IN THE CHANCERY COURT OF LAFAYETTE COUNTY MISSISSIPPI

Robert Sullivant Sr.,
Plaintiff

v.

Robert Sullivant Jr.,
Defendant.

Case No. 2021-612(W)

Robert Sullivant Jr.,
Third-Party Plaintiff,

MOTION TO RECUSE

v.

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

Comes now, defendant and third-party plaintiff Robert Sullivant Jr., ("JR") and hereby requests that the Honorable Judge Lawrence Little respectfully recuse himself from the above-referenced matter. As will be further detailed in JR's memorandum, it is his belief that Your Honor has demonstrated a considerable level of bias in favor of counsel for Robert Sullivant Sr., ("SR") making it impossible for JR to receive a fair trial.

I. BACKGROUND

The background in this matter has been well established. The Plaintiff, Robert Sullivant Sr., ("SR"), brought this action on October 25th, 2021, alleging thirteen (13) counts against the Defendant. These charges are premised on a series of financial transactions involving the two parties from a joint account they held together. The financial transactions executed by JR were executed using a legally enforceable POA, and were pursuant to the duties of the POA to protect SR's assets from SR's sitter, Evelyn Stevens. Before the filing of the complaint, SR had become

was *non compos mentis* displaying mental deficiencies that excluded him from making any coherent financial decisions and was losing thousands of dollars to scammers. JR managed all SR's financial matters and had to supervise SR continually to prevent scammers taking advantage of him. This joint account was used to deposit the proceeds from the sale of a home that was jointly owned by both parties.

Of the $230,000 that Ms. Stevens had the plaintiff transfer into his personal account, 50% belonged exclusively to JR.

JR had observed suspicious activity between SR and MS. Stevens, and assumed they were about to take the money to buy a house. As soon as JR's suspicions were confirmed by SR and Ms. Steven's actions, JR did in fact transfer back to the joint account legally with his POA the $230,000 on June 9th, 2021. He then promptly transferred $50,000 into the plaintiff's T.D. Ameri He also transferred $5,000 back to the joint account at Regions Bank to pay the usual household expenses. The remainder was put into JR's TDAmeritrade account to protect it from Ms. Stevens and was earmarked to go toward SR and JR's new jointly purchased home.

Despite all of the foregoing, including the glaring the fact that JR was well within his legal rights to complete these transactions, the Plaintiff filed this action charging 13 different frivolous, meritless counts without any evidence of violating his duty per the Power of Attorney.

JR also filed a Motion for Reimbursement, which he is statutorily entitled to under Mississippi Law, which was inexplicably denied by this Court. However, the Court did grant the Conservator's Motion to partition the estate of the plaintiff and to pay *themselves*. All the while, JR has no money to pay an attorney while he awaits the reimbursement of monies from the estate which the law entitles to him without question; and is under threat of losing the house that he has resided in for 5 years.

There has already been one judicial recusal in this matter, when the Honorable Judge Robert Whitwell recused himself from this matter, in part because his favorable bias for the Plaintiff could not be contained. The Honorable Judge Robert Whitwell not only entered false testimony obtained via *ex-parte* communications into the record regarding the JR, but based his decision who would be conservator on this false testimony. Specifically, the false testimony was that JR did not love his father.

Unfortunately, given the seeming celebrity status and influence of opposing counsel in Lafayette County, there does not appear to a Judge capable of hearing these matter without expressing an overt bias against JR. Said bias is evident form the transcripts and Orders of this Court, and is undeniable.

Mr. Alford, thus far, has been allowed to violate discovery rules, overtly violate this court's orders and the parties' stipulations, call witnesses at hearing without any notice to JR, and misappropriate the funds of the parties in this case to the point where JR had to draft a temporary restraining order before Mr. Alford would reconcile the funds. Subsequent to the TRO, Mr. Alford still refused to reconcile the account, and lost additional client funds. Since the Court never took action to discipline Mr. Alford for the above actions, JR attempted to address these matters through a motion to disqualify Mr. Alford. However, the court refused to hear this motion because it was concerned with Mr. Alford's reputation in the presence of members of the public. The court than determined that it would not hear JR's motion to disqualify until the Bar Association produced a report related to JR's complaint.

There is no legal justification for JR's motion to disqualify to be in any way contingent on the Bar Association and their investigation. The court simply did not want to embarrass Mr. Alford in front of his colleagues that were in court that day.

JR is losing property, his residence, and is losing money, all while the conservator, his attorney, and opposing counsel, cash in on legal fees from the estate and enrich themselves. This matter has spun out of control, as JR's due process is being blatantly ignored, and the Court's bias in favor of Mr. Alford is transparent. The recusal of Judge Whitwell did nothing to cure these issues, and nothing short of recusal and a subsequent change of venue due to local hostilities against citizens defending themselves *Pro Se* will serve to do so.

II. STANDARD OF REVIEW

According to the Code of Judicial Conduct, a judge must disqualify when that judge's "impartiality might be questioned by a reasonable person knowing all the circumstances . . . including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding." *Code of Judicial Conduct*, Canon 3(E)(1). The question to ask is, would a reasonable person, knowing all the circumstances, harbor doubts about the judge's impartiality? *Frierson v. State*, 606 So.2d 604, 606 (Miss. 1992). To overcome the presumption that a judge is qualified and unbiased, the evidence must produce a reasonable doubt about the validity of the presumption. *Turner v. State*, 573 So.2d 657, 678 (Miss. 1990).

This Court does not recognize inconvenience as a factor to be considered when deciding a recusal motion. More than inconvenience must be shown in order to refuse a recusal motion where there is some doubt as to a judge's impartiality. A recusal decision is entirely dependent on the peculiarities of each case at bar. Recusal motions must be considered on their own circumstances. *Collins v. Joshi*, 611 So. 2d 898 (Miss. 1992).

If a ***reasonable person***, knowing all the circumstances, would doubt the judge's impartiality, the judge is ***required*** to recuse him or herself from the case. (*Id*) [emphasis added].

III. ARGUMENT

1. JR's Free Speech is Being Chilled Without Justification

On November 16, 2024, Your Honor Ordered that JR "shall not file any pleading or in open court make any statement containing derogatory assertions that disparage the character or integrity of any party, witness, attorney, or Court personnel." ***Ex. A***.

JR *never did such a thing*, and accusing a party or witness of lying, fabricating documents, and misleading the Court, are not "derogatory" whatsoever. They are legal accusations, which JR has every right to make. Furthermore, JR can back up and support any statement in question with indisputable evidence proving it's veracity. JR has never made a statement or assertion against any party or non-party to this action that is not thoroughly supported with documentary evidence. To frighten JR into not speaking at all by admonishing him for "disparaging the character or integrity…" of other parties, is the equivalent of telling JR he cannot defend himself nor speak up when witnesses attempt to mislead the Court, lie as to material facts, and in fact, disparage JR himself. The Court provides no examples of any derogatory statements not supported by evidence made by JR against Dr. Perkins, and somehow, Dr. Perkins is able to file motions into this action and be represented (allegedly) by an attorney not involved in this case.

There is no explanation for allowing a non-party to file a Motion for Sanctions against a party. No attorney has filed a Notice of Appearance on behalf of Dr. Perkins, which is further inexplicable, and somehow Dr. Perkins' Report is still being honored by this Court as "neutral", despite the fact that he is undeniably testifying solely on behalf of the Plaintiff and as an expert witness for the plaintiff himself.

JR has every right to put forth arguments to support claims of malfeasance against opposing counsel and their witnesses, and therefore intentionally chill this right and encourage JR not to

speak up under the threat of sanctions, is inappropriate, unfair, highly prejudicial, and gives the appearance of impropriety and impartiality.

2. Your Honor Ordered a Sheriff's Deputy to Further Intimidate JR

There is no explanation for the Court, all of the sudden, seating an armed Sherrif's Deputy in an empty Courtroom behind JR at hearings, staring at JR the entire time. Furthermore, after Court was adjourned, this special Deputy stood no more than two feet in front of JR in an aggressive posture as JR collected his documents. JR believed that if he made a questionable bodily movement even though within his rights, that this special Deputy would had committed physical violence upon him. This is patently absurd, and to place an special Deputy carrying a firearm behind JR at hearings and directly in front of him as he prepared to leave the courtroom is so unnecessary it cannot possibly be comprehended why the Judge would have ordered the special Deputy; but for the fact it has a clear intent to intimidate and threaten JR into not rightfully defending himself in court, not being secure in his person, and chilling his free speech; under the literal threat of physical assault.

Furthermore, there is not any evidence in the record or JR's criminal history to indicate he would be a threat to Your Honor. The decision to order a special Sherriff's Deputy to intimate JR had to planned prior to the hearings that day, and with the benefit of false *ex-parte* communication. Your Honor would have to have known prior to the hearings what the decision were to be extraordinarily harmful to the Defendant, and that he might act out. This proves a prejudicial bias that the Defendant cannot overcome to obtain a fair trial.

3. Your Honor Ordered JR To Pay Fees For *Unanswered* Discovery

On November 20, 2023, the Court, in response to a Motion from Attorney Freeland, ordered JR to pay $1,772.00 to attorney Freeland, for absolutely nothing.

JR propounded Interrogatories, Mr. Freeland objected. Mr. Freeland filed a Motion seeking financial sanctions, arguing that JR filed a frivolous motion or pleading pursuant to Miss. R. Civ. Proc. 11(b). This ruling was flat out egregious. JR's Interrogatories were well within the confines of M.R.C.P 26 regarding expert witnesses.

First, propounding discovery and having it objected to is one of the most common procedural instances to take place in any litigation. For the Court to award nearly $2,000 in fees to opposing counsel, who has yet to even appear to declare that he is representing Dr. Perkins, on the basis of an allegedly "frivolous" filing, is not allowed under the law and violates JR's due process.

Mississippi Rule of Civil Procedure 11(b) states in relevant part that:

> "If a **pleading or motion** is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false, and the action may proceed as though the pleading or motion had not been served.... If any party files **a motion or pleading** which, in the opinion of the court, is frivolous or is filed for the purpose of harassment or delay, the court may order such a party, or his attorney, or both, to pay to the opposing party or parties the reasonable expenses incurred by such other parties and by their attorneys, including reasonable attorneys' fees." *Miss R. Civ. Proc. 11(b).*

A set of Interrogatories, is absolutely not a "pleading or motion." Rule 11 does not allow for sanctions on the basis for which they were handed down to JR. This was a discovery dispute, governed by an entirely different process.

JR sent out Interrogatories, Mr. Freeland objected. The next step, if he desired, would be for JR to file a Motion to Compel, and for Mr. Freeland to respond. *Only if* JR's Motion were to be denied, could the Court then sanction JR. *See* Miss R. Civ. Proc. 37(a)(4). Ironically, in the Order granting fees to Mr. Freeland, the Court notes that "pro se parties are held to the same *standards of procedure* as attorneys..." In making such a statement, the Court clearly overlooked

the fact that it had no authority to sanction JR pursuant to Rule 11, and that the only frivolous motion adverse to the *standards of procedure* in Mississippi, was Mr. Freeland's motion seeking sanctions and fees. This motion should have been denied on its face, if not outright stricken. Instead, it was granted, and Mr. Freeland was able to unlawfully enrich himself through his Court's Order, a move that has emboldened Mr. Freeland to attempt this same nefarious tactic numerous times since.

4. The Court Refuses to Release and Award Funds to JR For Placing Plaintiff Into a Conservatorship

While the Court continues to erroneously award fees to counsel representing non-parties who have not even filed a formal notice of appearance, it refuses to provide JR with the money he is owed from the estate under the law. It is the height of bias and impropriety to continue fining JR until he has no money left, to allow the conservator to remove him from his home, all the while withholding monies he is owed as a matter of law; and has been owed *for years*.

Upon request for the foregoing fees from the Court, the Court decided that it would hold the funds owed to JR "in abeyance, for later determination by the Court." The Court provides no justification for holding this money, it belongs to JR as a matter of law. However, to deny JR these funds and simultaneously fine him without any basis under the law so to enrich opposing counsel, is a direct attack on JR's life, liberty, and property. The Court appears not only bias and impartial, but quite frankly malicious and cruel. Miss. Code Ann. § 93-20-411(8(b)) states in no uncertain terms and with no room for interpretation that "[T]he costs and expenses of the proceedings *shall be paid out of the estate of the respondent if a conservator is appointed.*"

These funds should been awarded to JR immediately upon Motion, just like JR is fined by the Court and ordered to pay the fine "within 30-days of the Order." This is overt bias, and

furthermore, it violates well-settled standards for sitting Judges - "[A] sitting judge is charged with knowing and carrying out the law of the state in which she sits. This disregard of state law, whether done intentionally or mistakenly, most certainly brings the integrity and independence of the office into question." *Mississippi Comm'n on Jud.Perf. v. Sanders,* 749 So. 2d 1062, 1071 (Miss. 1999).

5. The Court Ordered and Granted Accounting and Fees Without Allowing JR to Submit An Objection

This Court held a hearing on June 27, 2024, to discuss the matter of Attorney Bragorgos' Motion to Withdraw as counsel of record, and Plaintiff's Motions to approve accounting and partition. On July 26, 2024, the Court held a hearing and subsequently approved the Motion for Accounting. As an initial matter, JR was never served with process notice of this hearing, as Mr. Bragorgos never forward him the notice. In spite of this, the Order granting accounting and fees was recorded by the Court despite numerous representations at the June 27 hearing that these matters would not progress until JR was either represented by counsel or was provided sufficient time to attempt to do so.

As detailed in JR's previously filed *Motion to Reconsider*, the overwhelming need for attorney representation on behalf of JR was made clear, asserted, and outright argued, *not by JR*, but *by this Court* and by Mr. Bragorgos at the June 27 hearing. For example:

> **THE COURT**: Well, now here's the story, if we should agree that Mr. Bragorgas can be relieved of representation, *we customarily put in our orders that it's not effective until the new lawyer enters an appearance*. So we can fix the problem of having another lawyer in need and not wanting to have a conflict. ***Ex. B- 9:5-11***.

> **THE COURT**: Because it hasn't gone that far. *If you want another lawyer, then I'm going to give you time to get one and let them enter an appearance*. ***Id. at 10:18-25***.

THE COURT: Okay. Well, if we should enter an order today that allows him to withdraw, it would be worded such that *he's still your attorney until someone else enters an appearance*. ***Id. at 13:16-20***.

THE COURT: Okay. So then we could enter an order that allows him to be relieved of the case and give you 30 days, 60 days to have another lawyer enter an appearance. ***Id. at 14:7-10***.

MR. BRAGORGAS: Yes, Judge. May I address the Court? *Mr. Sullivant desperately needs a lawyer*.... But he does need a lawyer, desperately. *He's in a bad situation.* I would imagine hiring another attorney is going to be hard for him. ***Id. at 16:6-20***.

MR. SULLIVANT: I would like to have both of the motions of Mr. Davis continued until after Mr. Bragorgas and I have our conference and see if we cannot get on the same page and/or I decide to get some other counsel. ***Id. at 19:14-18***.

THE COURT: Okay. In an abundance of caution, I'm going to agree to that. ***Id. at 19:24-25.***

THE COURT: Well, here's the thing, *we are not going to go forward without a lawyer representing you.* ***Id. at 14:15-17***.

Despite the record above, and without consideration for the express promises and assurances made to JR, the Court *did* move forward without a lawyer representing JR. The Court didn't just "move forward" however, it granted the plaintiff's and the conservator's motions without even allowing JR to file an objection, let alone have time to locate and brief a new attorney on the case.

To overcome the presumption that a judge is qualified and unbiased, the evidence must produce a reasonable doubt about the validity of the presumption. *Turner v. State,* 573 So.2d 657, 678 (Miss. 1990).

All of the aforementioned instances of impropriety bring the parties to the point where it must ask the only relevant question left to answer according to the higher courts... "[T]he question to ask is, would a reasonable person, knowing all the circumstances, harbor doubts about the

judge's impartiality? *Frierson v. State*, 606 So.2d 604, 606 (Miss. 1992). The answer is a resounding "**Yes**".

6. Your Honor Violated Local Rule on Setting Motions

The Defendant has been told twice by Judge Whitwell's staff that there is a local rule that states both sides have to agree on setting of a motion. The Defendant had already agreed to set 4 motions for November 14, 2023. Attorney Freeland sent the Defendant an email late on November 9th, asking for additional motions to be set. The Defendant replied that four motions already set is all he could reasonably prepare for on short notice. On November 13th, the Deputy Clerk of the Lafayette County Chancery Clerk sent the Defendant a filed copy of a Judge signed order filed on November 13th setting the four additional motions for November 14th (Ex. B). Your Honor allowed the addition of *four more motions* to the already *four motions* set for November, 14th without consent of the Defendant, and giving the Defendant less then 24 hours to prepare for the four additional motions. Any reasonable observer would believe this action would be prejudicial and showing overt bias in favor of opposing counsel.

7. **Your Honor denied Defendant to state his Objections to Motion to Withdraw** (183)

On June 27, 2024 the Motion to Withdraw was heard. Defendant alleges his counsel, Nick Bragorgis, did not have cause to withdraw, and that The Rules of Professional Conduct prevented him from withdrawing. When JR began to state two sections of The Rules of Professional Conduct that supported is position, Your Honor cut JR off from stating the relevant sections from The Rules of Professional Conduct.

MR. SULLIVANT: Okay. Good enough. But if I can continue --

THE COURT: In other words, I don't want this to rise to something that is on the record and results in you making some kind of complaint against him anywhere else but here. (10:16).

Then the Defendant was cut off for a third time trying to defend his position against the motion my quoting

MR. SULLIVANT: So but, if I may, I think there is some other rules beyond 1.16 in the Rules of Professional Conduct that may apply that --

THE COURT: But, again, what difference does it make? (11:15).

The Defendant was not allowed to defend his position using text from the The Rules of Professional Conduct, because the Defendant might of had a basis for a bar compliant. The Defendant was not trying to establish a basis for a bar complaint, but stating common knowledge from The Rules of Professional Conduct that prevents counsel from withdrawing without cause as defined in the The Rules of Professional Conduct.

On July 26th, Your Honor allowed a hearing on the Motion to Withdraw for which the defendant was not present, nor had been told by Mr. Bragorgas was scheduled, and Your Honor granted the motion for him to withdraw without showing any cause.

Bias favoring an attorney because his prohibited actions are a basis for a bar complaint over the rights of *Pro Se* defendant, cannot be overcome. Any reasonable person that is aware of the facts would harbor doubt that the defendant has, nor would he receive a fair trail.

8. Your Honor denied Defendant's right to MRCP 60 Relief from Order
Per MRCP 60 **RELIEF FROM JUDGMENT OR ORDER (b) Mistakes; Inadvertence; Newly Discovered Evidence; Fraud, etc.,** the Defendant can ask for a reconsideration of ruling for cause.

In response to the Defendant's argument that Mr. Alford had suborned testimony to have Sullivant, SR's will changed, Your Honor ruled (P. 44 line 3 of November 14 Transcript) "But, again, I'm not going behind Judge Whitwell's order."

Your Honor states below (80:4) that testimony to show sufficient cause for fraud for a MRCP Rule 60 relief due to fraud by Mr. Alford and Dr. Perkins would not be entered in the record.

> **MR. SULLIVANT, JUNIOR**: I do -- I have cause and I would like to prove --
>
> **THE COURT**: I'm not going to allow it. Okay. So there is no need to hear anymore argument about that. Do you have any argument otherwise? Now, you've accused Mr. Alford of doing something today.
>
> **MR. SULLIVANT, JUNIOR**: I have –
>
> **THE COURT**: And I'm not going to allow that in the record either.
>
> **MR. SULLIVANT, JUNIOR**: If I can prove it. I'm trying to prove it, Your Honor. And I'm being stopped, Your Honor.
>
> **THE COURT**: You cannot prove it by talking to me. You cannot prove that by talking to me. And especially with Dr. Perkins and what you just said about Mr. Alford, it is an impossibility to prove. So we are not going to talk –

Just the last statement above would cause a would exceed the standard of 'to cause reasonable person to harbor doubt' that that Sullivant, Jr cannot get a fair trial with Your Honor presiding.

THE COURT: And the reasons are, one, there is no way that the allegations you made in those pleadings are 100 percent true.

MR. SULLIVANT, JUNIOR: I object to that. There's no way that we can determine that at this time.
THE COURT: Well, there is no way you are ever going to determine that.

MR. SULLIVANT, JUNIOR: I object to that. I believe I can.

THE COURT: They would have barred his license if he had done those things.

MR. SULLIVANT, JUNIOR: I'm stating that.

THE COURT: We are not going to spend the Court's time -- I will let you talk about whatever you want to, but -- and then the other thing is it is an exercise in futility because that's already finished. Our stuff about Dr. Perkins is already finished.

MR. SULLIVANT, JUNIOR: Well, the Mississippi Rules of Procedure 60, you can change the order if there has been fraud or numerous reasons –

THE COURT: Yeah.

MR. SULLIVANT, JUNIOR: I do allege that Dr. Perkins did lie and I can prove that. I was about to go through my cause right here of the facts, but I was objected to. And I have not been allowed to depose him. I tried to send interrogatories. All of these have been resisted because I can prove that. Mr. Alford and Mr. Freeland both know that I can. That's why they are fighting so hard. THE COURT: They are fighting hard because –

MR. SULLIVANT, JUNIOR: No. I object. They are fighting hard because I know and they know that I can prove that Perkins lied under oath and I would like the opportunity to do that. I will stand behind those words.

THE COURT: No. I'm not going to. In other words, again, this stuff about Dr. Perkins is over, you know, he's, according to them, not coming back to be a witness, which he has no other testimony.

In the above passage (77:21) Your Honor is presented with evidence from the timeline and a facts of the record that any reasonable citizen would find ample cause to pursue an the allegation that Mr. Alford suborned testimony, a felony. Your honor choosing consciously to protect Mr. Alford and disregard Judicial Cannon 3(D)(2).

This passage not only proves that Your Honor had predetermined that Mr. Alford did not suborn testimony but relies on faulty logic that Dr. Perkins did not perjure himself. That is that because the state medical board did not revoke his license, then he did not commit pejury. The state medical board has not received a complaint of this yet, so therefore they would not know that they need to suspend his license. Relying on that obvious faulty logic proves an unfavorable bias toward the defendant.

9. Violating Judicial Cannon 3(D)(2)

Judicial Canon 3(D)(2) states: **A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.**

The above testimony in Defendant's section 8 of this Memorandum describes testimony that made Your Honor undeniably aware that opposing counsel, a licensed attorney, committed a violation of the Rules of Conduct that raises a substantial question as to the lawyer's honesty. Your Honor did not take appropriate action as required by Judicial Cannon 3(D)(2), which showed bias favoring opposing counsel.

10. Following an inappropriate order of a recused Judge Whitwell.

On August 31, 2023, Judge Whitwell issued a strongly worded order denying Motion for Recusal.

JR filed an interlocutory appeal of the Judge Whitwell's denying Motion to Recuse on August 1, 2023. On September 22, 2023 that petition was denied.

On October 24, 2023, after Judge Whitwell's strong denial, and after the Supreme Court denied hearing the Defendant's petition, Judge Whitwell reconsiders his own order, and in effect recused himself. The case was transferred to Your Honor.

In Judge Whitwell's order he stated the transfer was to be made "without further review or reconsideration of any matters previously ruled on." The above qualification is unprecedented, and not provided for any MRCP or statute. A reasonable citizen would think this qualification is hypocritical on Judge Whitwell's behalf as his recusal order reconsiders one his own 'matters previously ruled on."

Not only is this irregular qualification not provided for in the MRCP, it violates MRCP Rule 60 Relief from Order. A reasonable citizen would also find that that the denial of the defendant's right to use MRCP Rule 60, is violation the defendant's right of due process, and that the Defendant cannot possibly receive a fair trial.

A recused Judge cannot have a say in future proceedings. A subsequent Judge is not obligated to follow a preceding recused Judge's order. A subsequent Judge should not follow a preceding recused Judge order on how to conduct future proceeding if it violates the Defendant's right to MRCP 60, and his constitutional right of due process.

> **THE COURT**: And you are mindful now of this transfer order that says we are not going back behind anything Judge Whitwell has already ruled? *P. 37:10*
>
> **THE COURT**: I'm not going behind what Judge Whitwell said. We are not going against – I'm not wading off into what rule says what because it is fruitless. *P. 42:13*

> **THE COURT:** Okay. And I'm going to hear you a little bit on that. But, again, I'm not going behind Judge Whitwell's order. Dr. Perkins is not a party to this case. *P. 44:2*

> **THE COURT**: …Judge Whitwell didn't allow it. And I'm not going to allow it. *P. 45:12*

> **THE COURT**: …But not withstanding what was written in here, Judge Whitwell got to the issue and made a decision about Dr. Perkins. He accepted whatever the medical affidavit said and then I presume Dr. Perkins testified about that and he also accepted Dr. Perkins' opinion about testamentary capacity and all of these other things. (*P. 74:23*)

Mr. Freeland, alleged counsel for non-party Dr. Frank Perkins, is familiar with the Judge Whitwell's qualification of his recusal, and uses it in a argument. (Pg 29:21 "And, Your Honor, this, against Judge Whitwell's order of transferring it, which says the hearing and all, that the Court won't consider or review any prior order."

Mr. Alford also uses Judge Whitwell's order that "without further review or reconsideration of any matters previously ruled on." While discussing how to handle 8 motions and before any arguments, Mr. Alford reminds the court that Judge Whitwell ordered that none of his past orders were to be reconsidered.

> **MR. ALFORD**: And then my thought too is that kind of following up with what Walt suggested, on the order of setting, that Mr. Sullivant, Junior, and I don't know if you have that in front of you, but it lists 1, 2, 3 and 4. And so my position is that one and two, you know, deal with things that have already been ruled upon and dealt with by Judge Whitwell. In his order, you know, he said that, you know, he is transferring it to you for a hearing on all undecided issues prospectively filed herein, without further review or reconsideration on any matters previously ruled upon. And so to me that would apply to the first two motions that are related to Dr. Perkins that have already been addressed by Judge Whitwell. (Pg 8:14)

Judge Whitwell had been recused from this case. Per the Judicial Cannons a Judge cannot recuse himself without cause. Judge Whitwell did issue an opinion vehemently denying he had done anything worthy of recusal. Shortly after the Supreme Court denied hearing the interlocutory appeal, Judge Whitwell reversed his prior opinion and recused himself from case.

The Defendant in his Motion to Recuse had accused and show cause that Judge Whitwell had received ex-parte communication from Mr. Alford, that the information was false, that Judge Whitwell enter the false testimony into the record and based a material decision on the false *ex-parte* communication. That is, that he would not allow Sullivant, Jr. to be conservator of his father, because JR did not love his father. The Defendant also alleged that Judge Whitwell made himself a character witness which is grounds for recusal.

In Judge Whitwell's Order for Transfer, he ordered that no decision he had made should be overturned. This order in contrary to MRCP Rule 60, and violates the Defendant's constitutional right to due process, and a fair trial. Furthermore, the Defendant argues that if a Judge is recused for bias from *ex-parte* communication, then every decision the recused Judge made could be subject to a MRCP 60 review if cause is shown.

Your Honor has denied the Defendant his due process and a fair trial by sustaining the Judge Whitwell's order that no decision shall be overturned by a future Judge. Judge Whitwell's order was unreasonable, unprecedented, and outside his legal capacity.

IV. CONCLUSION

The information, facts, and Orders laid out and described in this memorandum illustrate an unquestionable bias towards JR in these proceedings. The Court has fined JR without basis under any Mississippi Law or procedure, the Court has chilled JR's speech and impeded his ability to defend himself and to assert wrongs and harms imposed upon him, JR has been further intimidated into silence with the presence an special armed Sheriff's Deputy posted up in the courtroom at his hearings, the Court reneged on its own promise to allow JR ample find to seek representation after his attorney withdrawal, and instead granted the pending motions without opposition or even his

presence; and finally, the Court refuses to adhere to and honor Mississippi Law in awarded him the fees he is entitled to under Miss. Code Ann. § 93-20-411(8(b)).

For the foregoing reasons, recusal is appropriate and necessary to the interests of justice and to avoid the appearance of impropriety and impartiality which is clear and present throughout the Court's rulings.

In addition for the same foregoing reasons above, and due to local hostilities it is appropriate and necessary in order that the Defendant receives his U.S. Constitutional right to a fair trial representing himself *Pro Se* that the venue for this matter be transferred to the Eighth Chancery Court District.

Dated: September 19, 2024

By:_____
Robert Sullivant Jr.
Defendant Pro Se

Certification:

The undersigned hereby certifies that on September 19, 2024, a true and correct copy of this Motion to Recuse was sent via email to the below counsel(s) of record:

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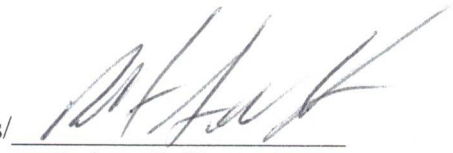
/s/ 
Robert Sullivant Jr.

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

ROBERT SULLIVANT SR. — **PLAINTIFF**

v.

ROBERT SULLIVANT JR. — **DEFENDANT**

CAUSE NO. 2021-CV-612 (W)

ROBERT SULLIVANT JR. — **THIRD-PARTY PLAINTIFF**

v.

ROBERT SULLIVANT SR. and EVELYN STEVENS — **THIRD-PARTY CO-DEFENDANTS**

ORDER

THE COURT HAS BEFORE IT THE MOTION of Dr. Frank Perkins (Doc. 134), Forensic Psychiatrist, by and through his attorney, pursuant to striking the pleading filed on June 20, 2023, by Robert Sullivant Jr. containing "immaterial, impertinent, or scandalous matter" consisting of unsubstantiated allegations pursuant to Miss. R. Civ. P. 12(f). The Court considered and reviewed the relevant pleading marked as exhibit A, containing highlighted portions filed on June 20, 2023, by Robert Sullivant Jr. containing "immaterial, impertinent, or scandalous matter," and finds the motion in response (Doc. 134) well taken. Those highlighted portions of the pleading Doc. 124 shall be stricken from the pleading, and a redacted pleading, which is attached hereto, shall be substituted for Doc. 124 in the record.

Mr. Sullivant Jr. shall not file any pleading or in open court make any statement containing derogatory assertions that disparage the character or integrity of any party, witness, attorney, or court personnel. The failure to abide by this order may result in the imposition of sanctions, including the contempt powers of this Court. Court proceedings shall only be related to the merits

Ex A

of the claims and defenses asserted without the injection of ad hominem argument, which is directed against a person rather than the position they are maintaining.

SO ORDERED, this the 14 day of November, 2023.

HON. LAWRENCE L. LITTLE, CHANCELLOR

Prepared by:

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FILED
STATE OF MISSISSIPPI
LAFAYETTE COUNTY

2023 NOV 13 AM 7:59

CHANCERY CLERK

BY DC

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

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ORDER SETTING HEARING

THIS CAUSE is hereby set for hearing on Tuesday, November 14, 2023, at 9:30 a.m. in the Marshall County Chancery Court in Holly Springs, Mississippi. The subject matter of the hearing shall be Doc. 134 (Perkins' *Response to Motion to Strike All Testimony and Reports of Dr. Frank Perkins and Motion to Strike*), Doc. 148 (Sullivant Jr.'s *Motion to Void the Order Quashing the Subpoena of Non-Party Witness Frank Perkins*), and Doc. 152 (Perkins' *Motion to Strike and for Attorneys' Fees*).

SO ORDERED, ADJUDGED, AND DECREED, this the 9th day of November, 2023.

Lawrence L Little
HON. LAWRENCE L. LITTLE, CHANCELLOR

Prepared by:

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Agreed:

Swayze Alford, with permission by email of Nov. 8, 2023

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Ex B

1 of 2

Agreed:

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Counsel for Guardian/Conservator Sherry Wall

Agreed as to form:

Robert Sullivant Jr., *pro se*