

Contested Guardianship

To Do List

Robin

Edit Description of First Encounter with Ira Miller

Robin's response to court evaluator report

Robin's response to Settlement

Go through items below in this document and note questions regarding whether additional documentation exists as evidence.

Talk to Smith about deed on house still in Father's name

Talk to Smith about working out holidays with Janice

Financial History

Document monies distributed to children and grandchildren of Anita Liebowitz

As per Supplemental Affidavit:

\$12K gift checks written to Janice's three children dated 2/27/2007

\$12K gifts transferred from Schwab account as gifts to Janice's three children on December 26, 2008

Where is documentation to show \$12K gift checks written to spouses of Janice and Merrie in 2007? What about 2008 and 2009 gifting?

As per Klein's letter (original petition), sisters instructed to write checks to Merrie and Robin to equal amounts of gifts for 2007 to all three sisters

Additional checks never written to Robin; Janice writes "Boys will return money", but as far as we know that never occurred.

Additional checks written to spouses neither returned to the best of our knowledge or equalized as instructed by Klein by giving additional gift money to Robin.

As per Supplemental Affidavit, in 2008, gifts checks were written and given to Janice and Merrie and cashed around Sept 2008> Robin did not receive a check from her sisters and had to ask her mom later in the year for it.

As per Supplemental Affidavit, in 2008 and 2009 over \$17K per year were transferred from mom's Schwab account to Williams College for the benefit of Merrie's son Noah

As per Supplemental Affidavit, Klein letter dated 5/1/2007 states "your mother expressed her intention to pay the upcoming acupuncture tuition bill (directly to the institution) on Robin's behalf."

This never occurred. Why does Janice (and Andy) expect that mom pays for their children's education, but not her own daughter's educational expenses? Tuition was covered by Anita for one semester at Tristate and 3 trimesters at PCOM, and Robin has payed for the rest (Robin hash hardcopy PCOM account statement).

Also note that this letter indicates Klein's recommendation of the use of a trust. Robin has agreed to this. This recommendation has been ignored by Janice and Merrie. Again in a letter dated 8/30/2007

(also in the exhibits submitted to the court), Klein again mentions "the advisability with a trust with an independent Trustee to manage your mother's assets." Robin tells Merrie she approves of transfer contingent on the establishment of trust Transfer goes through but no trust is established. Merrie has disagreements with Klein over who should be trustee.

Where is documentation from Acupuncture school verifying current enrollment and costs per date that have been paid by Robin? Robin has account statement from PCOM and is awaiting enrollment verification letter.

Where is documentation showing amounts of money paid by Anita for Merrie's health insurance? Robin has copies of some Chase statements from summer 07 to present

Email from Merrie to Robin dated 1/26/2004

"Remind Mommy that Janice already took her \$40K group money outright for Noah in 1991!" "Andy and Janice let David turn down a \$60,000 scholarship to Hamilton, which is still a very good school."

"Andy complained to me that Mommy has not gifted his children the last two years!"

Giftng History

Some of this is documented in Klein's letters that were included in the supplemental affidavit.

Vacation Expenses

All those frequent flyer miles Janice used to go on trips to Europe with her family. Did Janice write checks from her mom's account to pay for any portions of her own personal family trips?

Noah College Prep Program

June 07 (approximate date) - Janice asks Agnes (weekend caregiver) to help Anita write a check for a college prep summer program for Noah for \$1000.00. Check made out directly to program

Jewelry

Undetermined amount of very valuable jewelry Janice apparently took. Robin has photos of inventory at one point in time in one safe deposit box. Can that inventory be checked? Also perhaps jewelry was insured and there was an inventory sent to an insurance agent in the past.

Power of Attorney

Document history of POAs.

1997 or 1998: Janice had exclusive POA

2004: POA -All three daughters (agents) may act separately

Sept 2005- All three daughters (agents) must act TOGETHER-hardcopy document Robin has

Feb 2006- Schwab POA-Janice and Merrie had Mom sign Schwab POA without Robin's knowledge. Robin did not learn about the Schwab POA until Dec 2008 (Robin needs to verify date). Robin never received her gift check for that year. Anita and Robin went to Schwab to transfer 12K gift money from Anita's account to Robin's account. This is when Robin learned about the POA. t After Merrie learns about the transfer, she emails Robin and asks her where to send her gift check for 2008. Robin tells her that she has already received gift money for 2008 and she shouldn't send the check. I believe my sister was trying to catch me taking extra money.

On 9/15/2003, in an email to Joan Huber that was also sent to Robin with the subject "Power of Attorney for all daughters; proposals slightly revised," Merrie writes "The purpose of these proposals is to insure integrity, equality and fairness amongst the three POAs and proper recordkeeping of Mom's funds. 1. Janice, Robin and Merrie are all equal General Durable Power of Attorneys. 2. Janice, Robin and Merrie must consult with one another and exercise full disclosure ...". All of this is an important part of the record along with the POA that signed so I won't type it all up. Refer to <http://ableminds.com/guardianship/20030915MerrieEmailtoRobinandHuberrePOA.pdf>

Evidence Anita and Hirsch wanted to divide up assets equally between daughters

On 11/23/2003, Merrie emailed Robin concerning Janice. She wrote "Any opportunity for Janice to manipulate my mother has to be removed by putting things in place." "If my mother's assets can be divided equally, there is nothing Janice can do about it because that is the norm and it is fair. I believe that the courts would agree to that!!!" "Janice and Andy are out for themselves and not for my mother. I have been told by members of my extended family to watch Andy very carefully."

"Janice may find out about the joint Schwab accounts that were set up to equalize what my mother gave to Janice in shres of the Fidelity Magellan Fund." Robin, details on this? How much did Janice take? Was it ever really equalized for both you and Merrie?

Email from John Huber dated 5/26/2004 - Hirsch's will indicates equal amounts go to his three daughters. There is no provision for any money to go to spouses at all. Only if Janice predeceases her father is there a provision for her share to be held in a trust for her children to share equally, but with no planned disbursements prior to their 25th birthday. It clearly states "trustee has right to invade principal for education ... purposes," but from

each individual grandchild's trust "to maintain equity between the three." This strongly suggests that Hirsh expected Andy and Janice to be responsible for the cost of their children's future education given the large amount of funds they would receive at Hirsch's death and subsequently from Anita's estate. There is no mention of additional funds going to grandchildren for educational expenses.

Medical Care

Email dialogs with Janice showing she lied about the Namenda treatment and then back pedaled. Emails clearly show Janice was being controlling and resisting putting my mom on medication that could slow the progression of her Alzheimers. Robin had personal consultation with Dr. Scarmeas to discuss Mom's status before confronting Janice about the Namenda (I need to verify the consult date).

Restrictions on Robin Caring for her Mom

These include not allowing Robin to do things with her mom to improve her mom's quality of life. This included preventing Robin from taking her mom on a cruise trip to Europe that her mom requested (as hinted at on page 9 of the petition "denying Anita Liebowitz the right to travel") and her doctor gave permission for. It also includes making it difficult for Robin to take her mom to plays and other events in Manhattan. Her sisters have also interfered with the time maintenance of the home .. repairs to oven/stove, dishwasher, sprinkler, and more.

Page 2 of Petition: "Although the initial research and planning for the aide was done by Petitioner her sisters have excluded her from exercising any authority over the aides."

Manipulation by Sisters

On 1/14/2004, in an email to Joan Huber and also sent to Robin, Merrie writes: "Sooner or later, my mother is going to have to be warned against letting Janice mainpulate her because Janice has already mislead her in both the estate planning and my father's medical care. Robin and I have warned her against that. She is very receptive to us but when Janice comes her angelic face and sccharine-sweet innocent voice, my mother is bewitched by it." ... [Janice] is worried about the money. My mother is very vulnerable to outside influences on the part of Janice and Andy. ... Jance is going to wreak further havoc, both financially and emotionally, on our family to the point that members of our family will end upin court sooner than they think." In the email Joan Huber sent to Merrie (to which the above was Merrie's response), Ms. Huber writes "I had about a 2 1/2 hour conversation on the phone last evening. I'm not quite sure where things stand right now. Your Mother changed her mind about 3 times during this conversation."

Evidence Home Care Aides are Intimidated by Sisters

Page 2 of Petition "Anita Liebowitz is dependent upon the care of aides who fear repercussion if they should speak out against Rose Merrie or Janice. As such the aides are

unable to exercise sound judgement in the care of Anita Liebowitz and act in accordance with the wishes of Rose Merrie and Janice instead of in accordance with the best interests of Anita Liebowitz." Robin, what do you have to back this up? I know there is the handwritten note that I think Agnes wrote ... but my copy of it is completely illegible.

Robin's Exclusion from Communications and Records

Robin not notified of meeting in early March, 2009 regarding financial matters (see letter dated 6/8/2009)

Robin excluded from Schwab POA that includes Merrie and Janice, dated 2/28/2006

Page 3 of petition: "Rose Merrie and Janice have prevented Robin from having access to the financial and medical records of Anita Liebowitz to allow for independent review. Rose Merrie and Janice have taken deliberate actions to exclude Robin from meetings related to Anita's personal and property management. Relevant correspondence is annexed hereto as Exhibit "B".

Court Evaluator

The verified petition mentions that Anita Liebowitz has two brothers and a sister who pre-deceased her. Is it normal for the court evaluator not to mention or talk to siblings?

Historical Events

Onset of father's illness

Father's Death

Robin moves from San Francisco to New York to help care for her mother

Court Rulings that could be Relevant Precedents

Matter of Ferrara, 2006

Documents

Hardcopy Only Documents Robin Has

Robin will bring to meeting with Dave Smith

POA Document 2005

Hand-written note from Agnes

Relevant Documents Robin Does Not Have

POA 1997
POA 2004

Mom's Neurological Reports (last two)

Electronic Documents (Scanned, etc.)

<http://ableminds.com/guardianship/20090803BusellSettlementProposal.pdf>

Proposed settlement agreement on Sandra Busell's letterhead, dated 8/3/2009

<http://ableminds.com/guardianship/20090803MillerSettlementProposal.pdf>

Court Evaluator (Ira K. Miller) proposed settlement agreement, dated 8/3/2009

Presented at the settlement conference held 7/31/2009. (Apparently faxed to Justice Asarch)

<http://ableminds.com/guardianship/20090803BussellInvoice.pdf>

Invoice 1150 from Busell & Stier

<http://ableminds.com/guardianship/20090728MillerPreliminaryReport.pdf>

Preliminary Report of Court Evaluator (Ira K. Miller), dated 7/28/2009

<http://ableminds.com/guardianship/20090723BussellSupplementalAffidavit.pdf>

Supplemental Affidavit In Support of the Appointment of Guardians, dated July 23, 2009

Lists of Exhibits

- A.
 - Klein, 5/1/2007
 - Klein, 8/30/2007
 - Klein, 11/2/2007
- B.
 - Photocopies of \$12,000 checks written 2/27/2007 to each child of Janice
- C.
 - Email indicating "the boys" will each be returning the \$12,000 to Anita
- D.
 - Schwab statement, dated 12/26/2008 indicating \$12 each was transferred to each of Janice's children again
- E.
 - Chase Statements showing transfer from Mom's account to pay Merrie's health insurance
- F.
 - Schwab statement showing transfer of \$17,572 for benefit of Noah on 8/6/2008
- G.
 - Schwab Power of Attorney
- H.
 - Email from Jannice to Robin, dated 1/1/2009, regarding mom's visit to the cardiologist.

I.

Handwritten letter from Agnes weekend caregiver, dated 04/12/08 (Robin has legible copy)

<http://ableminds.com/guardianship/20090xxxBussellPetitionunsigned.pdf>

Verified Petition For Appointment Of Guardians (when was this signed/dated?)

Robin, do you have a copy of the signed petition? No worries because Smith will get from court

<http://ableminds.com/guardianship/20090608HuberLettertoSisters.pdf>

Letter from Joan Huber to Anita, Merrie, Janice and Robin, dated 6/8/2009

Regarding meeting in early March (note: Robin not invited or notified)

<http://ableminds.com/guardianship/2006MatterofFerrara.pdf>

New York Court of Appeals Reports: Matter of Ferrara; Argued June 1, 2006; Decided June 29, 2006

<http://ableminds.com/guardianship/20040526MerrieEmailtoDianeWilkie.pdf>

Email from Joan Huber to Diane Wilkie dated 5/26/2004 (sent by email from Huber to Wilkie on that date? or printed on that date?)

<http://ableminds.com/guardianship/20040204MerrieEmailtoHuberandRobin.pdf>

Email 2/4/2004 Coming to NY on Feb 22 - but others may come before me

<http://ableminds.com/guardianship/20040126MerrieEmailtoRobin.pdf>

Email 1/26/2004 Tell Mommy everything in this email!

<http://ableminds.com/guardianship/20040118MerrieEmailtoRobinreHuberLetter.pdf>

Email 1/18/2004 Merrie Email to Robin Joan's letter

<http://ableminds.com/guardianship/20040116MerrieEmailtoRobinrePOAquestion.pdf>

Email 1/16/2004 POA question

<http://ableminds.com/guardianship/20040114MerrieEmailtoHuberandRobin.pdf>

Email 1/14/2004 Sent info to you and, oh my goodness, Janice is coming to Rosyln tomorrow!!

<http://ableminds.com/guardianship/20031123MerrieEmailtoRobin.pdf>

Email 11/23/2004 Operation Justice for J

<http://ableminds.com/guardianship/20030920MerrieEmailtoHuberandRobin.pdf>

Email 9/20/2003 from Merrie to Joan Huber and Robin regarding revised POA

<http://ableminds.com/guardianship/20030915MerrieEmailtoRobinandHuberrePOA.pdf>

Email 9/15/2003 Power of Attorney for all daughters; proposals slightly revised