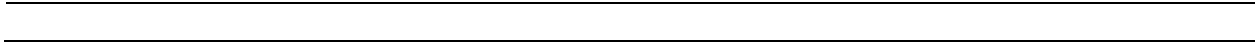
CLERK OF COURT

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.

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.





Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas , defendant, et al
Case Number: 2023CP1200170
Type: Order/Form 4

So Ordered

s/Paul M. Burch, Judge #2048

Electronically signed on 2025-05-15 13:22:18 page 10 of 10

COUNTY OF CHESTER

Jai Anne Bullin and Robert D. Rayfield as Guardians and Conservator for Lillian Anne Brown Rayfield (an incapacitated person),

CIVIL ACTION COVERSHEET

Plaintiff(s)

2017-CP-12-- 00445

vs.

Merri Rowe Thomas,

Defendant(s)

Submitted By: Thomas B. Roper
Address: 1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732

SC Bar #: 4908
Telephone #: 803-327-1123
Fax #: 803-327-5458
Other:
E-mail: roperlaw@comporium.net

2017 SEP - 7
CLERK OF COURT
CHESTER CO, SC

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. 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.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- 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. (Proof of ADR/Exemption 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--
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), 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), Sexual Predator (510), 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:

Thomas B. Roper

Date: September 7, 2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act. S.C. Code Ann. §15-36-10 et. seq.

CLERK OF COURT
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FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

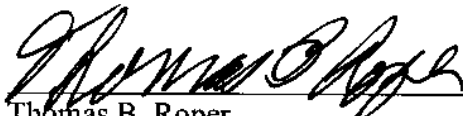
SUMMONS

CASE NO.: 2017-CP-12-00445

FILED
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CLERK OF COURT
CHESTER CO S.C.

TO THE DEFENDANT(S) ABOVE NAMED:

You are hereby summoned and required to Answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office at 1721 Ebenezer Road, Suite 295, Rock Hill, South Carolina 29732, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Complaint.


Thomas B. Roper
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
Attorney for the Plaintiffs

September 7, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (an incapacitated person),)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

COMPLAINT

CASE NO.: 2017-CP-12-~~004~~

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 CLERK OF COURT
 CHESTER CO S.C.

The Plaintiffs, allege and would show unto the Court:

GENERAL ALLEGATIONS

1. The Plaintiffs Jai Anne Bullin and Robert D. Rayfield, as well as Lillian Anne Brown Rayfield, an incapacitated person, are all residents and citizens of Chester County, South Carolina.
2. Lillian Anne Brown Rayfield is also known as Anne Brown Rayfield and Anne B. Rayfield.
3. The Defendant is a resident of Chester County, South Carolina.
4. The Plaintiffs, Jai Anne Bullin and Robert D. Rayfield have been duly appointed by the Probate Court for Chester County to serve as co-Guardians and Conservators for the incapacitated person, Lillian Anne Brown Rayfield, having been appointed by Certificate of Appointment dated March 14, 2017.
5. Jai Anne Bullin, Robert D. Rayfield and the Defendant Merri Rowe Thomas are all the adult children of the incapacitated person, Lillian Anne Brown Rayfield.
6. The Plaintiffs are informed and believe that the Defendant prepared a Quitclaim Deed which deed purportedly conveyed certain real property in Chester County, South Carolina

from Lillian Anne Brown Rayfield to herself. This Quitclaim Deed is dated October 28, 2016 and was recorded in the Office of the Clerk of Court for Chester County, South Carolina on December 29, 2016 in Deed Book 1193 at page 29.

7. The description of the property purportedly conveyed by said Quitclaim Deed is more particularly described in said deed as follows:

“Land located at rear of 2193 West End Rd. 38.984 acres and 4.428 ACRes – to left of 2193 West End Rd. Facing Hwy 72 in the Halselville Township in Chester County, South Carolina. Ref. T.M.# 52-7
Ref. to plat cab. “E Slide 125 page 1A”

8. The Plaintiffs are informed and believe that the Defendant prepared said deed; that the Quitclaim Deed showed a stated consideration of One and No/100 (\$1.00) Dollar; that the Defendant obtained witnesses and a Notary Public for such deed; that said witnesses were unaware of the incapacity of Lillian Anne Brown Rayfield at the time of execution of the document; that the Quitclaim Deed was prepared in the name of Anne Brown Rayfield and subsequently the name “Lillian” was inserted after the fact, which insertion was not initialed on the first page of the Quitclaim Deed and which was not signed before the witnesses contained on the second page of the deed; that the Defendant, as the daughter of the incapacitated person, Lillian Anne Brown Rayfield, was in a confidential relationship with her mother; that as the result of conveyance of the property (if the sufficiency of the deed is upheld) was the major asset belonging to the incapacitated person Lillian Anne Brown Rayfield and as a result of the conveyance, would have left her with little or no significant assets.

FOR A FIRST CAUSE OF ACTION
(Lack of Capacity)

9. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 8 above, the same as if repeated herein.

10. The Plaintiffs are informed and believe that at the time of execution of the Quitclaim Deed referenced herein above, that Lillian Anne Brown Rayfield lacked the mental capacity to understand the nature of the act and the consequences of her actions.

11. The Plaintiffs are informed and believe that this Court should issue its order finding the Quitclaim Deed referenced herein above to be null and void and of no legal effect and that this order should be entered in the records of the Office of the Clerk of Court for Chester County, South Carolina under the name of Mary Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A SECOND CAUSE OF ACTION
(Undue Influence)

12. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 11 above, the same as if repeated herein.

13. The Plaintiffs are informed and believe that the Defendant exerted undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to procure the Quitclaim Deed referenced herein above.

14. The Plaintiffs are informed and believe that the Defendant's influence exerted on the incapacitated person, Lillian Anne Brown Rayfield was sufficient to make the act of executing the deed a mere mechanical performance by her of the design of the Defendant, Merri Rowe Thomas.

15. The Plaintiffs are informed and believe that the incapacitated person, Lillian Anne Brown Rayfield, even if found to have had sufficient mental capacity to execute the Quitclaim Deed, was of a weak mind and subject to the undue influence exerted by her daughter, whom she would have placed confidence and trust in.

16. The Plaintiffs are informed and believe that the Defendant excised undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to financially benefit from such transaction with no benefit whatsoever being obtained by the incapacitated person, Lillian Anne Brown Rayfield.

17. The Plaintiffs are informed and believe that this Court should declare the Quitclaim Deed referenced above to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A THIRD CAUSE OF ACTION
(Lack of Sufficiency of Legal Description)

18. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 17 above, the same as if repeated herein.

19. The Plaintiffs are informed and believe that the legal description contained in the Quitclaim deed referenced above is not sufficient to adequately describe the property purportedly conveyed by such deed.

20. The Plaintiffs are informed and believe that the legal description is insufficient in the following particulars:

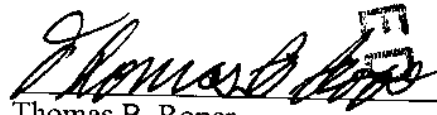
A. The legal description references 2193 West End Rd, which is a mailing address and is not sufficient to establish a legal description;

B. The legal description describes property "...to left of 2193 West End Rd." which fails to give a directional reference rather than "to left of", which is legally insufficient;

C. The legal description further provides "Ref to plat cab. "E Slide 125 page 1A" which fails to state that the plat is incorporated into the legal description by reference thereto.

21. The Plaintiffs are informed and believe that due to the insufficiency of the legal description contained in the Quitclaim Deed referenced herein above, that this Court should enter its order declaring such Quitclaim Deed to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

WHEREFORE, the Plaintiffs prays that this Court inquire into the matters set forth herein; that it issue its order declaring that the deed by Lillian Anne Brown Rayfield to Merri Rowe Thomas is null and void due to lack of capacity by the Grantor or in the alternative, that it find the deed to have been procured by undue influence; that the court issue its order finding the description contained in the deed to be inadequate; that it declare said deed to be null and void and of no legal effect; that it direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee and for such other and further relief as this Court shall deem just and proper.


Thomas B. Roper
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
Attorney for the Plaintiffs

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CLERK OF COURT
CHESTER CO S.C.

September 7, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (an incapacitated person),)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

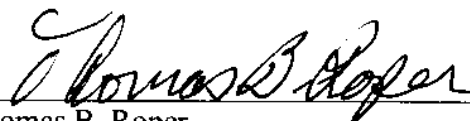
AMENDED
 SUMMONS

CASE NO.: 2017-CP-12-00075

445
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FILED
 CLERK OF COURT
 CHESTER CO S.C.

TO THE DEFENDANT(S) ABOVE NAMED:

You are hereby summoned and required to answer the Amended Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Amended Complaint upon the subscriber at his office at 1721 Ebenezer Road, Suite 295, Rock Hill, South Carolina 29732, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Amended Complaint.


 Thomas B. Roper
 1721 Ebenezer Road, Suite 295
 Rock Hill, South Carolina 29732
 803-327-1123 Telephone
 803-327-5458 Facsimile
 Attorney for the Plaintiffs

October 11, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (an incapacitated person),)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

AMENDED
 COMPLAINT

CASE NO.: 2017-CP-12-00445

FILED
 2017 OCT 17 10 3 53
 CLERK OF COURT
 CHESTER CO S.C.

The Plaintiffs, allege and would show unto the Court:

GENERAL ALLEGATIONS

1. The Plaintiffs Jai Anne Bullin and Robert D. Rayfield, as well as Lillian Anne Brown Rayfield, an incapacitated person, are all residents and citizens of Chester County, South Carolina.
2. Lillian Anne Brown Rayfield is also known as Anne Brown Rayfield and Anne B. Rayfield.
3. The Defendant is a resident of Chester County, South Carolina.
4. The Plaintiffs, Jai Anne Bullin and Robert D. Rayfield have been duly appointed by the Probate Court for Chester County to serve as co-Guardians and co-Conservators for the incapacitated person, Lillian Anne Brown Rayfield, having been appointed by Certificate of Appointment dated March 14, 2017.
5. Jai Anne Bullin, Robert D. Rayfield and the Defendant Merri Rowe Thomas are all the adult children of the incapacitated person, Lillian Anne Brown Rayfield.
6. The Plaintiffs are informed and believe that the Defendant prepared a Quitclaim Deed which deed purportedly conveyed certain real property in Chester County, South Carolina

from Lillian Anne Brown Rayfield to herself. This Quitclaim Deed is dated October 28, 2016 and was recorded in the Office of the Clerk of Court for Chester County, South Carolina on December 29, 2016 in Deed Book 1193 at page 29.

7. The description of the property purportedly conveyed by said Quitclaim Deed is more particularly described in said deed as follows:

“Land located at rear of 2193 West End Rd. 38.984 acres and 4.428 ACRes – to left of 2193 West End Rd. Facing Hwy 72 in the Halselville Township in Chester County, South Carolina. Ref. T.M.# 52-7
Ref. to plat cab. “E Slide 125 page 1A”

8. The Plaintiffs are informed and believe that the Defendant prepared said deed; that the Quitclaim Deed showed a stated consideration of One and No/100 (\$1.00) Dollar; that the Defendant obtained witnesses and a Notary Public for such deed; that said witnesses were unaware of the incapacity of Lillian Anne Brown Rayfield at the time of execution of the document; that the Quitclaim Deed was prepared in the name of Anne Brown Rayfield and subsequently the name “Lillian” was inserted after the fact, which insertion was not initialed on the first page of the Quitclaim Deed and which was not signed before the witnesses contained on the second page of the deed; that the Defendant, as the daughter of the incapacitated person, Lillian Anne Brown Rayfield, was in a confidential relationship with her mother; that as the result of conveyance of the property (if the sufficiency of the deed is upheld) was the major asset belonging to the incapacitated person Lillian Anne Brown Rayfield and as a result of the conveyance, would have left her with little or no significant assets.

FOR A FIRST CAUSE OF ACTION
(Lack of Capacity)

9. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 8 above, the same as if repeated herein.

10. The Plaintiffs are informed and believe that at the time of execution of the Quitclaim Deed referenced herein above, that Lillian Anne Brown Rayfield lacked the mental capacity to understand the nature of the act and the consequences of her actions.

11. The Plaintiffs are informed and believe that this Court should issue its order finding the Quitclaim Deed referenced herein above to be null and void and of no legal effect and that this order should be entered in the records of the Office of the Clerk of Court for Chester County, South Carolina under the name of Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A SECOND CAUSE OF ACTION
(Undue Influence)

12. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 11 above, the same as if repeated herein.

13. The Plaintiffs are informed and believe that the Defendant exerted undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to procure the Quitclaim Deed referenced herein above.

14. The Plaintiffs are informed and believe that the Defendant's influence exerted on the incapacitated person, Lillian Anne Brown Rayfield was sufficient to make the act of executing the deed a mere mechanical performance by her of the design of the Defendant, Merri Rowe Thomas.

15. The Plaintiffs are informed and believe that the incapacitated person, Lillian Anne Brown Rayfield, even if found to have had sufficient mental capacity to execute the Quitclaim Deed, was of a weak mind and subject to the undue influence exerted by her daughter, whom she would have placed confidence and trust in.

16. The Plaintiffs are informed and believe that the Defendant exercised undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to financially benefit from such transaction with no benefit whatsoever being obtained by the incapacitated person, Lillian Anne Brown Rayfield.

17. The Plaintiffs are informed and believe that this Court should declare the Quitclaim Deed referenced above to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A THIRD CAUSE OF ACTION
(Lack of Sufficiency of Legal Description)

18. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 17 above, the same as if repeated herein.

19. The Plaintiffs are informed and believe that the legal description contained in the Quitclaim deed referenced above is not sufficient to adequately describe the property purportedly conveyed by such deed.

20. The Plaintiffs are informed and believe that the legal description is insufficient in the following particulars:

A. The legal description references 2193 West End Rd, which is a mailing address and is not sufficient to establish a legal description;

B. The legal description describes property "...to left of 2193 West End Rd." which fails to give a directional reference rather than "to left of", which is legally insufficient;

C. The legal description further provides "Ref to plat cab. "E Slide 125 page 1A" which fails to state that the plat is incorporated into the legal description by reference thereto.

21. The Plaintiffs are informed and believe that due to the insufficiency of the legal description contained in the Quitclaim Deed referenced herein above, that this Court should enter its order declaring such Quitclaim Deed to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A FOURTH CAUSE OF ACTION
(Lack of Capacity)

22. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 21 above, the same as if repeated herein.

23. James C. Rayfield and Anne B. Rayfield purchased the property identified as 956 Kemper Circle, Rock Hill, South Carolina by deed dated May 1, 1981, recorded May 8, 1981 in Deed Book 631 at page 224 in the Office of the Clerk of Court for York County, South Carolina. Thereafter, James C. Rayfield devised his interest in the property to Anne B. Rayfield as is evidenced by the Deed of Distribution recorded on February 22, 2012 in Record Book 12451 at page 55 in the Office of the Clerk of Court for York County, South Carolina. Thereafter, Anne B. Rayfield sold her interest in this property by deed dated October 17, 2014, recorded October 21, 2014 in Record Book 14447 at page 141 in the Office of the Clerk of Court for York County, South Carolina. The stated consideration for the sale was One Hundred Thirty Thousand and No/100 (\$130,000.00) Dollars.

24. Anne B. Rayfield deposited into her savings account (TD Bank Account No. 00006744067934) One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars representing the net proceeds of sale from the sale of this real property.

25. In addition to the savings account with TD Bank, Anne B. Rayfield also had a checking account with TD Bank, account number 431-4803605.

26. In February, 2016, the Defendant, caused her name to be added to Anne B. Rayfield's checking account number 431-4803605.

27. From October, 2014 through December 2016, Anne B. Rayfield lacked mental capacity to manage her own affairs, including the management of her checking accounts and savings account.

28. The Plaintiffs are informed and believe that the Defendant transferred or caused Anne B. Rayfield to transfer funds from her savings account to her checking accounts from which the Defendant utilized funds for her personal use with no benefit to Anne B. Rayfield.

29. During the period of time from October, 2014 through December, 2016, Anne B. Rayfield was receiving Social Security benefits in the amount of One Thousand Seven Hundred Twenty-Four and No/100 (\$1,724.00) Dollars, which amount was sufficient to pay for all of her regular, normal and ordinary living expenses. She was not in need of any funds over and above the Social Security benefits which she received.

30. The Plaintiffs learned of the depletion of all funds from the accounts of Anne B. Rayfield in December, 2016 at which time the savings account had a balance of One Hundred Fifty-Seven and 37/100 (\$157.37) Dollars.

31. The Plaintiffs are informed and believe that the Defendant, by taking advantage of the lack of capacity by Anne B. Rayfield utilized her funds for her and her family's sole benefit in an amount in excess of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars.

32. The Plaintiffs are informed and believe that the Plaintiffs are entitled to a judgement against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars in actually damages, together with punitive damages as determined by this Court.

FOR A FIFTH CAUSE OF ACTION
(Undue Influence)

33. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 31 above, the same as if repeated herein.

34. The Plaintiffs are informed and believe that the Defendant exerted undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to perpetuate the scheme of transfer of funds from Anne B. Rayfield's saving account to other accounts and ultimately for the sole benefit of the Defendant and her family.

35. The Plaintiffs are informed and believe that the incapacitated person, Lillian Anne Brown Rayfield, even if found to have had sufficient mental capacity to manage her savings and checking accounts, that she was of a weak mind and subject to the undue influence exerted by her daughter, whom she would have placed confidence and trust in.

36. The Plaintiffs are informed and believe that the Defendant exercised undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to financially benefit from the funds held in the incapacitated person's accounts with TD Bank which were transferred to the control of the Defendant with no benefit whatsoever being obtained by the incapacitated person, Lillian Anne Brown Rayfield.

37. The Plaintiffs are informed and believe that they are entitled to judgment against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars, in actual damages, together with punitive damages as

determined by this Court due to the undue influence by the Defendant over the incapacitated person.

FOR A SIXTH CAUSE OF ACTION
(Forgery)

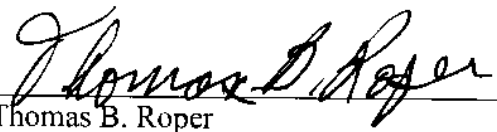
38. The Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 37 above, the same as if repeated herein.

39. The Plaintiffs are informed and believe that the Defendant, in order to effectuate her plan of depleting the assets of the incapacitated person, Lillian Anne Brown Rayfield, forged the signature of the incapacitated person on checks drawn on the accounts of the incapacitated person without authority to do so.

40. The Plaintiffs are informed and believe that they are entitled to judgement in the amount of actual damages as determined by this Court as the result of the forgeries by the Defendant and that they are also entitled to punitive damages for the forgeries having been committed.

WHEREFORE, the Plaintiffs prays that this Court inquire into the matters set forth herein; that it issue its order declaring that the deed by Lillian Anne Brown Rayfield to Merri Rowe Thomas is null and void due to lack of capacity by the Grantor or in the alternative, that it find the deed to have been procured by undue influence; that the court issue its order finding the description contained in the deed to be inadequate; that it declare said deed to be null and void and of no legal effect; that it direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee; that the Plaintiffs be granted judgment against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars,

together with punitive damages as determined by this Court and for such other and further relief as this Court shall deem just and proper.


Thomas B. Roper
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
Attorney for the Plaintiffs

October 11, 2017

FILED
2011 OCT 17 P 3:52
CLERK OF COURT
CHESTER CO. S.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (as incapacitated person),)
)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT
 CASE NUMBER: 2017-CP-12-00445

ANSWER

FILED
 2017 DEC -5 A 8:34
 CLERK OF COURT
 CHESTER CO S.C.

The Defendant, Merri Rowe Thomas ("Defendant"), answers the Amended Complaint as follows:

GENERAL DENIAL

1. Defendant denies each and every allegation of the Amended Complaint not specifically admitted herein.

RESPONSES TO THE ALLEGATIONS OF THE AMENDED COMPLAINT

2. Defendant admits only that upon information and belief, the Plaintiffs and Lillian Anne Brown Rayfield are the residents and citizens of Chester County, South Carolina. Defendant denies the remaining allegations of Paragraph 1 of the Amended Complaint.

3. Defendant admits the allegations of Paragraph 2 of the Amended Complaint upon information and belief.

4. Defendant admits the allegations of Paragraph 3 of the Amended Complaint.

5. Defendant admits only that upon information and belief, the Plaintiffs have been appointed to act as Guardians and Conservators for Lillian Anne Brown Rayfield. Defendant denies the remaining allegations of Paragraph 4 of the Amended Complaint.

6. Defendant admits only that Defendant and the Plaintiffs are the children of Lillian Anne Brown Rayfield. Defendant denies the remaining allegations of Paragraph 5 of the Amended Complaint.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 concerning the Plaintiff's information or belief, and thus, denies the same.

8. Defendant admits the allegations of Paragraph 7 of the Amended Complaint upon information and belief.

9. Defendant denies the allegations of Paragraph 8 of the Amended Complaint.

FOR A FIRST CAUSE OF ACTION
(Lack of Capacity)

10. Defendant incorporates herein all Responses above.

11. Defendant denies the allegations of Paragraph 10 of the Amended Complaint.

12. Defendant denies the allegations of Paragraph 11 of the Amended Complaint.

FOR A SECOND CAUSE OF ACTION
(Undue Influence)

13. Defendant incorporates herein all Responses above.

14. Defendant denies the allegations of Paragraph 13 of the Amended Complaint.

15. Defendant denies the allegations of Paragraph 14 of the Amended Complaint.

16. Defendant denies the allegations of Paragraph 15 of the Amended Complaint.

17. Defendant denies the allegations of Paragraph 16 of the Amended Complaint.

18. Defendant denies the allegations of Paragraph 17 of the Amended Complaint.

FOR A THIRD CAUSE OF ACTION
(Lack of Sufficiency of Legal Description)

19. Defendant incorporates herein all Responses above.

20. Defendant denies the allegations of Paragraph 19 of the Amended Complaint.

21. Defendant denies the allegations of Paragraph 20 of the Amended Complaint, including all subparts.

22. Defendant denies the allegations of Paragraph 21 of the Amended Complaint.

FOR A FOURTH CAUSE OF ACTION
(Lack of Capacity)

23. Defendant incorporates herein all Responses above.

24. Defendant denies the allegations of Paragraph 23 of the Amended Complaint.

25. Defendant denies the allegations of Paragraph 24 of the Amended Complaint.

26. Defendant admits the allegations of Paragraph 25 of the Amended Complaint upon information and belief.

27. Defendant denies the allegations of Paragraph 26 of the Amended Complaint.

28. Defendant denies the allegations of Paragraph 27 of the Amended Complaint.

29. Defendant denies the allegations of Paragraph 28 of the Amended Complaint.

30. Defendant denies the allegations of Paragraph 29 of the Amended Complaint.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Amended Complaint concerning the Plaintiffs' discovery, and thus, denies the same. Defendant denies all remaining allegations in Paragraph 30 of the Amended Complaint.

32. Defendant denies the allegations of Paragraph 31 of the Amended Complaint.

33. Defendant denies the allegations of Paragraph 32 of the Amended Complaint.

FOR A FIFTH CAUSE OF ACTION
(Undue Influence)

34. Defendant incorporates herein all Responses above.

35. Defendant denies the allegations of Paragraph 34 of the Amended Complaint.

36. Defendant denies the allegations of Paragraph 35 of the Amended Complaint.

37. Defendant denies the allegations of Paragraph 36 of the Amended Complaint.

38. Defendant denies the allegations of Paragraph 37 of the Amended Complaint.

FOR A SIXTH CAUSE OF ACTION
(FORGERY)

39. Defendant incorporates herein all Responses above.

40. Defendant denies the allegations of Paragraph 39 of the Amended Complaint.

41. Defendant denies the allegations of Paragraph 40 of the Amended Complaint.

42. Defendant denies the Plaintiff's prayer for relief stated in the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim; Rule 12(b)(6) of the S.C. Rules of Civil Procedure)

43. The Amended Complaint has failed to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE
(Laches)

44. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, such action is barred by laches.

THIRD AFFIRMATIVE DEFENSE
(Waiver/Estoppel)

45. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, Plaintiffs have waived such claims and/or are estopped from asserting such claims by their own conduct or past actions.

FOURTH AFFIRMATIVE DEFENSE
(Unclean Hands)

46. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, Plaintiffs are not entitled to any relief due to their own wrongdoing and/or liability for an offense.

FIFTH AFFIRMATIVE DEFENSE
(Fraud or Misrepresentation)

47. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, no relief or judgement could be granted for or in favor of Plaintiffs due to fraud or misrepresentation on the part of Plaintiffs.

SIXTH AFFIRMATIVE DEFENSE
(Mistake)

48. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, such action is barred by mistake of fact.

SEVENTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

49. To the extent that the Amended Complaint states any cause of action against Defendant, which it has failed to do, Plaintiffs are not entitled to obtain recovery of any and all damages which they failed to mitigate.

EIGHTH AFFIRMATIVE DEFENSE
(Intervening and Superseding Breach, Negligence, or Wrongdoings)

50. Plaintiffs are barred by their own breach and/or intervening and superseding negligence and/or wrongful actions.

NINTH AFFIRMATIVE DEFENSE
(Setoff)

51. Plaintiffs' claims are barred to the extent that Defendant is entitled to a setoff against any amount allegedly due to Plaintiffs, which Defendant denies is due to Plaintiffs.

TENTH AFFIRMATIVE DEFENSE
(Statute(s) of Limitations)

52. Plaintiffs' claims are barred by the applicable statute(s) of limitations.

ELEVENTH AFFIRMATIVE DEFENSE
(No Waiver of Defendant's Rights)

53. Defendant reserves and does not waive any additional or further defenses as may be revealed by information obtained in discovery or information that may otherwise be acquired at a later date, and Defendant reserves her right to amend this Answer to assert any and all such further defenses should such an amendment becomes necessary.

WHEREFORE, having fully answered the Amended Complaint, Defendant prays that:

1. Plaintiffs' Amended Complaint be dismissed;
2. Judgment on Plaintiffs' Amended Complaint be entered in Defendant's favor; and
3. Defendant be awarded her costs and disbursements, in addition to such other relief as this Court and jury would deem just and proper.

[SIGNATURE BLOCK ON THE FOLLOWING PAGE]

Respectfully submitted,

AHN LAW FIRM, LLC

BY: 

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

546 East Main Street

P.O. Box 11785

Rock Hill, South Carolina 29731

Telephone: 803-817-7999

Fax: 803-817-9704

Attorney for the Defendant

December 4, 2017

Rock Hill, South Carolina

FILED
2017 DEC - 5 A 8:34
CLERK OF COURT
CHESTER CO S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin as Guardian)
and Conservator for Lillian)
Anne Brown Rayfield)
(an incapacitated person),)
Plaintiff,)
)
vs.)
)
Merri Rowe Thomas,)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

SECOND
AMENDED SUMMONS

CASE NO.: 2017-CP-12-00445

TO THE DEFENDANT(S) ABOVE NAMED:

You are hereby summoned and required to answer the Second Amended Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Second Amended Complaint upon the subscriber at his office at 1721 Ebenezer Road, Suite 295, Rock Hill, South Carolina 29732, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Second Amended Complaint within the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Second Amended Complaint.

/s/ Thomas B. Roper
Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
roperlaw@comporium.net
Attorney for the Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
)	
Jai Anne Bullin as Guardian)	
and Conservator for Lillian	)	SECOND
Anne Brown Rayfield	)	AMENDED COMPLAINT
(an incapacitated person),)	
Plaintiff,	)	CASE NO.: 2017-CP-12-00445
)	
vs.)	
)	
Merri Rowe Thomas,)	
Defendant.)	

The Plaintiff, alleges and would show unto the Court:

GENERAL ALLEGATIONS

1. The Plaintiff Jai Anne Bullin, as well as Lillian Anne Brown Rayfield, an incapacitated person, are residents and citizens of Chester County, South Carolina.
2. Lillian Anne Brown Rayfield is also known as Anne Brown Rayfield and Anne B. Rayfield.
3. The Defendant is a resident of Chester County, South Carolina.
4. The Plaintiff, Jai Anne Bullin has been duly appointed by the Probate Court for Chester County to serve as co-Guardian and co-Conservator for the incapacitated person, Lillian Anne Brown Rayfield, having been appointed by Certificate of Appointment dated March 14, 2017.
5. Robert D. Rayfield was also appointed by the Probate Court for Chester County to serve as co-Guardian and co-Conservator for the incapacitated person, Lillian Anne Brown Rayfield, having been appointed by Certificate of Appointment dated March 14, 2017. Robert

D. Rayfield is now deceased and Jai Ann Bullin is the sole Guardian and Conservator for Lillian Anne Brown Rayfield.

6. Jai Anne Bullin, Robert D. Rayfield and the Defendant Merri Rowe Thomas are the adult children of the incapacitated person, Lillian Anne Brown Rayfield.

7. The Plaintiff is informed and believes that the Defendant prepared a Quitclaim Deed which deed purportedly conveyed certain real property in Chester County, South Carolina from Lillian Anne Brown Rayfield to herself. This Quitclaim Deed is dated October 28, 2016 and was recorded in the Office of the Clerk of Court for Chester County, South Carolina on December 29, 2016 in Deed Book 1193 at page 29.

8. The description of the property purportedly conveyed by said Quitclaim Deed is more particularly described in said deed as follows:

“Land located at rear of 2193 West End Rd. 38.984 acres and 4.428 ACRes – to left of 2193 West End Rd. Facing Hwy 72 in the Halselville Township in Chester County, South Carolina. Ref. T.M.# 52-7
Ref. to plat cab. “E Slide 125 page 1A”

9. The Plaintiff is informed and believes that the Defendant prepared said deed; that the Quitclaim Deed showed a stated consideration of One and No/100 (\$1.00) Dollar; that the Defendant obtained witnesses and a Notary Public for such deed; that said witnesses were unaware of the incapacity of Lillian Anne Brown Rayfield at the time of execution of the document; that the Quitclaim Deed was prepared in the name of Anne Brown Rayfield and subsequently the name “Lillian” was inserted after the fact, which insertion was not initialed on the first page of the Quitclaim Deed and which was not signed before the witnesses contained on the second page of the deed; that the Defendant, as the daughter of the incapacitated person, Lillian Anne Brown Rayfield, was in a confidential relationship with her mother; that as the result of conveyance of the property (if the sufficiency of the deed is upheld) was the major asset

belonging to the incapacitated person Lillian Anne Brown Rayfield and as a result of the conveyance, would have left her with little or no significant assets.

FOR A FIRST CAUSE OF ACTION
(Lack of Capacity)

10. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 9 above, the same as if repeated herein.

11. The Plaintiff is informed and believes that at the time of execution of the Quitclaim Deed referenced herein above, that Lillian Anne Brown Rayfield lacked the mental capacity to understand the nature of the act and the consequences of her actions.

12. The Plaintiff is informed and believes that this Court should issue its order finding the Quitclaim Deed referenced herein above to be null and void and of no legal effect and that this order should be entered in the records of the Office of the Clerk of Court for Chester County, South Carolina under the name of Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A SECOND CAUSE OF ACTION
(Undue Influence)

13. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 12 above, the same as if repeated herein.

14. The Plaintiff is informed and believes that the Defendant exerted undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to procure the Quitclaim Deed referenced herein above.

15. The Plaintiff is informed and believes that the Defendant's influence exerted on the incapacitated person, Lillian Anne Brown Rayfield was sufficient to make the act of

executing the deed a mere mechanical performance by her of the design of the Defendant, Merri Rowe Thomas.

16. The Plaintiff is informed and believes that the incapacitated person, Lillian Anne Brown Rayfield, even if found to have had sufficient mental capacity to execute the Quitclaim Deed, was of a weak mind and subject to the undue influence exerted by her daughter, whom she would have placed confidence and trust in.

17. The Plaintiff is informed and believes that the Defendant exercised undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to financially benefit from such transaction with no benefit whatsoever being obtained by the incapacitated person, Lillian Anne Brown Rayfield.

18. The Plaintiff is informed and believes that this Court should declare the Quitclaim Deed referenced above to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A THIRD CAUSE OF ACTION
(Lack of Sufficiency of Legal Description)

19. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 18 above, the same as if repeated herein.

20. The Plaintiff is informed and believes that the legal description contained in the Quitclaim deed referenced above is not sufficient to adequately describe the property purportedly conveyed by such deed.

21. The Plaintiff is informed and believes that the legal description is insufficient in the following particulars:

A. The legal description references 2193 West End Rd, which is a mailing address and is not sufficient to establish a legal description;

B. The legal description describes property "...to left of 2193 West End Rd." which fails to give a directional reference rather than "to left of", which is legally insufficient;

C. The legal description further provides "Ref to plat cab. "E Slide 125 page 1A" which fails to state that the plat is incorporated into the legal description by reference thereto.

22. The Plaintiff is informed and believes that due to the insufficiency of the legal description contained in the Quitclaim Deed referenced herein above, that this Court should enter its order declaring such Quitclaim Deed to be null and void and of no legal effect and direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee.

FOR A FOURTH CAUSE OF ACTION
(Lack of Capacity)

23. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 22 above, the same as if repeated herein.

24. James C. Rayfield and Anne B. Rayfield purchased the property identified as 956 Kemper Circle, Rock Hill, South Carolina by deed dated May 1, 1981, recorded May 8, 1981 in Deed Book 631 at page 224 in the Office of the Clerk of Court for York County, South Carolina. Thereafter, James C. Rayfield devised his interest in the property to Anne B. Rayfield as is evidenced by the Deed of Distribution recorded on February 22, 2012 in Record Book 12451 at page 55 in the Office of the Clerk of Court for York County, South Carolina. Thereafter, Anne B. Rayfield sold her interest in this property by deed dated October 17, 2014, recorded October 21, 2014 in Record Book 14447 at page 141 in the Office of the Clerk of Court for York County,

South Carolina. The stated consideration for the sale was One Hundred Thirty Thousand and No/100 (\$130,000.00) Dollars.

25. Anne B. Rayfield deposited into her savings account (TD Bank Account No. 00006744067934) One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars representing the net proceeds of sale from the sale of this real property.

26. In addition to the savings account with TD Bank, Anne B. Rayfield also had a checking account with TD Bank, account number 431-4803605.

27. In February, 2016, the Defendant, caused her name to be added to Anne B. Rayfield's checking account number 431-4803605.

28. From October, 2014 through December 2016, Anne B. Rayfield lacked mental capacity to manage her own affairs, including the management of her checking accounts and savings account.

29. The Plaintiff is informed and believes that the Defendant transferred or caused Anne B. Rayfield to transfer funds from her savings account to her checking accounts from which the Defendant utilized funds for her personal use with no benefit to Anne B. Rayfield.

30. During the period of time from October, 2014 through December, 2016, Anne B. Rayfield was receiving Social Security benefits in the amount of One Thousand Seven Hundred Twenty-Four and No/100 (\$1,724.00) Dollars, which amount was sufficient to pay for all of her regular, normal and ordinary living expenses. She was not in need of any funds over and above the Social Security benefits which she received.

31. The Plaintiff learned of the depletion of all funds from the accounts of Anne B. Rayfield in December, 2016 at which time the savings account had a balance of One Hundred Fifty-Seven and 37/100 (\$157.37) Dollars.

32. The Plaintiff is informed and believes that the Defendant, by taking advantage of the lack of capacity by Anne B. Rayfield utilized her funds for her and her family's sole benefit in an amount in excess of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars.

33. The Plaintiff is informed and believes that the Plaintiff is entitled to a judgement against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars in actually damages, together with punitive damages as determined by this Court.

FOR A FIFTH CAUSE OF ACTION
(Undue Influence)

34. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 33 above, the same as if repeated herein.

35. The Plaintiff is informed and believes that the Defendant exerted undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to perpetuate the scheme of transfer of funds from Anne B. Rayfield's saving account to other accounts and ultimately for the sole benefit of the Defendant and her family.

36. The Plaintiff is informed and believes that the incapacitated person, Lillian Anne Brown Rayfield, even if found to have had sufficient mental capacity to manage her savings and checking accounts, that she was of a weak mind and subject to the undue influence exerted by her daughter, whom she would have placed confidence and trust in.

37. The Plaintiff is informed and believes that the Defendant exercised undue influence over the incapacitated person, Lillian Anne Brown Rayfield in order to financially benefit from the funds held in the incapacitated person's accounts with TD Bank which were transferred to the control of the Defendant with no benefit whatsoever being obtained by the incapacitated person, Lillian Anne Brown Rayfield.

38. The Plaintiff is informed and believes that she is entitled to judgment against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars, in actual damages, together with punitive damages as determined by this Court due to the undue influence by the Defendant over the incapacitated person.

FOR A SIXTH CAUSE OF ACTION
(Forgery)

39. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 38 above, the same as if repeated herein.

40. The Plaintiff is informed and believes that the Defendant, in order to effectuate her plan of depleting the assets of the incapacitated person, Lillian Anne Brown Rayfield, forged the signature of the incapacitated person on checks drawn on the accounts of the incapacitated person without authority to do so.

41. The Plaintiff is informed and believes that she is entitled to judgement in the amount of actual damages as determined by this Court as the result of the forgeries by the Defendant and that she is also entitled to punitive damages for the forgeries having been committed.

WHEREFORE, the Plaintiff prays that this Court inquire into the matters set forth herein; that it issue its order declaring that the deed by Lillian Anne Brown Rayfield to Merri Rowe

Thomas is null and void due to lack of capacity by the Grantor or in the alternative, that it find the deed to have been procured by undue influence; that the court issue its order finding the description contained in the deed to be inadequate; that it declare said deed to be null and void and of no legal effect; that it direct the Clerk of Court for Chester County to index an order of this Court with Merri Rowe Thomas as Grantor and Lillian Anne Brown Rayfield as Grantee; that the Plaintiff be granted judgment against the Defendant in the amount of One Hundred Twenty-Four Thousand Two Hundred Seventy-Eight and No/100 (\$124,278.00) Dollars, together with punitive damages as determined by this Court and for such other and further relief as this Court shall deem just and proper.

/s/ Thomas B. Roper
Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
roperlaw@comporium.net
Attorney for the Plaintiff

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (as incapacitated person),)
)
 Plaintiff,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
)
 _____)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
)
 vs.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)
 _____)
)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-12-00170

SUMMONS
(JURY TRIAL DEMANDED)

TO THE THIRD-PARTY DEFENDANT NAMED ABOVE:

A lawsuit has been filed against you. Within thirty (30) days (thirty-five days, if served by mail or through a person designated by statute to accept service) after service of this Summons on you (not counting the day you receive it), you must serve upon the Third-Party Plaintiff named above an Answer to the attached Third-Party Claims/Complaint or a motion under the South Carolina Rules of Civil Procedure. Also attached hereto is a copy of the original and amended pleadings filed by the Plaintiff in this action. Your Answer or motion must be served upon the Third-Party Plaintiff's attorney, Chan M. Ahn, Esq., whose address is 4381 Charlotte Highway, Suite 103, Lake Wylie, SC 29710. If you fail to do so, judgment by default will be entered against

you for the relief demanded in the Third-Party Claims/Complaint. You must also file your Answer or motion with the Court.

AHN LAW FIRM, LLC

BY: /s/ Chan M. Ahn
Chan M. Ahn (SC Bar #102173)
chan@ahnlawfirmllc.com
4381 Charlotte Hwy
Suite 103
Lake Wylie, South Carolina 29710
Telephone: 803-810-4373
Fax: 803-817-9704
***Counsel for the Defendant and
Third-Party Plaintiff***

April 26, 2023

Lake Wylie, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
	)	CASE NUMBER: 2023-CP-12-00170
Jai Anne Bullin as Guardian and)	
Conservator for Lillian Anne Brown	)	<u>ANSWER, COUNTERCLAIMS</u>
Rayfield (as incapacitated person),	)	<u>AND THIRD-PARTY CLAIMS</u>
)	
Plaintiff,)	
)	
vs.)	
)	
Merri Rowe Thomas,)	
)	
Defendant.)	
_____)	
)	
Merri Rowe Thomas,)	
)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
Jai Anne Bullin,)	
)	
Third-Party Defendant.))	
_____)	

The Defendant, Merri Rowe Thomas (“Defendant”; “Third-Party Plaintiff”; or “Defendant and Third-Party Plaintiff” where appropriate), answers the Second Amended Complaint filed by the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (as incapacitated person) (“Plaintiff”), and avers her Counterclaims and Third-Party Claims as follows:

GENERAL DENIAL

I. Defendant denies each and every allegation of Plaintiff’s Second Amended Complaint (“Amended Complaint”) not specifically admitted herein.

ANSWER

II. Defendant responds to the allegations asserted against her in the Second Amended Complaint as follows:

1. Defendant admits only that upon information and belief, Plaintiff and Lillian Anne Brown Rayfield are the residents and citizens of Chester County, South Carolina. Defendant denies all remaining allegations of Paragraph 1 of the Second Amended Complaint.

2. Defendant admits the allegations of Paragraph 2 of the Second Amended Complaint upon information and belief.

3. Defendant admits the allegations of Paragraph 3 of the Second Amended Complaint.

4. Defendant admits only that upon information and belief, Plaintiffs has been appointed to act as Guardian and Conservator for Lillian Anne Brown Rayfield. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 4 of the Second Amended Complaint, and thus, denies the same.

5. Defendant admits only that upon information and belief, Robert D. Rayfield was appointed to act as co-Guardian and co-Conservator for Lillian Anne Brown Rayfield and that he is now deceased. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 5 of the Second Amended Complaint, and thus, denies the same.

6. Defendant admits only that Defendant, Plaintiff, and Robert D. Rayfield are the children of Lillian Anne Brown Rayfield. Defendant denies all remaining allegations of Paragraph 6 of the Second Amended Complaint.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 of the Second Amended Complaint concerning Plaintiff's information or belief, and thus, denies the same.

8. Defendant admits the allegations of Paragraph 8 of the Second Amended Complaint upon information and belief.

9. Defendant denies the allegations of Paragraph 9 of the Second Amended Complaint.

FOR A FIRST CAUSE OF ACTION
(Lack of Capacity)

10. Defendant incorporates herein all Responses above.

11. Defendant denies the allegations of Paragraph 11 of the Second Amended Complaint.

12. Defendant denies the allegations of Paragraph 12 of the Second Amended Complaint.

FOR A SECOND CAUSE OF ACTION
(Undue Influence)

13. Defendant incorporates herein all Responses above.

14. Defendant denies the allegations of Paragraph 14 of the Second Amended Complaint.

15. Defendant denies the allegations of Paragraph 15 of the Second Amended Complaint.

16. Defendant denies the allegations of Paragraph 16 of the Second Amended Complaint.

17. Defendant denies the allegations of Paragraph 17 of the Second Amended Complaint.

18. Defendant denies the allegations of Paragraph 18 of the Second Amended Complaint.

FOR A THIRD CAUSE OF ACTION
(Lack of Sufficiency of Legal Description)

19. Defendant incorporates herein all Responses above.

20. Defendant denies the allegations of Paragraph 20 of the Second Amended Complaint.

21. Defendant denies the allegations of Paragraph 21 of the Second Amended Complaint, including all subparts.

22. Defendant denies the allegations of Paragraph 22 of the Second Amended Complaint.

FOR A FOURTH CAUSE OF ACTION
(Lack of Capacity)

23. Defendant incorporates herein all Responses above.

24. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Second Amended Complaint, and thus, denies the same.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of the Second Amended Complaint, and thus, denies the same.

26. Defendant admits the allegations of Paragraph 26 of the Second Amended Complaint upon information and belief.

27. Defendant denies the allegations of Paragraph 27 of the Second Amended Complaint.

28. Defendant denies the allegations of Paragraph 28 of the Second Amended Complaint.

29. Defendant denies the allegations of Paragraph 29 of the Second Amended Complaint.

30. Defendant denies the allegations of Paragraph 30 of the Second Amended Complaint.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 of the Second Amended Complaint concerning what Plaintiff allegedly learned, and thus, denies the same.

32. Defendant denies the allegations of Paragraph 32 of the Second Amended Complaint.

33. Defendant denies the allegations of Paragraph 33 of the Second Amended Complaint.

FOR A FIFTH CAUSE OF ACTION
(Undue Influence)

34. Defendant incorporates herein all Responses above.

35. Defendant denies the allegations of Paragraph 35 of the Second Amended Complaint.

36. Defendant denies the allegations of Paragraph 36 of the Second Amended Complaint.

37. Defendant denies the allegations of Paragraph 37 of the Second Amended Complaint.

38. Defendant denies the allegations of Paragraph 38 of the Second Amended Complaint.

FOR A SIXTH CAUSE OF ACTION
(Forgery)

39. Defendant incorporates herein all Responses above.

40. Defendant denies the allegations of Paragraph 40 of the Second Amended Complaint.

41. Defendant denies the allegations of Paragraph 41 of the Second Amended Complaint.

42. Defendant denies and contests each of Plaintiff's prayers and/or requests for an order, judgment, ruling, finding, award, issuance, declaration, direction, or any other relief sought in the Second Amended Complaint.

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim; Rule 12(b)(6) of the S.C. Rules of Civil Procedure)

43. The Second Amended Complaint has failed to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE
(Laches)

44. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, such action is barred by laches.

THIRD AFFIRMATIVE DEFENSE
(Waiver/Estoppel)

45. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, Plaintiff has waived such claims and/or is estopped from asserting such claims by her own conduct or past actions.

FOURTH AFFIRMATIVE DEFENSE
(Unclean Hands)

46. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, Plaintiff is not entitled to any relief due to her own wrongdoing and/or liability for an offense.

FIFTH AFFIRMATIVE DEFENSE
(Fraud or Misrepresentation)

47. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, no relief or judgement could be granted for or in favor of Plaintiff due to fraud or misrepresentation on the part of Plaintiff.

SIXTH AFFIRMATIVE DEFENSE
(Mistake)

48. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, such action is barred by mistake of fact.

SEVENTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

49. To the extent that the Second Amended Complaint states any cause of action against Defendant, which it fails to do, Plaintiff is not entitled to obtain recovery of any and all damages which she failed to mitigate.

EIGHTH AFFIRMATIVE DEFENSE
(Intervening and Superseding Breach, Negligence, or Wrongdoings)

50. Plaintiff is barred by her own breach and/or intervening and superseding negligence and/or wrongful actions.

NINTH AFFIRMATIVE DEFENSE
(Setoff)

51. Plaintiff's claims are barred to the extent that Defendant is entitled to a setoff against any amount allegedly due to Plaintiff, which Defendant denies is due to Plaintiff.

TENTH AFFIRMATIVE DEFENSE
(Statute(s) of Limitations)

52. Plaintiff's claims are barred by the applicable statute(s) of limitations.

ELEVENTH AFFIRMATIVE DEFENSE
(Lack of Capacity)

53. Plaintiff lacks requisite capacity to bring this action or assert any claims against Defendant.

TWELFTH AFFIRMATIVE DEFENSE
(No Waiver of Defendant's Rights)

54. Defendant reserves and does not waive any additional or further defenses as may be revealed by information obtained in discovery or information that may otherwise be acquired at a later date, and Defendant reserves her right to amend this Answer, Counterclaims, and Third-Party Claims to assert any and all such further defenses should such an amendment become necessary.

COUNTERCLAIMS AND THIRD-PARTY CLAIMS

III. Having fully responded to each allegation and prayer for relief set forth in Plaintiff's Second Amended Complaint, Defendant now avers her Counterclaims against Plaintiff and Third-Party Claims against Jai Anne Bullin ("Third-Party Defendant"), by and through the undersigned counsel, as follows:

GENERAL ALLEGATIONS COMMON TO
ALL COUNTERCLAIMS AND THIRD-PARTY CLAIMS

1. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, defenses, and/or allegations set forth in the preceding paragraphs.

2. Upon information and belief, the Third-Party Defendant, Jai Anne Bullin (“Third-Party Defendant”), is a citizen and resident of Chester County, South Carolina.

3. This Court has subject-matter jurisdiction over each of the claims, Counterclaims, and Third-Party Claims in this lawsuit under article V, § 11 of the South Carolina Constitution and South Carolina Code § 14-5-350.

4. This Court has personal jurisdiction over Third-Party Defendant.

5. Venue is proper under South Carolina Code §§ 15-7-20 and 15-7-30.

6. While acting as Guardian and Conservator for Lillian Anne Brown Rayfield (“Mrs. Rayfield”), Plaintiff acted in bad faith in prohibiting Mrs. Rayfield from seeing Defendant and Third-Party Plaintiff against Mrs. Rayfield’s desire.

7. Further, Plaintiff prevented Defendant and Third-Party Plaintiff from visiting Mrs. Rayfield, attending family events in which Mrs. Rayfield was present, or otherwise communicating with Mrs. Rayfield. In so doing, Plaintiff acted in bad faith with the intent to cause emotional distress to Defendant and Third-Party Plaintiff.

8. Upon information and belief, Plaintiff used her position as Mrs. Rayfield’s Guardian and Conservator to advance her own interest without regard to Mrs. Rayfield’s best interest or desire.

9. Also upon information and belief, Plaintiff improperly obtained pecuniary benefits from her position as Mrs. Rayfield’s Guardian and Conservator.

10. Upon information and belief, Plaintiff also failed to act in the best interest of Mrs. Rayfield and her future estate in that she failed to safeguard Mrs. Rayfield's assets and manage Mrs. Rayfield's financial affairs properly.

11. While acting as Mrs. Rayfield's Guardian and Conservator, Plaintiff improperly closed Mrs. Rayfield's bank account(s), removed Defendant/Third-Party Plaintiff's name from a joint bank account held by both Mrs. Rayfield and Defendant/Third-Party Plaintiff, and/or caused Defendant/Third-Party Plaintiff's signing authority upon or access to Mrs. Rayfield's bank account(s) to be terminated without Mrs. Rayfield's or Defendant/Third-Party Plaintiff's consent or approval and against Mrs. Rayfield's will.

12. In so doing, Plaintiff acted in bad faith and maliciously with the intent to cause emotional distress to Defendant and Third-Party Plaintiff.

13. Meanwhile, Third-Party Defendant, while acting in her individual capacity, improperly obtained pecuniary and non-economic benefits from her access to Mrs. Rayfield's assets and her control over Mrs. Rayfield, upon information and belief.

14. Further, upon information and belief, Third-Party Defendant caused Mrs. Rayfield's assets to be managed improperly and in a manner not in the best interest of Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's future estate, including Third-Party Plaintiff.

15. Third-Party Defendant further engaged in a series of actions intended to harass, embarrass, and cause emotional distress to Defendant and Third-Party Plaintiff.

16. By way of illustration but not limitation, Third-Party Defendant attacked Third-Party Plaintiff to cause bodily injuries to Third-Party Plaintiff and broke her wrist; published a false and defamatory statement, either directly or by insinuation, concerning Third-Party Plaintiff

and Third-Party Plaintiff's relationship with Mrs. Rayfield; prevented Third-Party Plaintiff from seeing or otherwise communicating with Mrs. Rayfield; and caused a reference to Third-Party Plaintiff to be omitted from a funeral of Mrs. Rayfield's and the Parties' immediate family member, upon information and belief.

17. Furthermore, Third-Party Defendant conspired with a physician to procure a document used to cause herself to be appointed as Mrs. Rayfield's Guardian and Conservator.

18. As a direct and proximate result and consequence of Third-Party Defendant's improper conduct and action—including those set forth above—Third-Party Plaintiff has suffered substantial pecuniary, emotional, and reputational damages.

19. Accordingly, Defendant and Third-Party Plaintiff is entitled to recover all economic, compensatory, and punitive damages from Plaintiff and Third-Party Defendant.

FIRST COUNTERCLAIM
(Negligence)

20. Defendant incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or allegations set forth in the preceding paragraphs.

21. As Mrs. Rayfield's Guardian and Conservator, Plaintiff owed Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's future estate a duty to conduct herself and perform her duties and responsibilities as Mrs. Rayfield's Guardian and Conservator in a lawful, ethical, and honest manner and to act in the best interest of Mrs. Rayfield and her future estate. Further, Plaintiff owed the potential beneficiaries of Mrs. Rayfield's future estate, including Defendant, a duty of care to act in such a prudent and reasonable manner as not to cause damages to their interest associated with Mrs. Rayfield's current assets and future estate.

22. Plaintiff breached her duty owed to Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's future estate, including Defendant, by failing to safeguard Mrs. Rayfield's assets

and manage Mrs. Rayfield's financial affairs properly and acting negligently, reckless, willfully, and/or wantonly in the performance of her duties and responsibilities as Mrs. Rayfield's Guardian and Conservator. Plaintiff breached her duty in failing to exercise the care of a reasonable person under the circumstances.

23. As a direct and proximate result and consequence of Plaintiff's breach of her duty of care, Defendant has suffered substantial economic, emotional, and reputational damages.

24. Thus, Defendant is entitled to recover economic, compensatory, and punitive damages from Plaintiff.

SECOND COUNTERCLAIM
(Gross Negligence)

25. Defendant incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or allegations set forth in the preceding paragraphs.

26. As Mrs. Rayfield's Guardian and Conservator, Plaintiff owed Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's future estate a duty to conduct herself and perform her duties and responsibilities as Mrs. Rayfield's Guardian and Conservator in a lawful, ethical, and honest manner and to act in the best interest of Mrs. Rayfield and her future estate. Further, Plaintiff owed the potential beneficiaries of Mrs. Rayfield's future estate, including Defendant, a duty of care to act in such a prudent and reasonable manner as not to cause damages to their interest associated with Mrs. Rayfield's current assets and future estate.

27. Plaintiff breached her duty owed to Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's future estate, including Defendant, by failing to safeguard Mrs. Rayfield's assets and manage Mrs. Rayfield's financial affairs properly and acting negligently, reckless, willfully, and/or wantonly in the performance of her duties and responsibilities as Mrs. Rayfield's Guardian

and Conservator. Plaintiff breached her duty in failing to exercise the care of a reasonable person under the circumstances.

28. In failing or refusing intentionally and consciously to exercise the care which it was incumbent upon her to exercise and/or engaging intentionally in an activity that it ought not to engage, Plaintiff failed to exercise the slight care that was necessary under the circumstances.

29. As a direct and proximate result and consequence of Plaintiff's breach of her duty of care, Defendant has suffered such substantial economic, emotional, and reputational damages as shall be shown at trial.

30. Thus, Defendant is entitled to all actual damages as may be proven at trial and is entitled to an award of punitive damages.

THIRD COUNTERCLAIM
(Breach of Fiduciary Duty)

31. Defendant incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or allegations set forth in the preceding paragraphs.

32. As Mrs. Rayfield's Guardian and Conservator, Plaintiff owed a fiduciary duty to Defendant, a potential beneficiary of Mrs. Rayfield's future estate.

33. Plaintiff breached her fiduciary duty owed to Defendant by failing to safeguard Mrs. Rayfield's assets and manage Mrs. Rayfield's financial affairs properly and acting negligently, reckless, willfully, and/or wantonly in the performance of her duties and responsibilities as Mrs. Rayfield's Guardian and Conservator.

34. Upon information and belief, Plaintiff's breach of her fiduciary duty owed to Defendant involved fraud or malice.

35. As a direct and proximate result and consequence of Plaintiff's breach of her fiduciary duty, Defendant has suffered and will suffer such substantial economic and emotional damages as shall be shown at trial.

36. Thus, Defendant is entitled to all economic and compensatory damages as may be proven at trial and is entitled to an award of punitive damages.

FIRST THIRD-PARTY CLAIM
AGAINST THIRD-PARTY DEFENDANT JAI ANNE BULLIN
(Contribution)

37. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or the allegations set forth in the preceding paragraphs.

38. Upon information and belief, Defendant and Third-Party Plaintiff is in no way liable for any of the damages asserted in the Second Amended Complaint.

39. Without admitting any liability on her part, Defendant and Third-Party Plaintiff avers that should Defendant and Third-Party Plaintiff be found liable to any party based on any of the allegations set forth in the Second Amended Complaint—which Defendant and Third-Party Plaintiff asserts she could not—the conduct or omission, in whole or in part, of Third-Party Defendant contributed to the occurrence(s) alleged in the Second Amended Complaint, as set forth above.

40. Thus, should Plaintiff recover any damages from Defendant and Third-Party Plaintiff based on the allegations set forth in the Second Amended Complaint—which Defendant and Third-Party Plaintiff asserts Plaintiff could not—Defendant and Third-Party Plaintiff is entitled to judgment and relief, over and against Third-Party Defendant for her fair share of any

judgment rendered against Defendant and Third-Party Plaintiff upon the Second Amended Complaint.

SECOND THIRD-PARTY CLAIM
AGAINST THIRD-PARTY DEFENDANT JAI ANNE BULLIN
(Aiding and Abetting Breach of Fiduciary Duty)

41. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or the allegations set forth in the preceding paragraphs.

42. While acting as Mrs. Rayfield's Guardian and Conservator and being responsible for Mrs. Rayfield's day-to-day care and financial affairs, Plaintiff was so situated as to exercise a controlling influence over the will, conduct, and interest of Mrs. Rayfield, and as such, owed a fiduciary duty to Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's current assets and future estate, including Defendant and Third-Party Plaintiff, to act in the utmost good faith, to ensure that all aspects of her conduct and business activities would be conducted in a lawful, ethical, and honest manner and in the best interest of Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's current assets and future estate, including Defendant and Third-Party Plaintiff.

43. Upon information and belief, Plaintiff breached her fiduciary duty owed to Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's current assets and future estate, including Defendant and Third-Party Plaintiff, by handling Mrs. Rayfield's affairs improperly, failing to properly safeguard Mrs. Rayfield's assets and future estate, failing to act in the utmost good faith, and acting to her own advantage and to the detriment of Mrs. Rayfield and the potential beneficiaries of Mrs. Rayfield's current assets and future estate, including Defendant and Third-Party Plaintiff, resulting in economic, emotional, and reputational damages to Defendant and Third-Party Plaintiff.

44. Also upon information and belief, Third-Party Defendant knowingly participated in the breach of a fiduciary duty owed to Defendant and Third-Party Plaintiff.

45. Defendant and Third-Party Plaintiff has suffered and will suffer substantial damages proximately caused by Third-Party Defendant's knowing participation in the breach of a fiduciary duty owed to Defendant and Third-Party Plaintiff, including substantial pecuniary injuries, reputational damages, loss of time, loss of business opportunities, and economic loss, and substantial attorney's fees required to assert and defend her rights against Third-Party Defendant's wrongful conduct.

46. Thus, Defendant and Third-Party Plaintiff is entitled to recover all of the damages caused by Third-Party Defendant's knowing participation in the breach of a fiduciary duty, including actual, compensatory, and punitive damages.

THIRD THIRD-PARTY CLAIM
AGAINST THIRD-PARTY DEFENDANT JAI ANNE BULLIN
(Intentional Infliction of Emotional Distress)

47. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or the allegations set forth in the preceding paragraphs.

48. By engaging in a series actions and conduct being herein complained of, Third-Party Defendant intentionally or recklessly inflicted severe emotional distress. In particular and among other things, Third-Party Defendant attacked Third-Party Plaintiff to cause bodily injuries to Third-Party Plaintiff and broke her wrist; published a false and defamatory statement, either directly or by insinuation, concerning Third-Party Plaintiff and Third-Party Plaintiff's relationship with Mrs. Rayfield; prevented Third-Party Plaintiff from seeing or otherwise communicating with

Mrs. Rayfield; and caused a reference to Third-Party Plaintiff to be omitted from a funeral of Mrs. Rayfield's and the Parties' immediate family member, upon information and belief.

49. Third-Party Defendant's conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community.

50. The actions of Third-Party Defendant have caused and will continue to cause Third-Party Plaintiff's emotional distress.

51. The emotional distress suffered by Third-Party Plaintiff was so severe that no reasonable person could be expected to endure it.

52. Thus, Third-Party Plaintiff is entitled to recover all actual, compensatory, and punitive damages available to her.

FOURTH THIRD-PARTY CLAIM
AGAINST THIRD-PARTY DEFENDANT JAI ANNE BULLIN
(Defamation)

53. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or the allegations set forth in the preceding paragraphs.

54. As described above, Third-Party Defendant has made a false and defamatory statement concerning Third-Party Plaintiff and her relationship with Mrs. Rayfield.

55. The unprivileged publication of Third-Party Defendant's statement was made to a third party.

56. Third-Party Defendant, the publisher of said statement, was at fault.

57. Upon information and belief, Third-Party Defendant's statement was actionable irrespective of harm. In the alternative, the publication of Third-Party Defendant's statement caused special harm to Third-Party Plaintiff.

58. Thus, Third-Party Plaintiff is entitled to recover all actual, general, special, compensatory, and punitive damages from Third-Party Defendant.

FIFTH THIRD-PARTY CLAIM
AGAINST THIRD-PARTY DEFENDANT JAI ANNE BULLIN
(Civil Conspiracy)

59. Defendant and Third-Party Plaintiff incorporates by reference hereinto and restates herein all prior statements, averments, responses, and/or the allegations set forth in the preceding paragraphs.

60. In procuring a document used to cause herself to be appointed as Mrs. Rayfield's Guardian and Conservator, Third-party Defendant and a physician who authored said document and acted in concert and combination.

61. Third-Party Defendant's participation in a concerted action to procure certain legal documents and/or capacity in a deceitful manner constitutes her additional combined act in furtherance of a conspiracy, separate and independent from her other wrongful acts complained of in this Answer, Counterclaims, and Third-Party Claims.

62. Upon information and belief, the primary purpose of Third-Party Defendant's conduct was to sever a bond between Third-Party Plaintiff and Mrs. Rayfield and injure Third-Party Plaintiff by causing her to become subjected to anguish, distress, and isolation.

63. As a result of Third-Party Defendant's engagement and participation in combined acts in furtherance of a conspiracy to sever a bond between Third-Party Plaintiff and Mrs. Rayfield and injure Third-Party Plaintiff by causing her to become subjected to anguish, distress, and

isolation, Third-Party Plaintiff has sustained, and will become subjected to, substantial special damages, which go beyond the damages alleged in the other causes of action asserted by Third-Party Plaintiff in this Answer, Counterclaims, and Third-Party Claims.

64. Thus, Third-Party Plaintiff is entitled to recover all damages and other relief available to her.

PRAYER FOR RELIEF

WHEREFORE, having fully answered the Amended Complaint and averred Counterclaims and Third-Party Claims, Defendant and Third-Party Plaintiff prays for the following relief:

1. Plaintiffs' Second Amended Complaint be dismissed in its entirety with prejudice;
2. Judgment be entered in Defendant's favor against Plaintiff as to all of Plaintiff's claims against Defendant and all of Defendant's Counterclaims against Plaintiff;
3. Judgment be entered in Third-Party Plaintiff's favor against Third-Party Defendant as to all of Third-Party Plaintiff's claims against Third-Party Defendant;
4. Defendant and Third-Party Plaintiff be awarded all available damages, including without limitation actual damages, special damages, general damages, punitive damages, compensatory damages, emotional damages, attorney's fees, court costs, and other expenses, plus pre-judgment interest; and
5. Defendant and Third-Party Plaintiff be awarded such other and further relief as equity may require and/or the Court and the jury would deem just and proper.

[SIGNATURE BLOCK ON THE FOLLOWING PAGE]

Respectfully submitted,

AHN LAW FIRM, LLC

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***Counsel for the Defendant and
Third-Party Plaintiff***

April 26, 2023

Lake Wylie, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
	)	CASE NUMBER: 2023-CP-12-00170
Jai Anne Bullin as Guardian and)	
Conservator for Lillian Anne Brown)	
Rayfield (as incapacitated person),)	
)	
Plaintiff,)	
)	
vs.)	
)	
Merri Rowe Thomas,)	
)	
Defendant.)	
_____)	
)	
Merri Rowe Thomas,)	
)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
Jai Anne Bullin,)	
)	
Third-Party Defendant.)	
_____)	

CERTIFICATE OF SERVICE

The undersigned certifies that on April 26, 2023, a copy of the foregoing *Answer, Counterclaims, and Third-Party Claims* was filed with this Court through the *SC Courts E-Filing Portal*, which will have sent notification of such filing to all counsel of record in this matter.

This 26th day of April, 2023.

[SIGNATURE PAGE TO FOLLOW]

AHN LAW FIRM, LLC

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Third-Party Plaintiff***

April 26, 2023

Lake Wylie, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
)
 Merri Rowe Thomas,)
)
 Defendant,)
 _____)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant. _____)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

THIRD-PARTY DEFENDANT’S
 ANSWER TO THIRD-PARTY
 PLAINTIFF’S COMPLAINT

2023-CP-12-00170

Now comes the Third-Party Defendant, Jai Anne Bullin, by and through her undersigned counsel, making the following Answer to the Third-Party Plaintiff’s Complaint as follows:

GENERAL DENIAL

1. The Third-Party Defendant denies each and every allegations of the Third-Party Plaintiff’s Complaint not specifically admitted herein.

ANSWER

2. The Third-Party Defendant repeats and re-alleges the allegations of paragraph 1-41 of her Amended Complaint in response to paragraphs 1 through 64 of the Third-Party Plaintiff’s Complaint.

3. The Defendant and Third-Party Plaintiff has inappropriately co-mingled allegations against the Plaintiff and Third-Party Defendant even though the Plaintiff is separate

and distinct from the Third-Party Defendant as the action by the Plaintiff in her capacity of Guardian and Conservator are separate and distinct from her individual actions and the Third-Party Defendant reserves the right to file a motion to make more definite and certain and requiring the Defendant and Third-Party Plaintiff to separate the claims against the Plaintiff and Third-Party Defendant.

ANSWER TO GENERAL ALLEGATIONS, TO ALL COUNTERCLAIMS

AND ALL THIRD-PARTY CLAIMS

4. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 3 above, the same as if repeated herein in response to paragraph 1.
5. The Third-Party Defendant admits the allegations of paragraphs 2, 3, 4 and 5.
6. In response to paragraphs 6, 7, 8, 9, 10, 11 and 12 no response is required by The Third-Party Defendant as the allegations only involve the Plaintiff.
7. The Third-Party Defendant denies the allegations of paragraph 13.
8. The Third-Party Defendant denies the allegations of paragraph 14 and would further allege that no potential beneficiaries of Lillian Anne Brown Rayfield's future estate can assert any claims at this time.
9. The Third-Party Defendant denies the allegations of paragraph 15 and would further allege that during the funeral service for the parties' brother, the Defendant disrupted and was discourteous and disrespectful to all those attending the funeral service, by announcing that she was "not going to sit here and listen to any further comments" from the minister. She then got up from her seat and left the service voluntarily and of her own volition, thereby causing embarrassment and emotional distress to the Third-Party Defendant, the minister and all of those in attendance at the funeral.

10. The Third-Party Defendant denies the allegations of paragraph 16 and would further allege that in response that the Third-Party Plaintiff attacked the Third-Party Defendant and that the Third-Party Defendant only took such actions as to defend herself against the attack by the Third-Party Plaintiff. The Third-Party Plaintiff took out a warrant against the Third-Party Defendant, the trial of which resulted in a not guilty verdict against the Third-Party Defendant. Law enforcement officials present at the trial suggested to the Third-Party Defendant that she take out a restraining order against the Third-Party Plaintiff, which she did.

11. The Third-Party Defendant denies the allegations of paragraph 17 and would further allege that in the event that the Third-Party Defendant should be found to have conspired with a physician, that this Court has no jurisdiction to determine this claim as the Chester County Probate Court would have sole and exclusive jurisdiction of any such claim. Further, the Third-Party Plaintiff was present at a hearing before the Chester County Probate Court, at which time the Third-Party Defendant was appointed Guardian and Conservator and the Third-Party Plaintiff had adequate and ample opportunity to raise this issue before the Probate Court.

12. The Third-Party Defendant denies the allegations of paragraph 18 and 19.

RESPONSE TO FIRST, SECOND AND THIRD COUNTERCLAIMS

13. The Third-Party Defendant makes no response to paragraphs 20 through 36 as these Counterclaims are all against the Plaintiff and the Third-Party Defendant is not involved in these claims.

REPLY TO FIRST THIRD PARTY CLAIM AGAINST THIRD-PARTY

DEFENDANT, JAI ANNE BULLIN

14. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 13 above, the same as if repeated herein in response to paragraph 37.

15. The Third-Party Defendant denies the allegations of paragraphs 38, 39 and 40.

FIRST REPLY TO SECOND THIRD PARTY CLAIM AGAINST THIRD PARTY

DEFENDANT, JAI ANNE BULLIN

16. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 15 above, the same as if repeated herein in response to paragraph 41.

17. The Third-Party Defendant denies the allegations of paragraph 42 and would further allege that the allegations contained in this paragraph are allegations against the Plaintiff and not the Third-Party Defendant and therefore have no application to the Third-Party Defendant. The Third-Party Defendant would further allege that the Plaintiff's only fiduciary duty was the fiduciary duty owed to Lillian Anne Brown Rayfield and owed no fiduciary duty to potential beneficiaries. The Third-Party Defendant would further allege that since these allegations are against the Plaintiff, that the Probate Court for Chester Count would have sole and exclusive jurisdiction over such claims.

18. The Third-Party Defendant denies the allegations of paragraph 43 and would further allege that the allegations contained in this paragraph are allegations against the Plaintiff and not the Third-Party Defendant and therefore have no application to the Third-Party Defendant. The Third-Party Defendant would further allege that the Plaintiff's only fiduciary duty was the fiduciary duty owed to Lillian Anne Brown Rayfield and owed no fiduciary duty to potential beneficiaries. The Third-Party Defendant would further allege that since these allegations are against the Plaintiff, that the Probate Court for Chester Count would have sole and exclusive jurisdiction over such claims.

19. The Third-Party Defendant alleges in response to paragraph 44 that there was no fiduciary duty owed to the Third-Party Plaintiff.

20. The Third-Party Defendant denies the allegations of paragraphs 45 and 46.

FIRST REPLY TO THIRD THIRD-PARTY CLAIM AGAINST THIRD-PARTY

DEFENDANT, JAI ANNE BULLIN

21. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 20 above, the same as if repeated herein in response to paragraph 47.

22. The Third-Party Defendant denies the allegations of paragraph 48 and would further allege that in response that the Third-Party Plaintiff attacked the Third-Party Defendant and that the Third-Party Defendant only took such actions as to defend herself against the attack by the Third-Party Plaintiff. The Third-Party Plaintiff took out a warrant against the Third-Party Defendant, the trial of which resulted in a not guilty verdict against the Third-Party Defendant. Law enforcement officials present at the trial suggested to the Third-Party Defendant that she take out a restraining order against the Third-Party Plaintiff, which she did.

23. The Third-Party Defendant denies the allegations of paragraph 49 and would further allege that the only conduct which was so extreme and outrageous as to exceed all possible bounds of decency which must be regarded as atrocious and utterly intolerable in a civilized community were the actions of the Third-Party Plaintiff.

24. The Third-Party Defendant denies the allegations of paragraphs 50, 51 and 52.

FIRST REPLY TO FOURTH THIRD-PARTY CLAIM AGAINST THIRD-PARTY

DEFENDANT, JAI ANNE BULLIN

25. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 24 above, the same as if repeated herein in response to paragraph 53.

26. The Third-Party Defendant denies the allegations of paragraph 54, 55, 56, 57 and 58.

**FIRST REPLY TO FIFTH THIRD-PARTY CLAIM AGAINST THIRD-PARTY
DEFENDANT, JAI ANNE BULLIN**

27. The Third-Party Defendant repeats and re-alleges the allegations of paragraphs 1 through 26 above, the same as if repeated herein in response to paragraph 59.

28. The Third-Party Defendant denies the allegations of paragraph 60 and would further allege that in the event that the Plaintiff should be found to have conspired with a physician, that this Court has no jurisdiction to determine this claim as the Chester County Probate Court would have sole and exclusive jurisdiction of any such claim. Further, the Defendant was present at a hearing before the Chester County Probate Court, at which time the Plaintiff was appointed Guardian and Conservator and the Defendant had adequate and ample opportunity to raise this issue before the Probate Court.

29. The Third-Party Defendant alleges that the allegations of paragraph 61 are so broad, uncertain and incapable of being understood that the Third-Party Defendant denies such allegations and would further allege that she has never acted in a concerted action to procure certain legal documents and/or capacity in a deceitful matter.

30. The Third-Party Defendant denies the allegations of paragraph 62 and would further allege that her actions at all times have been to protect the interests of Lillian Anne Brown Rayfield.

31. The Third-Party Defendant denies the allegations of paragraph 63 and 64.

WHEREFORE, the Third-Party Defendant, having fully replied to the Third-Party Plaintiff's Complaint, prays that this Court inquire into the matters set forth herein; that this Court dismiss the Third-Party Plaintiff's Complaint with prejudice; and for such other and further relief as this Court shall deem just and proper.

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Attorney for Jai Anne Bullin,
Third-Party Defendant

Rock Hill, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
)
 Merri Rowe Thomas,)
)
 Defendant,)
 _____)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant. _____)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

PLAINTIFF’S REPLY TO
 DEFENDANT’S COUNTERCLAIM

2023-CP-12-00170

Now comes the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (an incapacitated person) by and through her undersigned counsel, making the following Reply to the Defendant’s Answer and Counterclaims as follows:

GENERAL DENIAL

1. The Plaintiff denies each and every allegation of the Defendant’s Answer and Counterclaim not specifically admitted herein.

REPLY

2. The Plaintiff repeats and re-alleges the allegations of paragraph 1 through 41 of her Amended Complaint in response to paragraph 2 of the Defendant and Third-Party Plaintiff’s Reply.

3. In response to paragraph 3 of the Defendant and Third-Party Reply, the Plaintiff is informed that the Defendant and Third-Party Plaintiff has inappropriately co-mingled allegations against the Plaintiff and Third-Party Defendant even though the Plaintiff is separate and distinct from the Third-Party Defendant as the action by the Plaintiff in her capacity of guardian and conservator are separate and distinct from her individual actions and the Plaintiff reserves the right to file a motion to make more definite and certain and requiring the Defendant and Third-Party Plaintiff to separate the claims against the Plaintiff and Third-Party Defendant.

REPLY TO GENERAL ALLEGATIONS, ALL COUNTERCLAIMS
AND ALL THIRD-PARTY CLAIMS

4. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 3 above, the same as if repeated herein.

5. In response to paragraph 1, the Plaintiff denies the allegations and would further allege that the Defendant and Third-Party Plaintiff should separate out any and all allegations against the Plaintiff as Conservator and Guardian and claims against the Third-Party Defendant individually.

6. The Plaintiff admits the allegations of paragraphs 2 through 5.

7. The Plaintiff denies the allegations of paragraph 6.

8. The Plaintiff denies the allegations of paragraph 7 and would allege that during the funeral service for the parties' brother, the Defendant disrupted and was discourteous and disrespectful to all those attending the funeral service, by announcing that she was "not going to sit here and listen to any further comments" from the minister. She then got up from her seat and left the service voluntarily and of her own volition.

9. The Plaintiff denies the allegation of paragraphs 8 and 9.

10. The Plaintiff denies the allegations of paragraph 10 and would further allege that the Defendant has no basis for a claim related to her future state.

11. The Plaintiff denies the allegations of paragraph 11 and would allege that while Lillian Ann Brown Rayfield was under the care of the Defendant, Lillian Anne Brown Rayfield's bank account went from \$124,278.00 to being overdrawn in a period of 26 months (October 2014 to December 2016). The Plaintiff was acting in the best interest of Lillian Anne Brown Rayfield by protecting her against the actions of the Defendant in her complaint.

12. The Plaintiff denies the allegations of paragraph 12.

13. The Plaintiff makes no response to the allegations of paragraph 13 as the allegation only applies to the Third-Party Defendant.

14. The Plaintiff denies the allegations of paragraph 14 and would allege that any and all of her actions have been in the best interest of Lillian Anne Brown Rayfield and that any potential beneficiaries of Lillian Anne Brown Rayfield's future estate have no basis for asserting claims.

15. The Plaintiff denies the allegations of paragraph 15.

16. The Plaintiff denies the allegations of paragraph 16 and would further allege in response that the Defendant attacked the Plaintiff and that the Plaintiff only took such actions as to defend herself against the attack by the Defendant. The Plaintiff took out a warrant against the Defendant, the trial of which resulted in a not guilty verdict against the Plaintiff. Law enforcement officials present at the trial suggested to the Plaintiff that she take out a restraining order against the Defendant, which she did.

17. The Plaintiff denies the allegations of paragraph 17 and would further allege that in the event that the Plaintiff should be found to have conspired with a physician, that this Court

has no jurisdiction to determine this claim as the Chester County Probate Court would have sole and exclusive jurisdiction of any such claim. Further, the Defendant was present at a hearing before the Chester County Probate Court, at which time the Plaintiff was appointed Guardian and Conservator and the Defendant had adequate and ample opportunity to raise this issue before the Probate Court.

18. The Plaintiff makes no response to the allegations of paragraph 18 and 19 as the allegations only applies to the Third-Party Defendant.

FOR A FIRST DEFENSE TO THE FIRST COUNTERCLAIM

19. In response to paragraph 20, the Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 18 above, the same as if repeated herein.

20. The Plaintiff denies the allegations of paragraph 21 and would further allege that as Lillian Anne Brown Rayfield's guardian and conservator the only duty owed was to Lillian Anne Brown Rayfield. The Plaintiff, as Lillian Anne Brown Rayfield's guardian and conservator owned no duty to Lillian Anne Brown Rayfield's future estate nor any duty to the potential beneficiaries of her estate.

21. The Plaintiff denies the allegations of paragraph 22 and would further allege that the Plaintiff owned no duty to the potential beneficiaries of Lillian Anne Brown Rayfield's future estate.

22. The Plaintiff denies the allegations of paragraphs 23 and 24.

FOR A SECOND DEFENSE TO THE FIRST COUNTERCLAIM

23. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 22 above, the same as if repeated herein.

24. The Defendant's First Counterclaim fails to state a cause of action against the Plaintiff and should be dismissed.

FOR A THIRD DEFENSE TO THE FIRST COUNTERCLAIM

25. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 24 above, the same as if repeated herein.

26. The Plaintiff is informed and believes that any claims by the Defendant against the Plaintiff would only be able to be asserted against her through the Probate Court which has sole and exclusive jurisdiction over such claims and should be dismissed.

FOR A FIRST DEFENSE TO THE SECOND COUNTERCLAIM

27. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 26 above, the same as if repeated herein in response to paragraph 25.

28. The Plaintiff denies the allegations of paragraph 26 and would further allege that as Lillian Anne Brown Rayfield's Guardian and Conservator, the only duty owed was to Lillian Anne Brown Rayfield. The Plaintiff, as Lillian Anne Brown Rayfield's Guardian and Conservator owned no duty to Lillian Anne Brown Rayfield's future estate nor any duty to the potential beneficiaries of her estate.

29. The Plaintiff denies the allegations of paragraph 27 and would further allege that the Plaintiff owned no duty to the potential beneficiaries of Lillian Anne Brown Rayfield's future estate.

30. The Plaintiff denies the allegations of paragraphs 28 through 30.

FOR A SECOND DEFENSE TO THE SECOND COUNTERCLAIM

31. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 30 above, the same as if repeated herein.

32. The Plaintiff is informed and believes that the Second Counterclaim fails to state a cause of action against the Plaintiff and should be dismissed.

FOR A THIRD DEFENSE TO THE SECOND COUNTERCLAIM

33. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 32 above, the same as if repeated herein.

34. The Plaintiff is informed and believes that any claims by the Defendant against the Plaintiff would only be able to be asserted against her through the Probate Court which has sole and exclusive jurisdiction over such claims and should be dismissed.

FOR A FIRST DEFENSE TO THE THIRD COUNTERCLAIM

35. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 34 above, the same as if repeated herein in response to paragraph 31.

36. The Plaintiff denies the allegations of paragraph 32.

37. The Plaintiff denies allegations of paragraph 33 and would further allege that the Plaintiff owned no duty to the potential beneficiaries of Lillian Anne Brown Rayfield's future estate.

38. The Plaintiff denies the allegations of paragraph 34, 35 and 36.

FOR A SECOND DEFENSE TO THE THRID COUNTERCLAIM

39. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 38 above, the same as if repeated herein.

40. The Defendant's Third Counterclaim fails to state a cause of action against the Plaintiff and should be dismissed.

FOR A THIRD DEFENSE TO THE THIRD COUNTERCLAIM

41. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 40 above, the same as if repeated herein.

42. The Plaintiff is informed and believes that any claims by the Defendant against the Plaintiff would only be able to be asserted against her through the Probate Court which has sole and exclusive jurisdiction over such claims and should be dismissed.

RESPONSE TO THIRD-PARTY CLAIMS AGAINST THIRD-PARTY

DEFENDANT, JAI ANNE BULLIN

43. The Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 42 above, the same as if repeated herein.

44. The Plaintiff is informed and believes that no response is required by the Plaintiff in response to paragraphs 37 through 64, as all such allegations relate to claims by the Third-Party Plaintiff against the Third-Party Defendant and do not involve this Plaintiff.

WHEREFORE, the Plaintiff, having fully replied to the Defendant's Counterclaims, prays that this Court inquire into the matters set forth herein; that this Court dismiss the First, Second and Third Counterclaims with prejudice; that the Plaintiff be granted judgment as set forth in her Amended Complaint and for such other and further relief as this Court shall deem just and proper.

Rock Hill, South Carolina

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Brown Rayfield (an incapacitated person)

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) 2017-CP-12-00445
 COUNTY OF CHESTER)
)
)
)
)
 JAI ANNE BULLIN AND ROBERT)
 D. RAYFIELD AS GUARDIANS)
 AND CONSERVATORS FOR)
 LILLIAN ANNE BROWN RAYFIELD)
 (AN INCAPACITATED PERSON),)
 PLAINTIFFS,)
)
 vs.) TRANSCRIPT OF RECORD
)
 MERRI ROWE THOMAS,)
 DEFENDANT.)
 _____)

February 14, 2022
 Chester, South Carolina

B E F O R E:

THE HONORABLE BRIAN M. GIBBONS, JUDGE

A P P E A R A N C E S:

THOMAS B. ROPER, ESQ.
 Attorney for the Plaintiff

CHAN MO AHN, ESQ.
 Attorney for the Defendant

Transcribed by:
 CHERYL A. SMITH
 Circuit Court Reporter
 from DCRP, Digital
 Courtroom Recorder
 Project

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INDEX

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 10:49 AM.)

THE COURT: Docket 17-CP-12-445, styled as Jai Anne Bullin and Robert D. Rayfield as Guardians and Conservators for Lillian Anne Brown Rayfield, plaintiffs, vs. Merri Rowe Thomas, defendant.

Both lawyers are present. The defendant is also present. All right.

And, Mr. Roper, you represent the plaintiffs. You have a motion before the Court.

MR. ROPER: I do, Your Honor. May it please the Court. I would move for a continuance.

I'll try to be brief with this. It was yesterday that Mrs. Rayfield fell on two different occasions. Jai Anne, the plaintiff Jai Anne Bullin is the primary caretaker for her mother. She was extremely concerned.

In addition to the two falls, she has two caregivers, paid caregivers that stay with her alternatively. And one of those caregivers, the boyfriend tested positive for COVID. So she is concerned the possibility of COVID, although she's -- she's -- the only symptom at this time she's experiencing is a lack of taste that she doesn't -- she doesn't taste anything, she said. And she doesn't have an appetite. She's also extremely weak.

I made the decision and told her to get her mother

1 care. She is a member of the Catawba Indian Nation, and
2 she has an appointment at 1:00 today with her doctor. The
3 first thing they're going to do is a COVID test. And in
4 addition, they're going to be doing some X-rays to see if
5 they can kind of figure out what's going on.

6 So based on her medical condition, I would request a
7 continuance.

8 THE COURT: All right. Thank you, Mr. Roper.

9 Mr. Ahn?

10 MR. AHN: Yes, Your Honor. The defendant objects.

11 THE COURT: We get you.

12 MR. AHN: Yes, Your Honor. The defendant objects to
13 the plaintiff's motion.

14 You know, we need to look at a few facts here. First
15 of all, there are two defendants in this matter, and today
16 neither of the defendant is present. And ---

17 THE COURT: Plaintiffs, you mean. Neither
18 plaintiffs. Two plaintiffs, you mean. You're the
19 defendant.

20 MR. AHN: Yes. Yes, Your Honor.

21 THE COURT: All right. Go ahead.

22 MR. AHN: So neither of the plaintiffs is present in
23 the Court today. And the reason provided by the
24 plaintiffs' attorney is that there is a caregiver's family
25 member is COVID and the unfortunate falls of the

1 incapacitated -- allegedly incapacitated person, Lillian
2 Anne Rayfield.

3 I really could not understand as to why and how the
4 absence of both of the plaintiffs could be justified under
5 the circumstances provided by the plaintiffs' counsel.

6 And number two, not just one, there are two at-home
7 caregivers, professional caregivers that have been taking
8 care of the allegedly incapacitated person in this matter.
9 So once again, you know, that still negates the necessity
10 of any direct in-person support to be provided by the two
11 plaintiffs in support of the allegedly incapacitated
12 person.

13 And in addition to that, we cannot agree to the
14 continuance -- I mean the motion for continuance simply
15 solely based upon plaintiffs' counsel's just oral
16 explanation because we have not seen any documented
17 evidence showing any motion or urgent medical conditions
18 of Ms. Rayfield or any of the caregivers that have been
19 taking care of Ms. Rayfield.

20 And if you look at the history of this matter, Your
21 Honor, this case was filed back in 2017, so this case is a
22 very, very old case. And in the course of the past
23 five-plus years, parties have expended significant time,
24 efforts and financial resources. The defendant in this
25 matter has been also required to just give up her career

1 or job, you know, in defending this matter. And
2 therefore, at the 11th hour, the plaintiffs' motion of a
3 continuance is inexcusable. And, once again, I submit
4 that neither or both of the plaintiffs' absence today in
5 this court clearly indicates their willingness not to move
6 forward with this case.

7 So in addition to objecting to the plaintiffs'
8 motion, the defendants also respectfully move this court
9 for involuntary dismissal under Rule 41(b) of the South
10 Carolina Rules of Civil Procedure on the ground that the
11 plaintiffs, both of them, have actually failed to
12 prosecute this matter. So I respectfully move for
13 involuntary dismissal at this time.

14 THE COURT: Thank you, Mr. Ahn.

15 All right. Well, Mr. Roper, coming back to you in
16 response to the 41(b) motion for an involuntary nonsuit,
17 what's -- well, address that first, and then address the
18 defendant's opposition to the continuance, please.

19 MR. ROPER: Your Honor, I'm just going to combine
20 both of those into one statement.

21 First of all, Mrs. Bullin is the primary caregiver.
22 She is also a guardian so that any type of medical
23 authorization cannot be given by an incapacitated person.
24 It would require one of the guardians to be present. And
25 so that's why she has to be there. A caregiver could not

1 take her -- could not make any decisions.

2 Secondly, Mrs. Bullin is the primary witness in this
3 case. She is the one that has done everything in relation
4 to the conservatorship. She is an absolute critical
5 witness to this. Mr. Rayfield couldn't -- couldn't
6 testify about anything because he doesn't know it. He
7 hasn't been involved. She is the only one that has been
8 involved. So that's -- that's the reason for that -- for
9 both -- both motions.

10 THE COURT: All right. You know, here's the thing.
11 And I'm glad at least one of the litigants is here.

12 And Doug, correct me if I'm wrong -- the civil clerk
13 coordinator for civil court in Chester is Mr. Atkinson.
14 This is the oldest case on my docket, isn't it?

15 THE CLERK: Yes, sir.

16 THE COURT: All right. You know, here's the thing.
17 And where is Ms. Thomas? Is that you, ma'am? Okay.

18 Number one, it's the oldest case on my docket.

19 Number two, it's a case -- and I'm familiar with it.
20 I've read all the paperwork your lawyer has submitted and
21 Ms. Bullin's lawyer submitted. I know what it's like to
22 have a parent incapacitated and be the power of attorney
23 over a parent and spend money on behalf of a parent. I
24 know. I understand. I've been exactly where you were a
25 long time ago. I've been exactly where Ms. Jai Anne is

1 right now. And it's tough, okay?

2 And I can also tell you, for what it's worth,
3 thankfully, I haven't had any squabbles with my brother,
4 okay? But I see this way too much where there's a
5 complete family meltdown and breakdown for reasons other
6 than why we're here, okay? And listen to your lawyer.
7 He's a good lawyer. Mr. Roper, I've known you for a long
8 time. You're a good lawyer, also. Counsel your client
9 accordingly.

10 You know, the Court is not a place to air
11 disagreements with family members, especially a jury,
12 okay? And, of course, we talked about this Friday
13 afternoon when I was speaking with your lawyers in a
14 pretrial conference. And, you know, I'm familiar with the
15 allegations back and forth. And I can't imagine anything
16 more numbing to a jury of 12 people than having to listen
17 to these personal attacks on both sides. I'm not pointing
18 fingers anywhere. But ultimately, what are we here for?
19 And that's something you have to talk about with your
20 lawyer. And, of course, Mr. Roper, you're going to talk
21 with your clients about that. So there's only so much a
22 jury can order versus what a court or a judge sitting in a
23 nonjury fashion can order.

24 So -- all right. Well, here's the thing, Mr. Roper.
25 It's the oldest case on my docket. I am -- I am

1 reluctant. I'm not going to keep kicking that can down
2 the road.

3 At the same time, however, I do recognize the
4 expedient issue your client has with her mama having
5 fallen yesterday, in ill health, this and that, that kind
6 of thing. So I'm going to respectfully deny your motion
7 for an involuntary nonsuit, okay? But I'm denying your
8 motion to continue the case, okay?

9 There is another remedy that the Court can employ
10 here. And, of course, I spoke to the lawyers about this
11 in the back before. It's my understanding, Mr. Ahn, you
12 spoke with your client about the 40(j)?

13 MR. AHN: Yes, Your Honor. And ---

14 THE COURT: All right. And so let me hear from you
15 on that then, Mr. Roper, about 40(j)'ing the case.

16 MR. ROPER: Your Honor, that's -- we would request --
17 respectfully request that the Court 40(j) this case under
18 the 40(j) Rules of Civil Procedure.

19 THE COURT: All right. And, of course, in looking at
20 the 40(j) rule, it says -- and, Ms. Thomas, I want to make
21 sure you understand what the rule says because Mr. Ahn is
22 going to add some conditions to it, okay, which will
23 protect you and your interest, okay? 40(j) says: A
24 party, which is a plaintiff or a defendant, may strike its
25 action, its complaint, counterclaim, blah, blah, blah,

1 whatever, from any docket one time as a matter of right.
2 Okay. That means that's what we're doing here. They get
3 to do this provided that the other side agrees to it along
4 with whatever conditions they want to impose. And so
5 Mr. Ahn told me in the back that y'all would agree to it
6 with some conditions, okay?

7 And let me hear about that, Mr. Ahn. I don't want to
8 put words in your mouth. Go ahead.

9 MR. AHN: Yes, Your Honor.

10 So there are a few conditions. So with those few
11 conditions attached to this court's order granting
12 Mr. Roper's motion for -- a motion under Rule 40(j), the
13 defendant, my client, has agreed to move forward in
14 consenting to the motion. The Condition Number 1, the
15 parties shall have the right to move the case back to a
16 nonjury roster or nonjury docket.

17 And Condition Number 2, the defendant shall have the
18 right to amend the answer to add either a counterclaim or
19 third-party claim or any other additional claims.

20 Condition Number 3, the defendant shall expressly
21 preserve the right to try this case at a different or
22 alternative venue, most likely York County where one of
23 the subject matter financial transaction did occur.

24 And the last but not least, the fourth condition
25 would be that the defendant shall preserve the right to

1 try this case before a special referee.

2 So with those four primary conditions granted by this
3 court, Your Honor, we are willing to move forward to
4 consent to Mr. Roper's or the plaintiffs' counsel's motion
5 for -- motion under 40(j).

6 THE COURT: All right. And, Mr. Roper, as the
7 plaintiff, you're binding them. You're their attorney of
8 record here. Are you okay with those conditions?

9 MR. ROPER: I am, Your Honor.

10 And just one point of clarification. With the right
11 to move the case to a nonjury and then the right to try it
12 before a special referee, does that mean that it will
13 automatically be referred to a special referee?

14 THE COURT: No, sir. What that means -- and I get
15 what you're saying. See, if the case is transferred to
16 York County, for example -- well, first of all, while it's
17 sitting dormant, all right, nothing happens until it's
18 restored. If it's not restored within one year, it's
19 dismissed, okay? You understand that? Okay.

20 But if it is restored, this court, either me or
21 another presiding judge -- since I think I know all the
22 family members somehow, it will probably be another
23 presiding judge, okay, would have to restore it to the
24 docket, okay, over the objection of one party or another,
25 okay? So if it's restored here, then if venue switched

1 to, let's say, York County, York County, y'all have many
2 options up there. You have a master in equity, but you
3 also have a lot of lawyers who handle matters like this
4 that y'all could still do a special referee on. So it
5 allows both of y'all to pursue that, you know, which form
6 you want to have it heard in. But, you know, or if y'all
7 want to have it heard by a circuit judge in a nonjury
8 setting, you can also do that. It preserves the rights,
9 but it just gets it off my docket. And that's the main
10 thing I'm concerned about and Mr. Atkinson is concerned
11 about. All right.

12 So -- all right. So having heard everything I need
13 to hear, I'm therefore going to continue this matter under
14 40(j) with those conditions as set forth.

15 Mr. Ahn, I'm going to ask that you upload an order to
16 my e-filing queue setting forth that this matter has been
17 40(j)'d and just putting those conditions in the order.
18 I'll be glad to sign it as soon as I see it, okay?

19 MR. AHN: Yes, Your Honor.

20 THE COURT: All right. That concludes this matter
21 for the day. Thank you very much.

22 (WHEREUPON, proceedings concluded at 11:02 AM.)
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, to the best of my ability based on the audio and notes provided, of the digitally recorded proceedings had from the DCRP, Digital Courtroom Recorder Project, and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Chester County, South Carolina, on the 14th day of February, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 3, 2022

Cheryl A. Smith

Cheryl A. Smith, CVR-M

CheCourt Reporter

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT
))
COUNTY OF CHESTER) SIXTH JUDICIAL CIRCUIT

Jai Anne Bullin,)
))
Plaintiff,) Case No. 2023-CP-12-00170
))
vs)
))
Merri Rowe Thomas)
))
Defendant.

H E A R I N G

BEFORE THE HONORABLE PAUL M. BURCH

DATE: March 19, 2025
LOCATION: South Carolina Circuit Court 6
TRANSCRIBER: Jessica Antonucci

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Attorney for the Defendant

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EXHIBITS

(No Exhibits Were Marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTE MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 JUDGE BURCH: So, then on to number 20, Bullin
2 versus Thomas, et al.

3 MR. AHN: Your Honor, may I approach the bench to
4 present a copy of the Defendant's Reply Brief?

5 JUDGE BURCH: I'm indicating a Motion to Amend or
6 Alter. What can I help you with?

7 MR. ROPER: May it please the Court, Your Honor.
8 I'm Tom Roper for the Plaintiff. I have filed this
9 motion. And I'd like to ask the Court first as part of
10 my argument, do you want me to go ahead and respond to
11 the issues raised in their brief, or just present my
12 motion and then he presents that and I come back, or what
13 would the Court prefer?

14 JUDGE BURCH: Let's go that route.

15 MR. ROPER: Okay. This has been an extended case.
16 It was set for trial, and at that time the ward was
17 hospitalized and so it was continued -- actually it was
18 dismissed with leave to restore, which it was then
19 restored. There was extensive discovery that took place
20 prior to the case being called for trial. There hasn't
21 been any since then.

22 When it was restored, a new case number was assigned
23 to the case. I didn't hear anything -- didn't know about
24 anything other -- until I received your Form 4 Order that
25 said the case was dismissed for failure to prosecute.

1 There was no docket call. There was nothing; I just got
2 that order.

3 So, then I went back to look at the filing of the
4 case and it was very unusual that there was an order
5 directing mediation, and if we didn't agree on somebody
6 there were two -- there was a primary and an alternate
7 named in that. That order had no electronic filing
8 stamped on it. If you go online and look at that there's
9 no electronic stamp on it.

10 I went -- I have a folder on my computer for this
11 case. I searched that folder. I searched my computer
12 during the time period of that order and could not find
13 it. My assistant also receives all of my E-filing
14 notices, she did the same thing so we have submitted
15 affidavits to that effect to be attach -- that were
16 attached to our motion. That's the only thing that I
17 could determine why the case would've been dismissed
18 because we didn't mediate. So, I didn't know that, Your
19 Honor.

20 I had a conference, status conference, two weeks ago
21 in a case that was set for trial and we never had
22 mediated it, the judge never said anything. You know,
23 sometimes judges don't enforce that. But, that's the
24 only thing -- that was the only thing that I could see in
25 the file that would give rise to a dismissal.

1 And we're asking that the Court restore the case to
2 the docket, and if the Court desires us to mediate, that
3 we will certainly agree to mediate, and we're asking for
4 that relief. I would hate to see this case that is a
5 substantial and significant case, seeking in excess of
6 \$150,000 in damages, and seeking to set aside a
7 conveyance of real estate. There's a tremendous amount
8 at stake in this case and certainly it needs to go
9 forward.

10 MR. AHN: May it please the Court, Your Honor.
11 Purportedly this motion was filed pursuant to Rule 59(e)
12 of the South Carolina Rules of Civil Procedure. So, we
13 need to pause there a little bit to understand the
14 applicable standard of this court's review in determining
15 -- in ruling upon the Plaintiff's motion over here.

16 As more clearly and more fully explained in my reply
17 brief, the standout review in determining this case is
18 basically a clear showing of the court's abuse of
19 discretion. So, in order for the motion to be granted,
20 the Plaintiff, the Movant, must make some showing, and
21 actually the case language is the clear showing, there
22 has to be a clear showing of this Court's abuse of
23 discretion. And we take the position that the Movant
24 clearly failed to do that.

25 Now, in my reply brief, I clearly explained as to

1 why the motion really should not be considered, and this
2 court really did not and cannot move any forward with any
3 further inquiry, however, these facts are undisputed.
4 There are four general components in the facts and
5 procedural history section of my reply brief.

6 Number one, this case was originally filed in
7 September 2017, eight years ago. Two, this case was
8 called for trial in February of 2022, which was about
9 three years ago. And then subsequently three, the case
10 was 40(j)'d, so it was dismissed under Rule 40(j) of
11 South Carolina Rules of Civil Procedure. And about a
12 year later in 2023 the case was restored and that was
13 2023.

14 So, about two years ago this happened. So, for the
15 past 20 months or so there has been absolutely no
16 activity in this case. So, under those facts and
17 circumstances, which cannot be disputed by the Plaintiff
18 or the Movant here, this Court obviously had the
19 discretion to dismiss the case for failure to prosecute.
20 And that ruling was properly handed down on February
21 21st, 2025.

22 Now, this motion basically challenges the legality
23 or the validity of this Court's order of dismissal for
24 failure to prosecute, and we take the position, and
25 respectfully submit that the motion or any following

1 accompanying affidavits, are completely devoid over any
2 specific even identification of this Court's error or
3 abuse of discretion.

4 Once again, the applicable standard, and I cited --
5 I provided the case citations, Small vs. Mungo 1970
6 Supreme Court case, the clearly applicable standard of
7 review here is a clear showing by the Movant of this
8 Court's abuse of discretion, which is absolutely absent
9 here, and therefore the Defendant respectfully requests
10 that this Court upholds this original order of dismissal
11 for failure to prosecute dated February 21st, 2025.

12 JUDGE BURCH: Thank you, counsel. Any response?

13 MR. ROPER: Your Honor, what is totally lacking in
14 this case is any evidence or a basis for dismissing the
15 case without notice to the parties. I had no idea what
16 was going on until the Form 4 came down, so.

17 FEMALE VOICE: May I speak? May I speak?

18 JUDGE BURCH: Yes.

19 FEMALE VOICE: I numerously text him asking for some
20 status on this case (inaudible). For over a year I would
21 send -- I would leave him messages on his phone. I would
22 do everything I could do, never heard one word from him.
23 And I can pull it up in my computer.

24 MR. ROPER: I had no record of that, Your Honor.
25 The only thing that I could think of was the mediation,

1 when I went back and looked at my files.

2 JUDGE BURCH: Y'all are gonna have to let me take a
3 look at the record in this. All right.

4 MR. AHN: If I may, Your Honor.

5 JUDGE BURCH: Yes, sir.

6 MR. AHN: We take the position that the absence of
7 any electronically stamped NEF or ECF, or any electronic
8 record or evidence showing any correspondence, that is
9 irrelevant. That is completely immaterial to this
10 Court's determination.

11 Once again, no activity whatsoever, no settlement
12 discussion, no correspondence, no discovery, no motion,
13 there was absolutely nothing as shown by the court's
14 record for 20 months. And under those facts and
15 circumstances Your Honor and this Court ruled that while
16 this case really needs to be dismissed, and where is the
17 court's error there, where is the abuse of discretion
18 there, if there is, it is the Movant's responsibility and
19 duty to identify them and then challenge them in a proper
20 manner, which they failed to do.

21 The motion is accompanied by two affidavits; one is
22 not even executed properly. There was one -- a half page
23 affidavit by the Plaintiff's counsel's administrative
24 assistant, which just references and talks about the
25 notice of ADR, you know, the case not being called

1 properly. There are those references, but how do they
2 really establish that this Court made an error, or Your
3 Honor committed abuse of discretion. It doesn't say
4 anything like that. We suspect that there is no mention
5 of those because there is no error. There is no abuse of
6 discretion.

7 So in the absence of no error on the part of the
8 court, in the absence of the court's abuse of discretion,
9 your ruling dated February 21st, 2025, must be upheld.
10 No further inquiry is necessary there, Your Honor. So,
11 we respectfully request that you deny the motion and then
12 instruct us, the defense attorney, to prepare proposed
13 order, Your Honor.

14 MR. ROPER: Your Honor, I would simply state that to
15 completely dismiss a case without notice that if you
16 don't do this, that, or the other that this case is going
17 to be struck. If this had been a docket call and nobody
18 showed up, if there had been a status conference and I
19 did not attend, or some active action that would justify
20 the Court in dismissing it, which would be a dismissal
21 with prejudice. So, that would completely end a very,
22 very significant and substantial case. And I simply
23 believe that notice of that action being taken in advance
24 would be required before a case would be ended.

25 MR. AHN: Your Honor, the motion and the Plaintiff's

1 are -- the Movant's argument just presented to the Court
2 is completely unsupported by any legal authorities and
3 therefore this Court need not and should not pay
4 attention to any of those arguments, completely
5 unsupported.

6 JUDGE BURCH: All right. I'm going to take it under
7 advisement. Let me look at the files on this. Proposed
8 orders in 20 days, am I rushing y'all now?

9 MR. ROPER: Pardon me?

10 MR. AHN: Your Honor --

11 JUDGE BURCH: Twenty days for proposed orders?

12 MR. AHN: -- Your Honor, unfortunately I have two
13 federal court cases coming up in Atlanta, Georgia in the
14 next two weeks, so I respectfully request that you give
15 us 30 days, Your Honor.

16 JUDGE BURCH: Thirty days.

17 MR. AHN: Thank you, Your Honor.

18 MR. ROPER: Thank you, Your Honor.

19

20

21

22

23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

24

25

CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Chester

I, JESSICA ANTONUCCI, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the hearing of the captioned case, relative to appeal, in South Carolina Circuit Court 6, Chester County, South Carolina, on the 19th day of March, 2025.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Jessica Antonucci

Jessica N. Antonucci

Transcriber

October 8, 2025

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CONSENT MOTION FOR
ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day time period from May 29, 2019. In support of this Consent Motion, the Parties state that this matter appears on the May 29, 2019, Non-Jury Roster, and that the Defendant's Deposition was taken on May 22, 2019 and therefore have not yet completed the discovery process.

Accordingly, the parties request that the Non-Jury Trial be continued beyond the May 29, 2019, term of Court by at least ninety (90) days.

I SO MOVE:

I CONSENT:

s/ Thomas B. Roper
Thomas B. Roper, SC Bar # 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
Telephone (803) 327-1123
roperlaw@comporium.net
Attorney for Plaintiffs

s/ Chan M. Ahn
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546 East Main Street, Suite 200
Rock Hill, South Carolina 29730
Telephone (803) 817-7999
chan@ahnlawfirmllc.com
Attorney for Defendant

Rock Hill, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

It appearing to the satisfaction of the undersigned upon reading the Consent Motion for Order of Continuance that this matter is on the May 29, 2019, Non-Jury Roster and that the parties have not yet completed the discovery process at this time and are requesting a continuance beyond the May 29, 2019, term of Court by at least ninety (90) days.

IT IS HEREBY ORDERED that the hearing on the May 29, 2019, Non-Jury Roster be cancelled and that this matter shall be continued beyond the May 29, 2019 term of Court by at least ninety (90) days.

IT IS SO ORDERED.



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Continuance

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2019-05-28 12:06:03 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CONSENT MOTION FOR
ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day time period from March 18, 2020. The Parties state that this matter appears on the March 18, 2020, Non-Jury Roster. In support of this Consent Motion, the respective attorneys state that the Parties have not yet completed their discovery process.

Accordingly, the parties request that the Non-Jury Trial be continued beyond the March 18, 2020, term of Court by at least ninety (90) days.

I SO MOVE:

I CONSENT:

s/ Thomas B. Roper
Thomas B. Roper, SC Bar # 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
Telephone (803) 327-1123
roperlaw@comporium.net
Attorney for Plaintiffs

s/ Chan M. Ahn
Chan M. Ahn, SC Bar # 102173
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Telephone (803) 817-7999
chan@ahnlawfirmllc.com
Attorney for Defendant

STATE OF SOUTH CAROLINA)
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COUNTY OF CHESTER)
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Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

It appearing to the satisfaction of the undersigned upon reading the Consent Motion for Order of Continuance and that this matter is on the March 18, 2020, Non-Jury Roster; that the Parties have not yet completed their discovery process, and the Parties are requesting a continuance beyond the March 18, 2020, term of Court by at least ninety (90) days.

IT IS HEREBY ORDERED that the hearing on the March 18, 2020, Non-Jury Roster be cancelled and that this matter shall be continued beyond the March 18, 2020 term of Court by at least ninety (90) days.

IT IS SO ORDERED.

[Signature page to follow]



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Continuance

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2020-03-17 10:42:26 page 2 of 2

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (as incapacitated person),)
)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

**CONSENT MOTION AND ORDER
 FOR CONTINUANCE**

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day period from August 5, 2020. In support of this Consent Motion, the Parties jointly state that this matter appears on the August 5, 2020, Non-Jury Roster, but the Parties have not yet completed the discovery process and are currently in the process of scheduling additional depositions.

Given the foregoing, the Parties respectfully request that the Non-Jury Trial be continued beyond the August 5, 2020, term of Court by at least ninety (90) days.

Respectfully submitted on this 15th day of July, 2020.

THOMAS B. ROPER, ESQ.

s/Thomas B. Roper
 Thomas B. Roper (S.C. Bar No. 4908)
 roperlaw@comporium.net
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 Rock Hill, SC 29732
 803.327.1123 (Telephone)
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Attorney for the Plaintiffs

AHN LAW FIRM, LLC

s/Chan M. Ahn
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 chan@ahnlawfirmllc.com
 4381 Charlotte Hwy, Suite 103
 Lake Wylie, SC 29710
 803.810.4373 (Telephone)
 803.817.9704 (Fax)
Attorney for the Defendant

ORDER

The Consent Motion for Continuance is ***GRANTED***, upon good and sufficient cause for continuance shown and based upon these facts:

1. This matter appears on the August 5, 2020, Non-Jury Roster; and
2. The Parties have not yet completed the discovery process.

IT IS FURTHER ORDERED that the Non-Jury Trial in this matter be continued beyond the August 5, 2020, term of Court by at least ninety (90) days.

IT IS SO ORDERED.

The Honorable Brian M. Gibbons
The Sixth Judicial Circuit

Chester, South Carolina

July ____, 2020



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Continuance

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2020-07-16 10:54:12 page 3 of 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CONSENT MOTION FOR
ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day time period from September 25, 2019. The Parties state that this matter appears on the September 25, 2019, Non-Jury Roster. In support of this Consent Motion, the Plaintiff's attorney states that his wife recently passed away after being hospitalized in ICU for two and a half weeks, resulting in the Plaintiff's attorney being out of the office for an extended period of time.

Accordingly, the parties request that the Non-Jury Trial be continued beyond the September 25, 2019, term of Court by at least ninety (90) days.

I SO MOVE:

s/ Thomas B. Roper
Thomas B. Roper, SC Bar # 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
Telephone (803) 327-1123
roperlaw@comporium.net
Attorney for Plaintiffs

I CONSENT:

s/ Chan M. Ahn
Chan M. Ahn, SC Bar # 102173
546 East Main Street, Suite 200
Rock Hill, South Carolina 29730
Telephone (803) 817-7999
chan@ahnlawfirmllc.com
Attorney for Defendant

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
IN RE:)
THOMAS B. ROPER, ATTORNEY)
)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

ORDER OF PROTECTION

Thomas B. Roper, Esquire is scheduled to be out of the office and unavailable for business September 8, 2020 through October 14, 2020, for emergency medical leave.

He acknowledges that he has no cases currently scheduled during the time frame noted above with the exception of a trial previously scheduled for September 14, 15 and 16, 2020, which trial has been continued, nor will he accept any cases which have or may have a hearing during the time frame noted above.

IT IS THEREFORE ORDERED THAT no matters involving the cases of Thomas B. Roper, Esquire shall be scheduled during the dates of September 8, 2020 through October 14, 2020.

IT IS SO ORDERED.

Presiding Judge or Clerk of Court

Chester County, South Carolina
Date: _____



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Protective Order

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2020-09-15 11:27:58 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

It appearing to the satisfaction of the undersigned upon reading the Consent Motion for Order of Continuance and that this matter is on the September 25, 2019, Non-Jury Roster; that the Plaintiff's attorney's wife recently passed away after being hospitalized in ICU for two and a half weeks, resulting in the Plaintiff's attorney being out of the office for an extended period of time, and the Parties are requesting a continuance beyond the September 25, 2019, term of Court by at least ninety (90) days.

IT IS HEREBY ORDERED that the hearing on the September 25, 2019, Non-Jury Roster be cancelled and that this matter shall be continued beyond the September 25, 2019 term of Court by at least ninety (90) days.

IT IS SO ORDERED.

[Signature page to follow]



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Continuance

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

Electronically signed on 2019-09-17 18:20:21 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CONSENT MOTION FOR
ORDER FOR CONTINUANCE

CASE NO.: 2017-CP-12-00445

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day time period from October 28, 2020. The Parties state that this matter appears on the October 28, 2020, Non-Jury Roster. In support of this Consent Motion, the attorney for the Plaintiffs has attached an Affidavit dealing with his health issues.

Accordingly, the parties request that the Non-Jury Trial be continued beyond the October 28, 2020, term of Court by at least ninety (90) days.

I SO MOVE:

I CONSENT:

s/ Thomas B. Roper
Thomas B. Roper, SC Bar # 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
Telephone (803) 327-1123
roperlaw@comporium.net
Attorney for Plaintiffs

s/ Chan M. Ahn
Chan M. Ahn, SC Bar # 102173
546 East Main Street, Suite 200
Rock Hill, South Carolina 29730
Telephone (803) 817-7999
chan@ahnlawfirmllc.com
Attorney for Defendant

STATE OF SOUTH CAROLINA)
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COUNTY OF CHESTER)
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Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF
THOMAS B. ROPER

CASE NO.: 2017-CP-12-00445

Personally appeared before me, Thomas B. Roper, who first being duly sworn states:


1. I am the attorney for the Plaintiffs in the above entitled action.
2. On August 31, 2020, I was admitted to the hospital with an infection in my right big toe. An MRI was performed the next day which revealed that I had osteomyelitis, which is an infection that has gotten into the bone. I had surgery on September 2, 2020, and was discharged from the hospital on September 4, 2020.
3. Due to the nature of this infection, I was required to undergo six weeks of IV Infusion therapy of two antibiotics. These treatments continued through October 14, 2020. However, on October 16, 2020, the infection returned, and I again had to go to the ER. I met with my infectious disease doctor on October 20, 2020 and she continued the prescription for oral medication which had been prescribed by the ER doctor. She also instructed me to “stay off your foot as much as possible.”
4. In order to comply my doctor’s instructions, I would not be able participate in a trial of this case on October 28, 2020.

5. My next doctor's appointment with the infectious disease doctor is on November 11, 2020.



Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
Attorney for the Plaintiffs

Sworn to and subscribed before me
This 23rd day of October, 2020.



Notary Public for South Carolina

My Commission Expires: 6/12/21

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(as incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

**CONSENT MOTION AND ORDER
FOR CONTINUANCE**

Pursuant to Rule(40)(i) of the South Carolina Rules of Civil Procedure, the Parties in this action, by and through their counsel, jointly move this Court for an Order continuing this matter beyond the 90-day period from March 17, 2021. In support of this Consent Motion, the Parties jointly state that this matter appears on the March 17, 2021, Non-Jury Roster, but the Parties have not yet completed the discovery process and are currently in the process of scheduling additional depositions. Further, the Parties have agreed upon a Jury Trial for this matter.

Given the foregoing, the Parties respectfully request that this matter be placed on a Jury Roster and that the Jury Trial of this matter be continued beyond the March 17, 2021, term of Court by at least ninety (90) days.

Respectfully submitted on this 15th day of March, 2021.

[SIGNATURE BLOCKS APPEAR ON THE FOLLOWING PAGE.]

THOMAS B. ROPER, ESQ.

s/Thomas B. Roper

Thomas B. Roper (S.C. Bar No. 4908)

roperlaw@comporium.net

1721 Ebenezer Road

Rock Hill, SC 29732

803.327.1123 (Telephone)

803.327.5458 (Fax)

Attorney for the Plaintiffs

AHN LAW FIRM, LLC

s/Chan M. Ahn

Chan M. Ahn (S.C. Bar No. 102173)

chan@ahnlawfirmllc.com

4381 Charlotte Hwy, Suite 103

Lake Wylie, SC 29710

803.810.4373 (Telephone)

803.817.9704 (Fax)

Attorney for the Defendant

ORDER

The Consent Motion for Continuance is **GRANTED**, upon good and sufficient cause for continuance shown and based upon these facts:

1. This matter appears on the March 17, 2021, Non-Jury Roster;
2. The Parties have not yet completed the discovery process; and
3. The Parties have agreed upon a Jury Trial for this matter.

IT IS FURTHER ORDERED that this matter shall be placed on a Jury Roster and that the Jury Trial in this matter be continued beyond the March 17, 2021, term of Court by at least ninety (90) days.

IT IS SO ORDERED.

The Honorable Eugene C. Griffith, Jr.
Circuit Judge

Chester, South Carolina

March ____, 2021



Chester Common Pleas

Case Caption: Jai Anne Bullin , plaintiff, et al VS Merri Rowe Thomas

Case Number: 2017CP1200445

Type: Order/Continuance

It is so ordered

Eugene C. Griffith, Jr. 2154

Electronically signed on 2021-03-16 14:10:03 page 4 of 4

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(an incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

MOTION TO ALTER OR AMEND
JUDGEMENT

TO: CHAN M. AHN, ESQUIRE, attorney for Defendant:

PLEASE TAKE NOTICE that the Plaintiffs, Jai Anne Bullin and Robert D. Rayfield, as Guardians and Conservators for Lillian Anne Brown Rayfield (an incapacitated person), by and through their undersigned attorney, will move before the Honorable Brian M. Gibbons, in the Chester County Courthouse at 10:00 A.M. on the tenth (10th) day after service hereof or at such other time and place as is convenient to the Court and counsel, as follows:

That the order of the Honorable Brian M. Gibbons, Striking The Case From Any Docket Pursuant To Rule 40(J), SCRSP, dated February 15, 2022, be altered or amended pursuant to Rule 59(e) SCRCP. The basis for this motion is that the Order includes provisions which were not addressed in Court at the time of the hearing, nor were they consented to by the Plaintiffs' attorney in the following particulars:

1. The issue of asserting claims against a non-Party was not addressed nor consented to.
2. The issue of waiving any applicable statute of limitations defense as to the Plaintiffs in their capacity of Guardians and Conservators was not addressed nor consented to.

3. The issue of waiving any applicable statute of limitations defense by Jai Anne Bullin and Robert D. Rayfield, in their individual capacity, was not addressed nor consented to. Additionally, this provision of the Order is made applicable to non-Parties as Jai Anne Bullin and Robert D. Rayfield in their individual capacity are not parties to this action.
4. While the issue of the Defendant's ability to file a motion to have a Special Referee appointed was addressed, the issue of the Plaintiffs being precluded from objecting to the motion was not addressed nor consented to.

Respectfully submitted,

s/ Thomas B. Roper
Thomas B. Roper, SC BAR: 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
803-327-1123 Telephone
803-327-5458 Facsimile
Attorney for the Plaintiffs

Rock Hill, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (an incapacitated person),)
)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

MEMORANDUM IN SUPPORT
 OF MOTION TO ALTER
 OR AMEND JUDGEMENT

CASE NO.: 2017-CP-12-00445

The Plaintiffs have attached hereto a copy of the Transcript of Record from the hearing held before the Honorable Brian M. Gibbons, on February 14, 2022. Based upon this transcript, the Plaintiffs withdraw the relief requested in Paragraphs 1 and 4 of the Motion to Alter or Amend Judgment. The Plaintiffs go forward with the relief requested in Paragraphs 2 and 3. A review of the Transcript of Record will reveal that there was no discussion whatsoever of waving any defenses relating to the statute of limitations. Thus, the Court cannot grant relief which was not put on the record at the time of the hearing.

The plaintiffs respectfully request that the Order dated February 15, 2022, be altered or amended to strike any references to the waving of any applicable statute of limitations defense as to the Plaintiffs in their capacity as guardians and conservators as well as waiving any applicable statute of limitations of defense by Jai Anne Bullin and Robert D. Rayfield in their individual capacity.

RESPECTFULLY SUBMITTED,

s / Thomas B. Roper

Thomas B. Roper, SC Bar # 4908

1721 Ebenezer Road, Suite 295

Rock Hill, South Carolina 29732

Telephone (803) 327-1123

roperlaw@comporium.net

Attorney for Plaintiffs

Rock Hill, SC
May 31, 2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)
)
Jai Anne Bullin and Robert D. Rayfield)
as Guardians and Conservators for)
Lillian Anne Brown Rayfield)
(as incapacitated person),)
)
Plaintiffs,)
)
vs.)
)
Merri Rowe Thomas,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

**DEFENDANT’S REPLY AND
OPPOSITION TO PLAINTIFFS’
MOTION TO ALTER OR AMEND
JUDGMENT**

In response and opposition to the *Motion to Alter or Amend Judgment* filed by the Plaintiffs, Jai Anne Bullin and Robert D. Rayfield as Guardians and Conservators for Lillian Anne Brown Rayfield (as incapacitated person) (“Plaintiffs”), on February 23, 2022, the Defendant, Merri Rowe Thomas (“Defendant”), respectfully submits that Plaintiffs’ *Motion to Alter or Amend Judgment* (“Motion”) is without merit and requests this Court to deny the Motion. In support of this Reply and Opposition, Defendant states, by and through undersigned counsel, as follows:

1. Having been placed in this Court’s Jury Roster for eleven (11) months or so, this matter was finally called for trial on February 14, 2022.
2. Prior to the trial and pursuant to this Court’s instructions, Defendant timely filed and served multiple pretrial documents, including Defendant’s Pretrial Brief, Defendant’s Motion *in Limine*, Defendant’s Potential Trial Exhibits, and Defendant’s Proposed Jury Instructions. Additionally, Defendant served multiple requests for trial testimony and subpoenas upon several witnesses in preparation for the scheduled trial.

3. On February 14, 2022—the first day of the scheduled trial—neither Plaintiff Jai Anne Bullin nor Plaintiff Robert D. Rayfield appeared in court.

4. A lengthy discussion, *in camera*, about both Plaintiffs’ absences ensued.

5. During this discussion, counsel for Plaintiffs offered an explanation that neither Plaintiffs were present for trial because their mother, Lillian Anne Brown Rayfield (“Ms. Rayfield”), had been injured as a result of a sudden fall and neither of the two (2) caregivers for Ms. Rayfield were available due to their own illnesses, compelling both Plaintiffs to look after Ms. Rayfield that day.

6. However, no evidence showing Ms. Rayfield’s injury or her caregivers’ illnesses—such as medical records, physician letters, and Affidavits—was submitted.

7. Given both Plaintiffs’ unexpected absences unaccompanied by evidentiary support or justifiable excuses, counsel for Defendant announced Defendant’s intent to pursue an involuntary dismissal/non-suit, pursuant to Rule 41(b), SCRCPP.

8. Subsequently, counsel for the Parties explored at length the possibility of striking the case from any docket, pursuant to Rule 40(j), SCRCPP, under certain conditions that may be acceptable to Defendant.

9. In open court, counsel for Defendant orally moved this Court in pursuit of an Order of involuntary dismissal/non-suit, pursuant to Rule 41(b), SCRCPP, and subsequently, announced Defendant’s willingness to agree to have the case stricken from any docket, pursuant to Rule 40(j), SCRCPP, under such specific conditions as would be set forth in a written consent order to be prepared and circulated by counsel for Defendant forthwith. Importantly, Defendant was under no obligation to agree to a Rule 40(j) order under any condition at that time.

10. Nevertheless, counsel for Defendant presented a brief oral summary, in open court, of the primary conditions to be required by Defendant for her agreement to a Rule 40(j) order.

11. After all, Rule 40(j), SCRCPP, provides in pertinent part that “[a] party may strike its complaint, counterclaim, cross-claim or third party claim from any docket one time as a matter of right, provided that *all parties* adverse to that claim, counterclaim, cross-claim or third party claim *agree in writing* that it may be stricken[.]” See Rule 40(j), SCRCPP (emphasis added).

12. Upon completion of the open-court session, counsel for Defendant prepared a *Consent Order Striking the Case from Any Docket Pursuant to Rule 40(j), SCRCPP* (**Exhibit A**) and served the same upon counsel for Plaintiffs via email (**Exhibit B**).

13. However, counsel for Defendant did not receive a prompt response from counsel for Plaintiffs.

14. Counsel for Defendant followed up with another email to counsel for Plaintiffs, informing him of Defendant’s intent to submit a proposed Rule 40(j) order to this Court without Plaintiffs’ consent, in the event of no response by the end of the same day (**Exhibit C**).

15. Counsel for Defendant waited for Plaintiffs’ response until the morning of following day, February 15, 2022; however, no response was served upon him.

16. After announcing to counsel for Plaintiffs that a proposed Rule 40(j) order would be submitted to the Court without Plaintiffs’ consent (**Exhibit D**), counsel for Defendant prepared and filed a proposed *Order Striking the Case from Any Docket Pursuant to Rule 40(j), SCRCPP* (**Exhibit E**), on February 15, 2022.

17. Later that day, this Court entered an *Order/Dismissal Rule 40J*, as shown in the Court’s record.

18. On February 23, 2022—more than one (1) week later—Plaintiffs filed the Motion, seeking to have this Court’s Order altered or amended.

The above-listed facts make it so plain that Plaintiffs’ Motion is completely baseless, as to render any further discussions or arguments in this matter unnecessary. Clearly, there cannot be any questions as to the propriety of this Court’s original Order.

Given the foregoing, Defendant respectfully submits that the Motion is wholly without merit. Accordingly, Defendant respectfully requests this Court to deny the Motion and uphold its prior *Order/Dismissal Rule 40J*, as originally handed down on February 15, 2022.

In the alternative, Defendant respectfully requests that this Court enter an Order of Involuntary Dismissal/Non-suit, pursuant to Rule 41(b), SCRPC, for failure of Plaintiffs to prosecute or to comply with the South Carolina Rules of Civil Procedure or this Court’s Order.

Respectfully Submitted,

AHN LAW FIRM, LLC

/s/ Chan M. Ahn

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

4381 Charlotte Hwy

Suite 103

Lake Wylie, SC 29710

Telephone: (803) 810-4373

COUNSEL FOR THE DEFENDANT

Lake Wylie, South Carolina

May 31, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
	)	CASE NUMBER: 2017-CP-12-00445
Jai Anne Bullin and Robert D. Rayfield)	
as Guardians and Conservators for)	
Lillian Anne Brown Rayfield)	
(as incapacitated person),)	
)	
Plaintiffs,)	
)	
vs.)	
)	
Merri Rowe Thomas,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

The undersigned certifies that on May 31, 2022, a copy of the foregoing **Defendant’s Reply and Opposition to Plaintiffs’ Motion to Alter or Amend Judgment** was filed with this Court through the *SC Courts E- Filing Portal*, which will have sent notification of such filing to all counsel of record in this matter, including the following:

Thomas B. Roper, Esq.
1721 Ebenezer Road
Suite 295
Rock Hill, SC 29732
roperlaw@comporium.net

This 31st day of May, 2022.

AHN LAW FIRM, LLC

BY: /s/ Chan M. Ahn
Chan M. Ahn
chan@ahnlawfirmllc.com
4381 Charlotte Hwy, Suite 103
Lake Wylie, South Carolina 29710
Telephone: 803-810-4373
Fax: 803-817-9704



STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (as incapacitated person),)
)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

 CASE NUMBER: 2017-CP-12-00445

**CONSENT ORDER STRIKING
 THE CASE FROM ANY DOCKET
 PURSUANT TO RULE 40(J), SCRPC**

Pursuant to Rule 40(j), SCRPC, and subject to the conditions set forth herein, the Parties hereby stipulate and agree that this case in its entirety shall be stricken from any docket. The Parties further stipulate and agree that should this case be restored upon motion made within one (1) year of the date stricken:

1. The statute of limitations shall be tolled as to all consenting Parties during the time the case is stricken and that any unexpired portion of the statute of limitations on the date the case was stricken shall remain and begin to run on the date that the case is restored.
2. The Defendant, Merri Rowe Thomas (“Defendant”), shall have the right to amend her Answer to assert one or more counterclaims against any Party or one or more third-party claims against a non-Party without any objection of the Plaintiffs, who hereby agree to waive such objection. In that case, the Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lillian Anne Rayfield and in their individual capacity.

3. Any Party to this case may move this case to a non-jury roster without any objection of any other Party, subject to the Court’s review and approval. Each Party hereby agrees to waive any and all objections to the placement of this case onto a non-jury roster.

4. Any Party to this case may move the Court to have this case transferred to a different venue—including without limitation, York County, South Carolina in which all Parties hereby stipulate and agree that a substantial portion of the transaction(s) at issue in this case occurred—without any objection of any other Party, subject to the Court’s review and approval. Each Party hereby agrees to waive any and all objections to the change of venue.

5. Any Party to this case may move the Court to have a Special Referee appointed to or in this case without any objection of any other Party, subject to the Court’s review and approval. Each Party hereby agrees to waive any and all objections to the appointment of a Special Referee to or in this case.

Additionally, the Parties hereby stipulate and agree that should this case fail to be restored upon motion made within one (1) year of the date stricken, this case shall be dismissed with prejudice in its entirety.

Respectfully submitted on this 14th day of February, 2022.

WE SO STIPULATE, AGREE, AND CONSENT:

THOMAS B. ROPER, ESQ.

/s/ Thomas B. Roper
Thomas B. Roper (S.C. Bar No. 4908)
roperlaw@comporium.net
1721 Ebenezer Road
Rock Hill, SC 29732
803.327.1123 (Telephone)
803.327.5458 (Fax)
Attorney for the Plaintiffs

AHN LAW FIRM, LLC

/s/ Chan M. Ahn
Chan M. Ahn (S.C. Bar No. 102173)
chan@ahnlawfirmllc.com
4381 Charlotte Hwy, Suite 103
Lake Wylie, SC 29710
803.810.4373 (Telephone)
803.817.9704 (Fax)
Attorney for the Defendant

ORDER

The foregoing *Consent Order Striking the Case from Any Docket Pursuant to Rule 40(j)*, SCRCF is hereby **ENTERED**, upon good and sufficient cause.

IT IS FURTHER ORDERED that this case shall be stricken from any docket as of the date of this Order, pursuant to Rule 40(j), SCRCF.

IT IS SO ORDERED.

The Honorable Brian M. Gibbons
Circuit Judge

Chester, South Carolina

February ____, 2022



Chan Ahn <chan@ahnlawfirmllc.com>

(Bullin v. Thomas) Consent Order

Chan Ahn <chan@ahnlawfirmllc.com>

Mon, Feb 14, 2022 at 3:26 PM

To: Tom Roper <roperlaw@comporium.net>, Esther Beckley <estherbeckley@comporium.net>

Cc: Ahn Law Firm Help Desk <ahnlawfirmllc@gmail.com>, Info Desk Ahn Law Firm <info@ahnlawfirmllc.com>, Alec Ahn Law Firm Virtual Help Desk <alec@ahnlawfirmllc.com>

Bcc:

Tom:

Please see attached and let me know whether I have your permission to have it e-filed with your electronic signature. I wish to get this filed as soon as possible, so that we can move on.

Thanks,
Chan

Chan M. Ahn
Attorney at Law (Actively practicing in GA, SC & DC)
AHN LAW FIRM, LLC
www.ahnlawfirmllc.com
chan@ahnlawfirmllc.com

South Carolina Offices:

4381 Charlotte Hwy, Suite 103, Lake Wylie, SC 29710
803.810.4373 (Principal Office)
803.810.6569 (Lake Wylie)
803.638.8232 (Columbia)
803.200.2704 (Rock Hill)
803.817.9704 (Fax)

Georgia Offices:

2180 Satellite Blvd., Suite 400, Duluth, GA 30097
404.919.2723 (Atlanta)
770.239.1773 (Duluth)
404.310.8837 (한국어 서비스)

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 **Consent Order 40(j) 02-14-2022.pdf**
104K

ELECTRONICALLY FILED - 2022 May 31 3:45 AM - CHESTER - COMMON PLEAS - CASE#2017CP1200445

RA 0160



Chan Ahn <chan@ahnlawfirmllc.com>

ELECTRONICALLY FILED - 2022 May 31 3:45 AM - CHESTER - COMMON PLEAS - CASE#2017CP1200445

(Bullin v. Thomas) Consent Order

Chan Ahn <chan@ahnlawfirmllc.com>

Mon, Feb 14, 2022 at 4:49 PM

To: Tom Roper <roperlaw@comporium.net>, Esther Beckley <estherbeckley@comporium.net>

Cc: Ahn Law Firm Help Desk <ahnlawfirmllc@gmail.com>, Info Desk Ahn Law Firm <info@ahnlawfirmllc.com>, Alec Ahn Law Firm Virtual Help Desk <alec@ahnlawfirmllc.com>

Bcc:

Tom:

I realize that you may need some time to discuss any stipulation and consent with your clients. Given that Judge Gibbons stressed today that your clients really have no valid objections to the conditions to the 40(j) Order, I understood his instructions to mean that I must submit a draft order, not necessarily with your clients' consent. Nevertheless, I drafted a "Consent" Order as a courtesy and for your consideration.

Should I obtain no express permission from you today to have the draft order filed with your electronic signature, I will remove all of the terms indicating stipulation, agreement, or consent, along with your signature block, and submit a Proposed Order. Please let me know your thoughts.

Thanks,
Chan

Chan M. Ahn
Attorney at Law (Actively practicing in GA, SC & DC)
AHN LAW FIRM, LLC
www.ahnlawfirmllc.com
chan@ahnlawfirmllc.com

South Carolina Offices:

4381 Charlotte Hwy, Suite 103, Lake Wylie, SC 29710
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803.810.6569 (Lake Wylie)
803.638.8232 (Columbia)
803.200.2704 (Rock Hill)
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[Quoted text hidden]

RA 0161



Chan Ahn <chan@ahnlawfirmllc.com>

(Bullin v. Thomas) Consent Order

Chan Ahn <chan@ahnlawfirmllc.com>

Tue, Feb 15, 2022 at 8:11 AM

To: Tom Roper <roperlaw@comporium.net>, Esther Beckley <estherbeckley@comporium.net>

Cc: Ahn Law Firm Help Desk <ahnlawfirmllc@gmail.com>, Info Desk Ahn Law Firm <info@ahnlawfirmllc.com>, Alec Ahn Law Firm Virtual Help Desk <alec@ahnlawfirmllc.com>

Bcc:

Tom:

I have not heard from you. So, I am e-filing a Proposed Order.

Thanks,
Chan

Chan M. Ahn
Attorney at Law (Actively practicing in GA, SC & DC)
AHN LAW FIRM, LLC
www.ahnlawfirmllc.com
chan@ahnlawfirmllc.com

South Carolina Offices:

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[Quoted text hidden]

ELECTRONICALLY FILED - 2022 May 31 3:45 AM - CHESTER - COMMON PLEAS - CASE#2017CP1200445



STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin and Robert D. Rayfield)
 as Guardians and Conservators for)
 Lillian Anne Brown Rayfield)
 (as incapacitated person),)
)
 Plaintiffs,)
)
 vs.)
)
 Merri Rowe Thomas,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-12-00445

**ORDER STRIKING
THE CASE FROM ANY DOCKET
PURSUANT TO RULE 40(J), SCRPC**

This matter came before this Court on February 14, 2022, upon the request of the Plaintiffs, Jai Anne Bullin and Robert D. Rayfield as Guardians and Conservators for Lillian Anne Brown Rayfield (as incapacitated person) (collectively, “Plaintiffs”), to have their Amended Complaint stricken from any docket pursuant to Rule 40(j), SCRPC. In response to Plaintiffs’ request, the Defendant, Merri Rowe Thomas (“Defendant”), has agreed in writing—as evidenced by her attorney’s electronic signature shown below—that this case may be stricken pursuant to Rule 40(j), SCRPC, on the following conditions:

1. Should this case be restored upon motion made within one (1) year of the date stricken, the statute of limitations shall be tolled as to all consenting Parties during the time the case is stricken and that any unexpired portion of the statute of limitations on the date the case was stricken shall remain and begin to run on the date that the case is restored.
2. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant shall have the right to amend her Answer to assert one or more counterclaims against either or both of Plaintiff(s) or one or more third-party claims against a non-Party without

any objection of Plaintiffs, who shall waive such objection by having this case stricken hereby. Should this case be restored upon motion made within one (1) year of the date stricken, Plaintiffs shall further waive a statute of limitations defense both as the Guardians and Conservators for Lillian Anne Rayfield and in their individual capacity.

3. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move this case to a non-jury roster without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the placement of this case onto a non-jury roster.

4. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move the Court to have this case transferred to a different venue—including without limitation, York County, South Carolina in which a substantial portion of the transaction(s) at issue in this case occurred—without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the change of venue.

5. Should this case be restored upon motion made within one (1) year of the date stricken, Defendant may move the Court to have a Special Referee appointed to or in this case without Plaintiffs' objection, subject to the Court's review and approval. By being permitted to have this case stricken pursuant to this Order, Plaintiffs shall waive any and all objections to the appointment of a Special Referee to or in this case.

6. Should this case fail to be restored upon motion made within one (1) year of the date stricken, this case shall be dismissed with prejudice in its entirety.

Plaintiffs have not objected to any of the foregoing conditions.

NOW, **THEREFORE**, for good and sufficient cause shown, it is hereby **ORDERED**, **ADJUDGED, AND DECREED** that this case shall be stricken from any docket as of the date of this Order, pursuant to Rule 40(j), SCRCF, and subject to the foregoing conditions.

IT IS SO ORDERED.

The Honorable Brian M. Gibbons
Circuit Judge

Chester, South Carolina

February __, 2022

Drafted and submitted by:

/s/ Chan M. Ahn

Chan M. Ahn (S.C. Bar No. 102173)
chan@ahnlawfirmllc.com

AHN LAW FIRM, LLC
4381 Charlotte Hwy
Suite 103
Lake Wylie, SC 29710
803.810.4373 (Telephone)
803.817.9704 (Fax)
Counsel for the Defendant

Lake Wylie, South Carolina

February 15, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
)	
Jai Anne Bullin and Robert D. Rayfield)	
as Guardians and Conservators for)	
Lillian Anne Brown Rayfield	)	MOTION TO RESTORE
(an incapacitated person),	)	CASE TO DOCKET
Plaintiffs,)	
)	
vs.)	
	)	CASE NO.: 2017-CP-12-00445
Merri Rowe Thomas,)	
Defendant.)	

TO: DEFENDANT NAME ABOVE AND HER RESPECTIVE COUNSEL:

PLEASE TAKE NOTICE that the Plaintiffs, by and through their attorney, will move before the presiding judge of the Sixteenth Judicial Circuit on the tenth (10th) day after service hereof, or as soon thereafter as this matter may be heard for an order pursuant to Rule 40(j) SCRCP, and pursuant to the Orders of the Honorable Brian M. Gibbons dated February 15, 2022 and June 8, 2022, restoring this case to the docket.

RESPECTFULLY SUBMITTED,

s / Thomas B. Roper
 Thomas B. Roper, SC Bar # 4908
 1721 Ebenezer Road, Suite 295
 Rock Hill, South Carolina 29732
 Telephone (803) 327-1123
roperlaw@comporium.net
 Attorney for Plaintiffs

Rock Hill, SC
February 13, 2023

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
)
 Merri Rowe Thomas,)
)
 Defendant,)
 _____)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant. _____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

MOTION TO AMEND OR
ALTER JUDGMENT

CASE NO.: 2023-CP-12-00170

TO: DEFENDANT, MERRI ROWE THOMAS, AND HER ATTORNEY:

PLEASE TAKE NOTICE, that the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (an incapacitated person), by and through her undersigned attorney will move before the presiding judge of the Sixth Judicial Circuit at the Chester County Courthouse at 10:00 a.m. on the tenth day after service hereof or at such other time and place as is convenient to the Court and counsel as follows:

The Plaintiff hereby moves the Court, pursuant to Rule 59(e) SCRPC, to amend the Court's Order dated February 21, 2025, dismissing the within action for failure to prosecute. The motion will be supported by the attached Affidavits.

Pursuant to Rule 11, SCRPC, I have discussed this motion with opposing counsel and he did not have sufficient time to discuss this matter with his client and respond.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
 Merri Rowe Thomas,)
)
 Defendant.)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF
 ESTHER BECKLEY

CASE NO.: 2023-CP-12-00170

Personally appeared before me, Esther Beckley, who first being duly sworn and states:

I am the Administrative Assistant for Thomas B. Roper and have been in that position since the inception of this case.

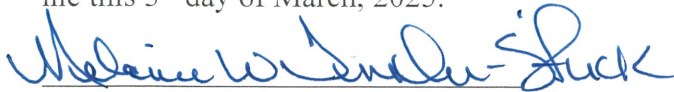
In my position I receive copies of all e-filings for any case in which Thomas B. Roper is acting as an attorney for one of the parties.

I have no recollection of ever having received the Notice of ADR in this case. Additionally, I have done a search on my computer and in the paper file and have no record of ever having received an e-filed notification of the Notice of ADR for this case.

I did not learn of the Notice of ADR until I reviewed the Court's filings in this case after having received the Court's Order dated February 21, 2025.


Esther Beckley
Administrative Assistant

Sworn to and subscribed before
me this 3rd day of March, 2025.


Notary Public for South Carolina
My Commission Expires: 7-26-32

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
 Merri Rowe Thomas,)
)
 Defendant,)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF
THOMAS B. ROPER

CASE NO.: 2023-CP-12-00170

Personally appeared before me, Thomas B. Roper, who first being duly sworn states:

I represent the Plaintiff in the above entitle action and have represented her since the inception of this case. This case in an extremely complicated action wherein the Plaintiff seeks the recovery in excess of One Hundred Twenty-Five Thousand (\$125,000.00) Dollars, for the Defendant’s breach of fiduciary duty in acting as attorney in fact for the incapacitated person, undue influence and lack of capacity. The Plaintiff also seeks to set aside a conveyance which the incapacitated person executed in favor of the Defendant. This is a very brief description of the case but serves to set forth the amount at stake in this litigation.

On February 21, 2025, both my assistant and I received a form 4 Order in this action which ends the case for a failure to prosecute.

After I received this Order, I checked all pleadings and matters of record with the electronic filing system for Chester County. I came across the Notice of ADR dated November 29, 2023.

I have a folder on my computer for all matters relating to this case. I checked this folder and found no receipt for the Notice of ADR. I then reviewed the Chester County Sixth Judicial Circuit Public Index and found a notation for a “letter/letter” filed on November 29, 2023. A copy of this Notice of ADR is attached hereto as Exhibit “A”.

This Notice of ADR does not contain the notation on the right-hand side of the document that it was electronically filed. I have checked my file, the folder on my computer for this case and all emails on or around November 29, 2023.

I cannot explain how the electronically filed notice would not be on the Notice of ADR on file with the Chester County Clerk of Court.

It is my firm belief that neither my assistant nor myself ever received an electronically filed Notice of ADR.

This was originally a 2017 case and was restored to the Docket in 2023, at which time a new case number was assigned to the case.

I believed that the 2023 case number had not been reached on the Jury Trial Docket and that the case was waiting to come up on this Trial Docket.

I have never received a Notice of Status Conference concerning this case nor have I received any notice as to the status of this case on the Chester County Trial docket.

I would request the Court to amend its Order of February 21, 2025 by restoring this case to the Docket and that the parties proceed to mediation as set forth in my motion filed simultaneously herewith.

Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, SC 29732
(803) 327-1123 Phone
(803) 327-5458 Fax
roperlaw@comporium.net
Attorney for Jai Anne Bullin,
Plaintiff and Third-Party Defendant

Sworn to and subscribed before
me this 3rd day of March, 2025.

Notary Public for South Carolina
My Commission Expires: 7-26-32

NOTICE OF ADR

Jai Anne Bullin
Robert D Rayfield as Guardians and
Conservators for Lillian Anne Bro

2023CP1200170

PLAINTIFF(S)

Filing Date: September 7, 2017

Vs

Merri Rowe Thomas
Jai Anne Bullin
Jai Anne Bullin

DEFENDANT(S)

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

Daniel Alan Hunnicutt, PO Box 1735, , Conway, SC 29528, Phone (843) 488-2424

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is Russell A. DeMott, 300 N. Cedar Street, Suite A, , Summerville, SC 29483, Phone (843) 695-0830

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice February 29th 2024.

Date: November 29, 2023

Notice of this Order was given by First Class Mail, E-mail, Fax or by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 11/29/2023

Plaintiff Attorney:

Thomas B. Roper
1721 Ebenezer Rd.
Suite 295
Rock Hill, SC 29732

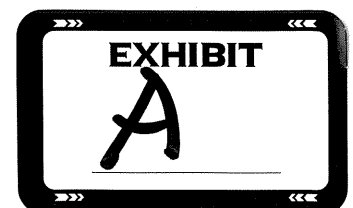
Defendant Attorney:

Chan Mo Ahn
4381 Charlotte Hwy
Suite 103
Lake Wylie, SC 29710

ADR Coordinator
Doug Atkinson
(803) 385-2605

CP18
SCADR 102 (11/2012)

RA 0174



It is respectfully requested that the within action be restored to the active jury trial roster for Chester County and that counsel for the parties agree to a mediator to mediate this case with such agreement for the mediator and the time for the mediation to be agreed to within thirty (30) days after the hearing of this motion. Should the parties fail to agree to a mediator, one will be appointed by the Chester County Clerk of Court.

Respectfully submitted,

S / Thomas B. Roper
Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, SC 29732
(803) 327-1123 Phone
(803) 327-5458 Fax
roperlaw@comporium.net
Attorney for Jai Anne Bullin,
Plaintiff and Third-Party Defendant

Rock Hill, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
 Merri Rowe Thomas,)
)
 Defendant,)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF
THOMAS B. ROPER

CASE NO.: 2023-CP-12-00170

Personally appeared before me, Thomas B. Roper, who first being duly sworn states:

I represent the Plaintiff in the above entitle action and have represented her since the inception of this case. This case in an extremely complicated action wherein the Plaintiff seeks the recovery in excess of One Hundred Twenty-Five Thousand (\$125,000.00) Dollars, for the Defendant’s breach of fiduciary duty in acting as attorney in fact for the incapacitated person, undue influence and lack of capacity. The Plaintiff also seeks to set aside a conveyance which the incapacitated person executed in favor of the Defendant. This is a very brief description of the case but serves to set forth the amount at stake in this litigation.

On February 21, 2025, both my assistant and I received a form 4 Order in this action which ends the case for a failure to prosecute.

After I received this Order, I checked all pleadings and matters of record with the electronic filing system for Chester County. I came across the Notice of ADR dated November 29, 2023.

I have a folder on my computer for all matters relating to this case. I checked this folder and found no receipt for the Notice of ADR. I then reviewed the Chester County Sixth Judicial Circuit Public Index and found a notation for a “letter/letter” filed on November 29, 2023. A copy of this Notice of ADR is attached hereto as Exhibit “A”.

This Notice of ADR does not contain the notation on the right-hand side of the document that it was electronically filed. I have checked my file, the folder on my computer for this case and all emails on or around November 29, 2023.

I cannot explain how the electronically filed notice would not be on the Notice of ADR on file with the Chester County Clerk of Court.

It is my firm belief that neither my assistant nor myself ever received an electronically filed Notice of ADR.

This was originally a 2017 case and was restored to the Docket in 2023, at which time a new case number was assigned to the case.

I believed that the 2023 case number had not been reached on the Jury Trial Docket and that the case was waiting to come up on this Trial Docket.

I have never received a Notice of Status Conference concerning this case nor have I received any notice as to the status of this case on the Chester County Trial docket.

I would request the Court to amend its Order of February 21, 2025 by restoring this case to the Docket and that the parties proceed to mediation as set forth in my motion filed simultaneously herewith.

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Rock Hill, SC 29732
(803) 327-1123 Phone
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roperlaw@comporium.net
Attorney for Jai Anne Bullin,
Plaintiff and Third-Party Defendant

Sworn to and subscribed before
me this 3rd day of March, 2025.

Notary Public for South Carolina
My Commission Expires: 7-26-32

NOTICE OF ADR

Jai Anne Bullin
Robert D Rayfield as Guardians and
Conservators for Lillian Anne Bro

2023CP1200170

PLAINTIFF(S)

Filing Date: September 7, 2017

Vs

Merri Rowe Thomas
Jai Anne Bullin
Jai Anne Bullin

DEFENDANT(S)

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

Daniel Alan Hunnicutt, PO Box 1735, , Conway, SC 29528, Phone (843) 488-2424

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is Russell A. DeMott, 300 N. Cedar Street, Suite A, , Summerville, SC 29483, Phone (843) 695-0830

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice February 29th 2024.

Date: November 29, 2023

Notice of this Order was given by First Class Mail, E-mail, Fax or by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 11/29/2023

Plaintiff Attorney:

Thomas B. Roper
1721 Ebenezer Rd.
Suite 295
Rock Hill, SC 29732

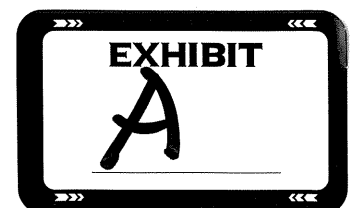
Defendant Attorney:

Chan Mo Ahn
4381 Charlotte Hwy
Suite 103
Lake Wylie, SC 29710

ADR Coordinator
Doug Atkinson
(803) 385-2605

CP18
SCADR 102 (11/2012)

RA 0179



STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (an incapacitated person),)
)
 Plaintiff,)
 V.)
 Merri Rowe Thomas,)
)
 Defendant.)
)
 Merri Rowe Thomas,)
)
 Third-Party Plaintiff,)
 v.)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF
 ESTHER BECKLEY

CASE NO.: 2023-CP-12-00170

Personally appeared before me, Esther Beckley, who first being duly sworn and states:

I am the Administrative Assistant for Thomas B. Roper and have been in that position since the inception of this case.

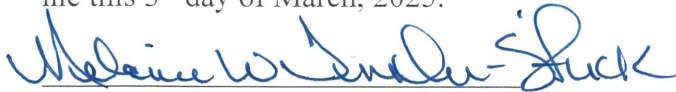
In my position I receive copies of all e-filings for any case in which Thomas B. Roper is acting as an attorney for one of the parties.

I have no recollection of ever having received the Notice of ADR in this case. Additionally, I have done a search on my computer and in the paper file and have no record of ever having received an e-filed notification of the Notice of ADR for this case.

I did not learn of the Notice of ADR until I reviewed the Court's filings in this case after having received the Court's Order dated February 21, 2025.


Esther Beckley
Administrative Assistant

Sworn to and subscribed before
me this 3rd day of March, 2025.


Notary Public for South Carolina
My Commission Expires: 7-26-32

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
 Conservator for Lillian Anne Brown)
 Rayfield (as incapacitated person),)
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 Plaintiff,)
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 vs.)
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 Defendant.)
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 _____)
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 Merri Rowe Thomas,)
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 Third-Party Plaintiff,)
)
 vs.)
)
 Jai Anne Bullin,)
)
 Third-Party Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-12-00170

JURY TRIAL DEMANDED

**DEFENDANT AND THIRD-PARTY PLAINTIFF MERRI ROWE THOMAS'S
 REPLY IN OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND
 JUDGMENT**

In response and opposition to the *Motion to Alter or Amend Judgment* filed by the Plaintiff, Jai Anne Bullin as Guardian and Conservator for Lillian Anne Brown Rayfield (as incapacitated person) ("Plaintiff"), on March 3, 2025 ("Motion" or 'Plaintiff's Motion'), the Defendant and Third-Party Plaintiff, Merri Rowe Thomas ("Defendant"), respectfully submits that Plaintiff's Motion is without merit and requests this Court to deny the Motion *in toto*.

In support of this *Defendant and Third-Party Plaintiff Merri Rowe Thomas's Reply in Opposition to Plaintiff's Motion to Alter or Amend Judgment* ("Reply"), Defendant respectfully states, by and through undersigned counsel, as follows:

FACTS/PROCEDURAL HISTORY

In this action—which was originally filed on September 7, 2017—Plaintiff alleges, *inter alia*, that Defendant, who is Plaintiff's own biological sister, has engaged in such tortious conduct as exertion of undue influence over the Parties' biological mother to procure a quitclaim deed for certain tract of land located in Chester County, South Carolina.

On February 14, 2022, this case was called for trial after being placed upon this Court's Jury Roster for eleven (11) months or so. Prior to the trial and pursuant to this Court's instructions, Defendant timely filed and served multiple pretrial documents, including *Defendant's Pretrial Brief*, *Defendant's Motion in Limine*, *Defendant's Potential Trial Exhibits*, and *Defendant's Proposed Jury Instructions*. Additionally, Defendant served multiple requests for trial testimony and subpoenas upon several witnesses in preparation for the scheduled trial.

Also on February 14, 2022—the first day of the scheduled trial—Plaintiff did not appear in court. A lengthy discussion, *in camera*, about Plaintiff's absence in Court ensued. During this discussion, counsel for Plaintiff offered an explanation that Plaintiff's absence resulted from the Parties' mother's alleged injury and sudden illness of her two (2) caregivers. However, no evidence showing said injury or illness—such as medical records, physician letters, and Affidavits—was submitted.

Based upon Plaintiff's unexpected absence unsupported by any evidence whatsoever, counsel for Defendant announced Defendant's intent to pursue an involuntary dismissal/non-suit, pursuant to Rule 41(b), SCRPC. Subsequently, counsel for the Parties explored at length the

possibility of striking the case from any docket, pursuant to Rule 40(j), SCRCPP, under certain conditions. On February 15, 2022, this Court entered an *Order/Dismissal Rule 40J*¹, as shown in the Court's record.

On March 31, 2023, upon Plaintiff's motion, the Court entered a *Form 4 Order* restoring this action under Rule 40(j), SCRCPP, as shown in the Court's record. On April 26, 2023, Defendant timely filed her *Answer* to Plaintiff's *Second Amended Complaint*, along with her Counterclaims against Plaintiff and Third-Party Claims against Third-Party Defendant Jai Anne Bullin. On June 26, 2023, Plaintiff and Third-Party Defendant Jai Anne Bullin filed their responses to Defendant's Counterclaims and Third-Party Claims.

Following these responses, neither Plaintiff nor Third-Party Defendant Jai Anne Bullin took any action regarding this action for over twenty (20) months². In fact, both Plaintiff and Third-Party Defendant Jai Anne Bullin did absolutely nothing in connection with this action.

On February 21, 2025, the Court issued a *Form 4 Order* dismissing this case in its entirety for "[f]ailure to prosecute." On March 3, 2025, Plaintiff filed the Motion, challenging the validity of the Court's decision.

STANDARD OF REVIEW

Whether an action should be dismissed for failure to prosecute is left to the discretion of the trial court judge, and his decision will not be disturbed, except upon a clear showing of an abuse of discretion. *Small v. Mungo*, 254, S.C. 438, 442, 175 S.E.2d 802,804 (1970).

¹ This Order was partially amended on June 8, 2022.

² The Court record clearly shows that nothing was filed by either Plaintiff or Third-Party Defendant Jai Anne Bullin from June 27, 2023, through March 2, 2025. During this period, neither Plaintiff nor Third-Party Defendant Jai Anne Bullin engaged in discovery, settlement discussion, or any correspondence with Defendant or her counsel regarding this action.

LAW/ANALYSIS

“The plaintiff has the burden of prosecuting her action, and the trial court may properly dismiss an action for plaintiff’s unreasonable neglect in proceeding with her cause.” *Don Shevey & Spires, Inc. v. Am. Motors Realty Corp.*, 279 S.C. 58, 60, 301 S.E.2d 757, 758 (1983). “This authority is necessary if the courts are to control and efficiently manage an ever-expanding docket.” *Id.* As the Supreme Court of South Carolina has emphasized, “[this Court’s] decision [to dismiss a case for failure to prosecute] will not be disturbed except upon a clear showing of an abuse of such discretion.” *Small, supra*, 254, S.C. at 442, 175 S.E.2d at 804 (emphasis added).

Here, the Motion plainly fails to show this Court’s abuse of discretion, and thus, it must be denied. The Motion relies on two (2) affidavits executed by Plaintiff’s attorney³ and his Administrative Assistant. However, these affidavits do absolutely nothing to establish that this Court abused its discretion in dismissing this case. They merely reference the *Notice of ADR* issued by this Court on or around November 29, 2023, without even attempting to explain how it tends to show that this Court abused its discretion. They are devoid of any facts relevant to any cogent argument regarding this Court’s error or abuse of discretion. Neither the Motion nor the accompanied affidavits cite any legal authorities under which the Court’s decision could be possibly challenged. Thus, the Court need not and should not proceed with any further inquiry and disregard the Motion *in toto*. Accordingly, the Motion should be denied in its entirety.

Furthermore, the Motion is inherently defective in that the Movant failed to comply with Rule 59(g), SCRCPP, or the rule against improper *ex parte* communication. The Motion was filed

³ Notably, the affidavit of Plaintiff’s attorney (*Affidavit of Tomas B. Roper*) filed along with the Motion is not properly executed, lacking the affiant’s signature and a Notary Public’s verification. Thus, it should be disregarded entirely.

on March 3, 2025, purportedly pursuant to Rule 59(e), SCRCF. Rule 59(g) provides that “[a] party filing a written motion under [Rule 59, SCRCF] shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.” Rule 59(g), SCRCF. To date, however, Defendant received no correspondence from the Movant in connection with the requirement(s) under Rule 59(g), SCRCF. This must mean one of the two things: (1) the Movant failed to comply with Rule 59(g), SCRCF; or (2) the Movant engaged in improper *ex parte* communication in failing to provide Defendant with a copy of the Movant’s communication with the judge. In either event, the Motion must be deemed problematic, and thus, deficient or otherwise defective. Therefore, this Court should disregard the content of the Motion *in toto*. Accordingly, the Motion should be denied.

The above-described facts, above-cited legal authorities, and observations therefrom make it so plain that Plaintiffs’ Motion is wholly without merit as to render any further discussions or arguments in this matter unnecessary. Clearly, there cannot be any questions as to the propriety of this Court’s original *Order* dated February 21, 2025.

CONCLUSION

Given the foregoing, Defendant respectfully requests that this Court deny the Motion and uphold its *Form 4 Order*, as originally handed down on February 21, 2025.

Respectfully Submitted on this 18th day of March, 2025.

AHN LAW FIRM, LLC

/s/ Chan M. Ahn

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

54 Marina Road

Suite 105

Lake Wylie, SC 29710

Telephone: (803) 810-4373

COUNSEL FOR DEFENDANT/

THIRD-PARTY PLAINTIFF

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 Jai Anne Bullin as Guardian and)
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 vs.)
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 Jai Anne Bullin,)
)
 Third-Party Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-12-00170

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

The undersigned certifies that on March 18, 2025, a copy of the foregoing *Defendant and Third-Party Plaintiff's Reply in Opposition to Plaintiff's Motion to Alter or Amend Judgment* was filed with this Court through the *SC Courts E- Filing Portal*, which will have sent notification of such filing to all counsel of record in this matter, including the following:

Thomas B. Roper, Esq.
1721 Ebenezer Road
Suite 295
Rock Hill, SC 29732
roperlaw@comporium.net

This 18th day of March, 2025.

AHN LAW FIRM, LLC

BY: /s/ Chan M. Ahn
Chan M. Ahn
chan@ahnlawfirmllc.com
54 Marina Road
Suite 105
Lake Wylie, South Carolina 29710
Telephone: 803-810-4373

NOTICE OF ADR

Jai Anne Bullin
Robert D Rayfield as Guardians and
Conservators for Lillian Anne Bro

2023CP1200170

PLAINTIFF(S)

Filing Date: September 7, 2017

Vs

Merri Rowe Thomas
Jai Anne Bullin
Jai Anne Bullin

DEFENDANT(S)

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

Daniel Alan Hunnicutt, PO Box 1735, , Conway, SC 29528, Phone (843) 488-2424

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is

Russell A. DeMott, 300 N. Cedar Street, Suite A, , Summerville, SC 29483, Phone (843) 695-0830

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice February 29th 2024.

Date: November 29, 2023

Notice of this Order was given by First Class Mail, E-mail, Fax or by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 11/29/2023

Plaintiff Attorney:

Thomas B. Roper
1721 Ebenezer Rd.
Suite 295
Rock Hill, SC 29732

Defendant Attorney:

Chan Mo Ahn
4381 Charlotte Hwy
Suite 103
Lake Wylie, SC 29710

ADR Coordinator
Doug Atkinson
(803) 385-2605

CP18
SCADR 102 (11/2012)

RA 0189

STATE OF SOUTH CAROLINA)
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 COUNTY OF CHESTER)
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 Jai Anne Bullin as Guardian and)
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 Jai Anne Bullin,)
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 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

NOTICE OF HEARING

CASE NO.: 2023-CP-12-00170

TO ALL PARTIES:

YOU WILL PLEASE TAKE NOTICE THAT the hearing on the Plaintiff and Third-Party Defendant’s Motion to Amend or Alter Judgment has been scheduled for Wednesday, March 19, 2025 at 9:30 a.m. before the honorable, Judge Paul Burch located at the Chester County Courthouse, 140 Main Street, Chester, South Carolina 29706.

s / Thomas B. Roper
 Thomas B. Roper, SC Bar 4908
 1721 Ebenezer Road, Suite 295
 Rock Hill, South Carolina 29732
 (803) 327-1123 - Telephone
 (803) 327-5458 – Fax
roperlaw@comporium.net
 Attorney for Plaintiff and
 Third-Party Defendant

Rock Hill, SC
 March 5, 2025

CERTIFICATE OF SERVICE

I, Thomas B. Roper, do hereby certify that I have served a copy of the Notice of Hearing upon the Defendant, by and through her attorney, by electronic e-filing and by depositing a copy thereof in the United States Mail on March 5, 2025, at the address shown below:

Chan M. Ahn, Esquire
Ahn Law Firm, LLC
546 East Main Street
Rock Hill, South Carolina 29730

s / Thomas B. Roper

Thomas B. Roper, SC Bar 4908
1721 Ebenezer Road, Suite 295
Rock Hill, South Carolina 29732
(803) 327-1123 - Telephone
(803) 327-5458 – Fax
roperlaw@comporium.net
Attorney for Plaintiff and
Third-Party Defendant

Rock Hill, SC
March 5, 2025

STATE OF SOUTH CAROLINA)
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 Third-Party Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-12-00170

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

The undersigned certifies that on April 17, 2025, a copy of the Defendant’s *(Proposed) Order Denying Plaintiff’s Motion to Amend or Alter judgment* was served upon all counsel of record electronically, pursuant to the relevant Order of the Supreme Court¹, and filed with the Court via the Court’s *E-Filing* system, which will have served the same upon all counsel of record.

This 17th day of April, 2025.

ELECTRONIC SIGNATURE APPEARS ON THE FOLLOWING PAGE.

¹ Order, *RE: Service by E-Mail in the Trial Courts* (May 6, 2022).

AHN LAW FIRM, LLC

/s/ Chan M. Ahn

Chan M. Ahn (SC Bar #102173)

chan@ahnlawfirmllc.com

54 Marina Road

Suite 105

Lake Wylie, SC 29710

Telephone: (803) 810-4373

COUNSEL FOR DEFENDANT/

THIRD-PARTY PLAINTIFF

STATE OF SOUTH CAROLINA)
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 Jai Anne Bullin,)
)
 Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

SUPPLEMENTAL AFFIDAVIT
OF THOMAS B. ROPER

CASE NO.: 2023-CP-12-00170

Personally appeared before me, Thomas B. Roper, who first being duly sworn states:

This Affidavit is given in order to supplement my prior affidavit dated March 3, 2025 on file in this action. I reaffirm those matters set forth in my previous affidavit.

At the time of receipt of the Court’s Rule 41 Form Order of Dismissal, I searched all filings associated with this case and the only basis for which I could see any facts supporting a Motion to Dismiss, was the Notice of ADR dated November 29, 2023.

However, at the time of the hearing on my Motion to Alter or Amend Judgment, it was revealed to me, for the first time, that the Court Administrator claimed that I had ignored “numerous” requests for an update on the status of this case.

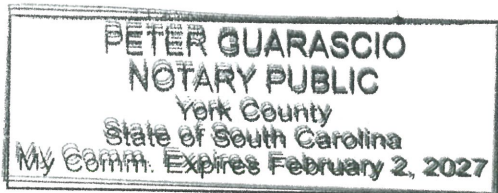
I then reviewed my emails as well as my voicemails. There was one email dated January 28, 2025, a copy of which is attached hereto as Exhibit “A” and one voicemail dated January 28, 2025, which has not been transcribed but evidence of the voicemail is attached hereto as Exhibit

“B”. In each of these communications by the Court Administrator, he simply requested an update on the status of the case. Nowhere in the voicemail, nor the email was there any indication that he would report to the Court requesting that the case be dismissed for lack of prosecution. There is a single valid reason as to why there was no activity associated with this case. Both parties were prepared for a trial when the Defendant moved for a motion to dismiss with a leave to restore. As the case was ready for trial at that time, it continued to be ready for trial thereafter. The case was ready for trial when it was called in 2022 and is ready for trial at this time.

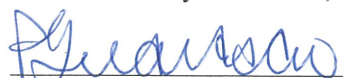
I assumed that the case would be called for trial when the civil action number rotated up to its place on the docket for trial. While Covid 19 certainly affected the Chester County trial docket, it is to be noted that the case was not called for trial for approximately five years after the date of filing. It did not seem unusual to me that a two-year-old case had not been called for trial.

The Defendant has not alleged any prejudice by restoring the case to trial and equity should allow such a restoration.


Thomas B. Roper, SC Bar 4908
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Attorney for Jai Anne Bullin,
Plaintiff and Third-Party Defendant



Sworn to and subscribed before me this 18 day of March, 2025.


Notary Public for South Carolina
My Commission Expires: 2/2/27



Thomas Roper



From: Douglas Atkinson <datkinson@ChesterCountySC.gov>
Sent: Tuesday, January 28, 2025 2:56 PM
To: Thomas Roper
Subject: case # 2023CP1200170

Tom ,
Can you please give me a status on this Chester County case # 2023CP1200170. Nothing has been filed in it since 6/26/2023.

Respectfully,
Doug Atkinson
803-581-9633
Civil Court Coordinator.

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Thomas Roper



From: Voicemail@comporium.com
Sent: Tuesday, January 28, 2025 1:29 PM
To: Tom -1126
Subject: Voice Message Attached 8033852605
Attachments: 8033852605_20250128_132839.wav

Time: Jan 28, 2025 1:28:39 PM
[Click attachment to listen to Voice Message](#)

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