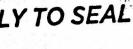
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For Domestic and International Use

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UNITED STATES POSTAL SERVICE

From

COOPER, SPONG & DAVIS A Professional Corporation P. O. Box 1475 Portsmouth, Virginia 23705-1475

TO

#715612

2578 Enterprise Rd. Orange City, FL 32763

Label 228, January 2008





Nathan Hall

VHE

9114 9999 4431 4622 5361

Name List

Pleadings/Orders

Services

Main Menu

Logoff

Virginia Beach Circuit - Civil Division Case Details

Case Number: CL16003373-00	Filed: 07/26/16		
Filing Type: Complaint - Catch-All	1		
Number of Plaintiffs: 0002	Number of Defendants: 0002		
Commenced By: Initial Filing			
Bond:	Complex Case:		

If there are more than three plaintiffs or defendants as indicated under "Number of Plaintiffs" or "Number of Defendants" in the table above, please contact the court for the additional party information.

Plaintiffs

Plaintiff 1: **JEWISH FAMILY SERVICE OF**

Trading as: TIDEWATER, INC.

Attorney: POMIJE, GREGORY M

Plaintiff 2: MOWERY, SYLVIA RESIT

Trading as:

Attorney: POMIJE, GREGORY M

Defendants

Defendant1: HALL PETROLEUM, INC.,

Trading as: Attorney:

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Bouth # C.E. Or. 8

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

JEWISH FAMILY SERVICE OF TIDEWATER, INC., GUARDIAN OF THE PERSON AND CONSERVATOR OF THE ESTATE OF SYLVIA RESIT MOWERY, AN INCAPACITATED ADULT

Plaintiff

٧.

CIVIL ACTION NO.:

HALL PETROLEUM, INC., Serve: Secretary of the Commonwealth 1111 East Broad Street, 4th Floor Richmond, VA 23219

and

NATHAN HALL Serve: Secretary of the Commonwealth 1111 East Broad Street, 4th Floor Richmond, VA 23219

Defendants

COMPLAINT

COMES NOW the Plaintiff, Jewish Family Service of Tidewater, Inc., guardian of the person and conservator of the estate of Sylvia Resit Mowery, an incapacitated adult, by counsel, and files this Complaint against Hall Petroleum, Inc. and Nathan Hall, and in support thereof, respectfully states as follows:

1. This action seeks to rescind a deed, executed on May 31, 2016, recorded in the Clerk's Office of the Circuit Court for the City of Virginia Beach, Virginia, on June 1, 2016, as Instrument Number 20150601000462200 (the "Deed") allegedly executed by Ms. Sylvia Resit Mowery ("Mrs. Mowery"), transferring by gift to the Defendants, Hall Petroleum, Inc. and

Nathan Hall, who is Mrs. Mowery's son, certain real property, with all improvements thereon, located in the City of Virginia Beach, Virginia, and more particularly described in the Deed (the "Property"). A true and correct copy of the Deed is attached hereto as Exhibit A and incorporated herein. This action seeks rescission of the Deed based on Mrs. Mowery's incapacity at the time she executed the Deed, and in the alternative, on the basis of undue influence by Defendant Nathan Hall.

- 2. Mrs. Mowery resides at the Property, to wit: 669 Lord Dunmore Drive, Virginia Beach, Virginia 23464. Plaintiff Jewish Family Service of Tidewater, Inc., guardian of Mrs. Mowery's person and conservator of her estate, brings this action on her behalf.
- 3. Defendant Hall Petroleum, Inc. is a Wyoming for-profit corporation with a principal place of business located in Derby, Florida.
- 4. Defendant Nathan Hall is the president of Defendant Hall Petroleum, Inc., and to the best of Plaintiff's belief, is a resident of the State of Florida.
- 5. On May 26, 2016, a hearing on a petition to appoint a guardian and conservator for Mrs. Mowery was held in the Circuit Court for the City of Virginia Beach, Virginia.
- 6. At the May 26th hearing, this Honorable Court found by clear and convincing evidence that Mrs. Mowery was an "incapacitated person," defined in part by §64.2-2000 of the Code of Virginia, 1950, as amended, as an adult incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to manage property or financial affairs without the assistance or protection of a conservator. This Honorable Court entered its order memorializing its May 26th ruling on June 23, 2016. Said order is attached hereto and made a part hereof as Exhibit B.

- 7. Five days following the Court's May 26, 2016 ruling, on May 31, 2016 Mrs. Mowery executed a Deed of Gift conveying her fee simple interest in the Property located at 669 Lord Dunmore Drive, Virginia Beach, Virginia 23464 to Defendants Hall Petroleum, Inc. and Nathan Hall. The Deed of Gift was recorded on June 1, 2016 in the Clerk's Office of this Honorable Court.
- 8. To the Plaintiff's knowledge and belief, Defendant Nathan Hall went to Mrs. Mowery's residence on May 31, 2016 knowing the Court had ruled she was incapable of managing her property and financial affairs without the assistance and protection of a conservator, and convinced her to execute the Deed either at her residence or elsewhere in the Commonwealth. By doing so, Defendant Nathan Hall endangered his mother's financial welfare in order to enrich himself and a company of which he is president. It was not possible that Mrs. Mowery fully knew or understood the ramifications to her well-being of conveying the Property, and Defendant Nathan Hall knew she lacked that understanding and/or knew the Court had found she lacked that understanding. His actions constitute circumstances from which the exercise of undue influence may be fairly and reasonably inferred.
- 9. On the June 27, 2016 Jewish Family Service of Tidewater, Inc. qualified before the Clerk of this Court as the guardian of Mrs. Mowery's person and conservator of her estate. Attached hereto and incorporated herein as Exhibit C and Exhibit D are true and correct copies of the Certificates of Qualification.

WHEREFORE, your Plaintiff, by counsel, prays that this Court:

- A. Rescind the Deed, declaring that the Deed is void and of no force and effect:
- B. Vest title to the Property in Sylvia Resit Mowery.
- C. Award attorneys fees and costs incurred by Plaintiff in this matter.

D. For much other miles as a just and proper

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EXHIBIT

Prepared By:

Sylvia Mowery

669 Lord Dunmore Drive

Virginia Beach, Virginia 23464

After Recording Return To:

Hall Petroleum, Inc.

2578 Enterprise Road

Orange City, Florida 32763

SPACE ABOVE THIS LINE FOR RECORDERS USE.

DEED OF GIFT

On December 01, 2015 THE GRANTOR(S),

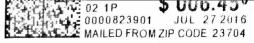
- Syivia Resit Mowery, a single person (mother)
- Hall Petroleum, Inc., Nathan Hall (son), President & CEO residing at 2578 Enterprise Road, Orange City, Fl. County, Florida 32763

This deed is exempt from recordation taxes pursuant to §58.1-811D of the Code of Virginia, 1950, as amended

THIS DEED OF GIFT, made and entered into this 01 day of December, 2015, by and between Sylvia Resit Mowery, a widowed women (mother), Grantor, party of the first part, and Hall Petroleum, Inc., Nathan Hall, President & CEO, single person (son) at Grantee, party of the second part, whose tax address is, 2578 Enterprise Rd. 141, Orange City, FL 32763

WITNESSETH:

Page 1 of



TITLE INSURANCE: UNKNOWN

That for and in consideration of the natural love and affection of which is hereby acknowledged, the said Grantor does herby grant, bargain, sell and convey, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE unto the said Grantee, in fee simple, the following described property, to-wit:

Legal Description: 669 Lord Dunmore Dr. GPIN 14665549040000, located in the Kempsville Borough of the City of Virginia Beach designated on plat entitled "Subdivision of Fairfield, Section Seven, Kempsville Borough, Virgina Beach, VA". made by Marsh and Besgier dated October 1971, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, VA in Map Book 92, at page 2 reference to which is hereby made for a more particular description of the property conveyed as Lot Thirty(30), in Block 1

It BEING the same property conveyed to the Grantors herin by Deed from Karl M. Herbert and Anetta K. Herbert, husband and wife, dated July 18, 1997, recorded in the aforesaid Clerk's Office in Deed Book 3766, at page 1357

Grantor does hereby convey, release and quitclaim all of the Grantor's rights, title, and interest in and to the above described property and premises to the Grantee(s), and to the Grantee(s) heirs and assigns forever, so that neither Grantor(s) nor Grantor's heirs, legal representatives or assigns shall have, claim or demand any right or title to the property, premises, or appurtenances, or any part thereof.

Tax Map Number: GPIN 14665549040000

First Class Mail ComBasPrice 02 1P \$ 006.450 0000823901 JUL 27 2016 MAILED FROM ZIP CODE 23704

Grantor Signatures:

DATED: 77 Cy 3 (20-16

Sylvia Resit Mowery 669 Lord Dummore Drive Virginia Beach, Virginia, 23464

STATE OF VIRGINIA, COUNTY OF VIRGINIA &PACH 88:

This instrument was acknowledged before me on this 315T day of MAY

241 by Sylvia Resit Mowery.

ALBERIO ASLANG
NOTARY PUBLIC
REGISTRATION 7307412
COMMONWYATATO OF VINCINIA
MY COMMISSION EXPRES
21 PLEMATES 30, 2017

Allah Sular Notary Public

Title (and Rank)

My commission expires 4-30-2017

EXHIBIT

B

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH TERESA RAFFO HODGES,

Petitioner,

CIVIL ACTION NO.: CL16-2019

SYLVIA RESIT MOWERY

Respondent.

ORDER

THIS CAUSE, came on to be heard on the 26th day of May, 2016, upon the Petition herein filed by the Petitioner, Teresa Raffo Hodges, pursuant to the provisions of §64.2-2002, of the Code of Virginia, 1950, as amended, for the appointment of a Guardian and Conservator for the person and property of Sylvia Resit Mowery, Respondent, upon the Order of this Court herein duly entered pursuant to §64.2-2003, of the Code of Virginia, 1950, as amended, appointing Carrollyn C. Cox, Esquire, a discreet and competent Attorney At Law, as Guardian ad Litem for the Respondent; upon Notice of this hearing prepared and duly served, pursuant to the provisions of §64.2-2004, of the Code of Virginia, 1950, as amended, the same having been duly served upon the Respondent by the Guardian ad Litem on the 14th day of May, 2016; upon the Respondent, Nathan E. Hall, Jr., and others; upon the Reports of three (3) Physicians who have treated the Respondent within the recent past or are presently treating her, the same having been duly filed with the Court, pursuant to §64.2-2005, of the Code of Virginia, 1950, as amended; upon the Exhibits filed therewith; upon the Respondent being present in person, and was argued by Counsel.

IT APPEARING THEREFROM that the Petitioner, Teresa Raffo Hodges, is the adult daughter of the Respondent; that the Respondent is and was at all times pertinent hereto a resident of 669 Lord Dunmore Drive, Virginia Beach, Virginia 23464; that the Respondent's Social Security Number is listed on the sealed filing herein; that this Court has exclusive jurisdiction pursuant to §64.2-2107, of the Code of Virginia, 1950, as amended, to appoint a Guardian ad Litem to represent the best interests of the Respondent; that the Report of the Guardian ad Litem in every way conforms with this Court's Order, and is hereby approved; that the Guardian ad Litem was present at this hearing and participated throughout; that the Notice of Hearing given herein in every way conforms with the requirements of the provisions of §64.2-2004, of the Code of Virginia, 1950, as amended; same having been personally served upon the Respondent by the Guardian ad Litem, along with a copy of the Petition and the Order appointing the Guardian ad Litem; that three (3) separate evaluation Reports were received into evidence pursuant to the provisions of §64.2-2005, of the Code of Virginia, 1950, as amended; and it

ř

FURTHER APPEARING THEREFROM that by clear and convincing evidence the Respondent is and has been a resident domiciliary of the Commonwealth of Virginia, residing at 669 Lord Dunmore Drive, Virginia Beach, Virginia 23464; that the Respondent contacted several attorneys with reference to her retaining counsel herein, but though she had sufficient funds to retain counsel did not do so; that the Court saw no need for the appointment of counsel for the Respondent, pursuant to the provisions of §64.2-2006, of the Code of Virginia, 1950, as amended; that this Court has jurisdiction to act in this matter; and it

FURTHER APPEARING THEREFROM that the Respondent was born on October 21, 1937; that she suffers from kidney failure, her kidney function being reported as approximately 6%

requiring dialysis three (3) times per week; that she can walk with assistance, but is a fall risk; that she has suffered several cardiovascular events within the recent past, including strokes and heart attacks, for which she has been hospitalized; that she suffers disorientation as to time and person; that she requires the use of oxygen on a constant basis; that she is insulin dependant on a sliding scale; that she requires twenty-four hour per day care and supervision in the administration of the complicated regimen of prescription drugs being prescribed by the eleven (11) medical Doctors presently rendering her care for her present physical and psychological problems; that she suffers from impaired judgement which manifests itself by agitation and aggression, which makes it impossible for her family to care for her and rendering it impossible for the Petitioner by use of the Powers of Attorney given to her by the Respondent, to meet the Respondent's needs for her physical care and the management of her property and estate, the Court having considered all of the evidence presented in light of the factors as set out in §64.2-2007c, of the Code of Virginia, 1950, as amended, finds it proven by clear and convincing evidence the Respondent to be an "incapacitated person" as such is defined in §64.2-2000, of the Code of Virginia, 1950, as amended, and that the Petition herein filed was bought in good faith and for the benefit of the Respondent, it is therefore,

ADJUDGED, ORDERED AND DECREED as follows:

- 1. That, therefore, the Respondent requires the appointment of a Guardian and a Conservator, for the care and management of her person and her "property" as such are defined in §64.2-2002, of the Code of Virginia, 1950, as amended;
- 2. That Jewish Family Service of Tidewater, which was present at the hearing of this matter in the person of Deyan Ward, be and hereby is appointed to act in such capacities, as Guardian and Conservator of the person and property of the Respondent, upon proper qualification as such

with the Clerk of this Court, to have full powers in the management of both her person and property, not limited herein by duration, but to be exercised after consultation with the Respondent, and, insofar as reasonably possible, in accordance with her wishes, the powers of the Conservator to include, but not be limited to, the following: to access, re-title, withdraw from, transfer, investigate, or close all bank accounts, safe deposit boxes, certificates of deposit, and investment accounts belonging to the Respondent, whether solely or jointly titled, and shall have authority to restrict access to such accounts with the exception of withdrawals by the Conservator. The Conservator shall have the authority to access, re-title, withdraw from, endorse, annuitize, or surrender all annuity contracts and insurance policies. The Conservator shall also have the authority to access, endorse, withdraw from, and make elections on behalf of the Respondent with regard to any federal, state, or private employee benefits or employee retirement account to which the Respondent is entitled, and in addition the Conservator herein appointed shall have all of the duties and powers as such Conservator as are set out in §§64.2-2021 and 64.2-2022, Code of Virginia, 1950, as amended, the Court hereby imposing requirements pursuant to §64.2-2022 B, by hereby requiring that the Conservator file a Petition with the Court for its specific guidance in the disposition of the sale of any real estate presently owned by the Respondent.

IT IS FURTHER ORDERED that the Guardian as herein appointed shall have the duties and powers as are set out in §64.2-2019 of the Code of Virginia, 1950, as amended, save and excepting that the Guardian shall have no authority to designate any place other than the Commonwealth of Virginia to be the residence of the Respondent, and shall have the specific authority and power to designate the persons or institutions to render all care, medical and otherwise, of the person of the Respondent; to designate her place of residence inside the Commonwealth of Virginia, and the type of care that she is to receive. However, as has been said, to secure the guidance of the Court s

should the Guardian determine it to be in the best interest of the Respondent that she no longer remain in her present home; and to govern her daily activities in her best interest.

IT FURTHER APPEARING that the Respondent has real and personal property worth approximately Five Hundred Thousand Dollars (\$500,000.00) and a small Social Security income, it is further,

ORDERED that the Conservator herein appointed make bond with the Clerk of this Court in the amount of Five Hundred Thousand Dollars (\$500,000.00), with surety, to assure the full and faithful performance of its duties as Conservator of the property and income of the Respondent, and it is further.

ORDERED that further bond, with surety, be made with the Clerk of this Court by the Guardian herein appointed, in the amount of One Thousand Dollars (\$1,000.00) to ensure its full and faithful performance of its duties as such, pursuant to the provisions of §64.2-2011, of the Code of Virginia, 1950, as amended.

IT FURTHER APPEARING that the Petition herein filed was filed in the bet interests of the Respondent and to her benefit, and that the Attorney's Fees as charged by the Attorney for the Petitioner and the Guardian ad Litem are reasonable in light of their service to the Respondent, and,

It is therefore ORDERED pursuant to §64.2-2008, of the Code of Virginia, 1950, as amended, that the Petitioner herein be reimbursed from the estate of the Respondent, Attorney's fees incurred by her herein, in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) and costs in the amount of One Hundred Three Dollars (\$103.00), and that the Guardian ad Litem be and hereby is awarded a fee in the amount of Three Thousand Six Hundred Ninety Five Dollars (\$3,695.00) for her services herein rendered to date, also to be paid from the estate of the Respondent.

It is further ORDERED that the duration of the appointment of the Guardian and Conservator, herein appointed is for indefinite period, however, subject to the Court's review of this matter, which is scheduled hereinafter. Until such time as the herein scheduled review has taken place, the Respondent's right to vote be and hereby is suspended.

The Clerk is instructed to retain this matter on the docket hereof for further proceedings, and this matter be and hereby is continued to be heard on review on the 20th day of December, 2016, at 2:15 p.m.

ENTER this 234 day of June, 2016.

Judge

I ask for this:

Halbert T. Dail, Jr., Esquire

Attorney for Petitioner

Any person appointed guardian or conservator of an estate must qualify before the Clerk of this Court before administering the estate.

Seen:

Carrollyn C. Cox, Esquire

Guardian ad Litem

Halbert T. Dail, Esquire (VSB# 04035)
Joynes & Gaidies
564 Lynnhaven Parkway
Virginia Beach, VA 23452
(7570 486-3000 telephone
(757) 486-4732 facsimile

CERTIFIED TO BE ATRUE COPY

OF RECORD IN MY CUSTODY

TINA E SINNEN, CLERK

CIRCUIT COURT VIRGINIA BEACH.

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VIRGINIA: IN THE VIRGINIA BEACH CIRCUIT COURT CLERK'S OFFICE

CERTIFICATE/LETTER OF QUALIFICATION WITH ATTACHED COPY OF ORDER

I, the duly qualified clerk/deputy clerk of this Court, CERTIFY that on June 27, 2016

JEWISH FAMILY SERVICE OF TIDEWATER, INC

duly qualified in this Office under applicable provision of law as Guardian of the Estate of

SYLVIA MOWREY, INCAPACITATED

Bond \$ 1,000.00 without surety - none required by court order

The powers of the fiduciary(ies) named above continue in full force and effect

DATE: June 27, 2016

TINA E. SINNEN, CLERK

Dépûty Clerk

A REACH



VIRGINIA: IN THE VIRGINIA BEACH CIRCUIT COURT CLERK'S OFFICE

CERTIFICATE/LETTER OF QUALIFICATION WITH ATTACHED COPY OF ORDER

I, the duly qualified clerk/deputy clerk of this Court, CERTIFY that on June 27, 2016

JEWISH FAMILY SERVICE OF TIDEWATER, INC

duly qualified in this Office under applicable provision of law as Conservator of the Estate of

SYLVIA MOWREY, INCAPACITATED

Bond \$ 500,000.00 with surety - Selective Insurance Company of America

The powers of the fiduciary(ies) named above continue in full force and effect

DATE: June 27, 2016

TINA E. SINNEN, CLERK

Deputy Clerk

PRESS FIRMLY TO SEAL

Prepared by: Cooper, Spong & Davis, P.C., P. O. Box 1475, Portsmouth, Virginia 23705 Return to: Cooper, Spong & Davis, P.C., P. O. Box 1475, Portsmouth, Virginia 23705 Tax Parcel Identification No.: 14665549040000

IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH VIRGINIA:

JEWISH FAMILY SERVICE OF TIDEWATER, INC., GUARDIAN OF THE PERSON AND CONSERVATOR OF THE ESTATE OF SYLVIA RESIT MOWERY, AN INCAPACITATED ADULT

Plaintiff

٧.

CIVIL ACTION NO.:CL

HALL PETROLEUM, INC., et al.

Defendants

MEMORANDUM OF LIS PENDENS

Know all men that Jewish Family Service of Tidewater, Inc., Guardian of the Person and Conservator of the Estate of Sylvia Resin Mowery, an Incapacitated Adult, plaintiff in the cause described below, gives notice of lis pendens by this memorandum filed in the Clerk's Office of the Circuit Court of Virginia Beach, Virginia, this ___ day of July, 2016, which sets forth the following:

There is now pending in the Circuit Court of Virginia Beach, Virginia a certain cause by Jewish Family Service of Tidewater, Inc., Guardian of the Person and Conservator of the Estate of Sylvia Resit Mowery, and Incapacitated Person, against Hall Petroleum, Inc. and Nathan Hall, the object of which is to cause a judicial rescission of a deed of gift conveying the property described herein to the defendants, on account of the Grantor's incapacity at the time of the transaction and undue influence upon her by the defendants. The said property is described as follows:

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the city of Virginia Beach, Virginia, being known, numbered and designated as Lot Thirty (30), in Block I, as shown on that certain plat entitled, "Subdivision of Fairfield, Section Seven, Kempsville Borough, Virginia Beach, Virginia", which said plat is duly recorded

in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 92, at Page 2.

Address: 669 Lord Dunmore Drive, Virginia Beach, Virginia 23464

The name or names of the person or persons whose estate is intended to be affected by the pending suit are Hall Petroleum, Inc. and Nathan Hall.

Witness my hand this 25th day of July, 2016.

JEWISH FAMILY SERVICE OF TIDEWATER, INC., GUARDIAN OF THE PERSON AND CONSERVATOR OF THE ESTATE OF SYLVIA RESIN MOWERY, AN INCAPACITATED ADULT

By: Siego M. Ponye
Of Counsel

STATE OF VIRGINIA CITY OF PORTSMOUTH, to-wit:

The foregoing instrument was acknowledged before me this 25th day of July, 2016 by Gregory M. Pomije, counsel for Jewish Family Service of Tidewater, Inc., Guardian of the Person and Conservator of the Estate of Sylvia Resin Mowery, an Incapacitated Adult.

Notary Public

My commission expires: 09/30/2019 Notary Registration No.: 7147002

