

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN
AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO.: 2019-12495-PRDL

IN RE: GUARDIANSHIP OF
MARY RUTH AUSTIN GIDDENS

An Incapacitated Adult,

ANSWER AND AFFIRMATIVE DEFENSES

COME NOW the Respondent, **JOHN M. BANDORF**, in response to the Petitioner's – **ALEXANDER DOUGLAS, II ESQ.** October 28, 2021 filed **PETITION FOR ORDER AUTHORIZING PAYMENT OF ATTORNEY'S FEE AND EXPENSES.**

Respondent responds accordingly as follows:

- Paragraph 1. The Respondent has no direct knowledge, and is skeptical, requiring strict proof thereof.
- Paragraph 2. The Respondent has no direct knowledge or involvement.
- Paragraph 3. The Respondent has no direct knowledge or involvement.
- Paragraph 4. The Respondent has no direct knowledge or involvement.
- Paragraph 5. The Respondent has no direct knowledge or involvement.
- Paragraph 6. The Respondent has no direct knowledge or involvement.
- Paragraph 7. The Respondent has no direct knowledge or involvement.
- Paragraph 8. The Respondent was aware that Mary Ruth Austin Giddens passed away on November 5, 2020. She was eighty six years, three months and twenty five days old. Mrs. Giddens was the Respondent's aunt – mother's sister.
- Paragraph 9. The Respondent has no direct knowledge or involvement.
- Paragraph 10. The Respondent has no direct knowledge or involvement.
- Paragraph 11. The Respondent has no direct knowledge or involvement.

Paragraph 12. The Respondent has no direct knowledge or involvement.

Paragraph 13. The Respondent has no direct knowledge or involvement.

Paragraph 14. The Respondent has no direct knowledge or involvement.

Paragraph 15. The Respondent has no direct knowledge or involvement.

Paragraph 16. The Respondent has no direct knowledge or involvement.

Paragraph 17. The Respondent has no direct knowledge or involvement.

Paragraph 18. The Respondent has no direct knowledge or involvement.

AFFIRMATIVE DEFENSES

This matter is apparently attached to the final disposition of the estate of Mary Ruth Austin Giddens' estate. The Petitioner apparently represented Hilda Wilson – Mrs. Giddens' assigned legal guardian.

The Respondent was never a party to this litigation, nor did the Respondent engage the legal services of the Petitioner.

The Petitioner appears to be placing the Respondent on **FORMAL NOTICE**, that the Respondent may have a financial obligation to pay his legal fees and expenses regarding this litigation. A copy of the **FORMAL NOTICE** is attached hereto as Exhibit "A".

While the Respondent was aware of Mrs. Giddens' death, the Respondent was never advised that Mrs. Giddens included the Respondent as a beneficiary, or had endowed the Respondent with any authorities and responsibilities regarding the disposition of her estate.

The Respondent has reviewed the Petitioner's **PETITION FOR ORDER AUTHORIZING PAYMENT OF ATTORNEY'S FEE AND EXPENSES**, including all attached exhibits. A copy of the Petitioner's **PETITION FOR ORDER AUTHORIZING PAYMENT OF ATTORNEY'S FEE AND EXPENSES** is attached hereto as Exhibit "B". All supporting exhibits to this particular Court petition are available within the Court docket, as originally filed by the Petitioner.

While some of the other parties mentioned within the Petitioner's **FORMAL NOTICE** are further mentioned within the Petitioner's initial and dated Court filings – the Respondent is not mentioned.

Prior to filing this **ANSWER AND AFFIRMATIVE DEFENSES**, the Respondent contacted the Petitioner via email, requesting clarity to the issues at hand. As of this court filing, the Petitioner has not responded.

WHEREFORE, Respondent, **JOHN M. BANDORF** declares, that unless otherwise advised, this Respondent has zero interest, nor does he have any responsibilities attached to these matters.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to Alexander Douglas, II of Shuffield, Lowman, & White, P.A., 1000 Legion Place, Suite 1700 Orlando, Fl 32802 and via email to litservice@shuffieldlowman.com on this 16 day of November 2021.

JOHN M. BANDORF

BY: *[Signature]*
/s/ John M. Bandorf

JOHN M. BANDORF

414 Orange Avenue

Port Orange, Florida 32127

John@Bandorf.org



ANDREW MILLWATER
Commission # GG 366339
Expires August 22, 2023
Bonded Thru Budget Notary Services

Andrew Millwater
NOTARY Valid THRU 8-22-23

Exhibit "A"

IN THE CIRCUIT COURT FOR VOLUSIA COUNTY,
FLORIDA PROBATE DIVISION

IN RE: GUARDIANSHIP OF

File No: 2019-012495-

MARY RUTH AUSTIN GIDDENS PRDL

Division: 1

Deceased.

FORMAL NOTICE

TO: Lance Earl Austin, 12195 County Line Road, Leighton AL 35646
John Bandorf, 414 Orange Avenue, Port Orange FL 32317
George Bandorf, 963 South 47th Street, Richmond CA 94804
Theresa Bandorf Winton, 2207 Woodbine Drive, Tallahassee FL 32309
Linda Stewart, 6590 Riverview Lane, Lot 3, Boscobel WI 53805
Zoe Austin Dieter, 120 Alpha Drive, Longview WA 98632
Tommy Austin, 108 Jamine Lane, Kelso, WA 98626

YOU ARE HEREBY NOTIFIED that a *Petition for Order Authorizing Payment of Attorney's Fee and Expenses* has been filed in this Court, a copy of which accompanies this Notice. You are required to serve written defenses on the undersigned within 20 days after service of this Notice, exclusive of the day of service, and to file the original of the written defenses with the clerk of the above court either before service or immediately thereafter. Failure to serve and file written defenses as required may result in a judgment or order for the relief demanded in the pleading or motion, without further notice.

Signed and dated this 8th day of November 2021.

/s/ Alexander S. Douglas, II
Alexander S. Douglas, II
Florida Bar No. 817422
Catherine P. Hanna
Florida Bar No. 31529
Shuffield, Lowman & Wilson, P.A.
1000 Legion Place, Suite 1700
Orlando, FL 32801
Telephone: (407) 581-9800
Facsimile: (407) 581-9801
Email: litservice@shuffieldlowman.com

Exhibit "A"

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN
AND FOR VOLUSIA COUNTY,
FLORIDA

IN RE: GUARDIANSHIP OF
MARY RUTH AUSTIN GIDDENS,
An Incapacitated Adult.

CASE NO.: 2019-012495-PRDL

**PETITION FOR ORDER AUTHORIZING PAYMENT
OF ATTORNEY'S FEE AND EXPENSES**

Petitioner, Alexander Douglas, II, Esq, of Shuffield Lowman & Wilson, P.A. alleges:

1. Petitioner is an attorney engaged in the practice of law in the State of Florida.
2. By virtue of an order entered by the Probate Court in Lauderdale County, Alabama,

Hilda Wilson (the "Guardian") is the duly appointed and acting Conservator of the property and guardian of the person of the deceased incapacitated person, Mary Ruth Giddens (the "Ward").

3. On October 17, 2019, the Probate Court of Lauderdale County, Alabama, Case Number 22117, in the case styled as *In the Matter of Mary Ruth Austin Giddens*, issued an order authorizing the Guardian to retain legal counsel in the state of Florida for the purpose of selling the Ward's real property in the State of Florida. A copy of that order is attached hereto as Exhibit "A".

4. By virtue of this Court's January 9, 2021 Order Authorizing Foreign Guardian to Manage Property of Non-Resident Ward, this Court authorized the Guardian to manage the Ward's property located in Florida, including a parcel of real property in Volusia County, Florida with mailing address of 741 Garden Lane, Ormond Beach, Florida 32174 (the "Real Property"). Title to the Real Property was held by the Ward and her nephew, Mathew Turner. The January 9, 2020

Exhibit **B**

order also authorized the Guardian to sell the Real Property, initiate an action for partition of the Property and pursue claims against Mathew Turner relating to the Real Property.

5. After attempting to negotiate with Mathew Turner for him to purchase the Real Property from the Ward, on May 12, 2020, the Guardian filed a Civil Action against Mathew Turner for partition of the Real Property, and for recoupment of certain expenses associated with the Real Property, in civil action styled as *Hilda Wilson v. Mathew Turner*, Case No. 2020-30665-CIFI-32, filed in the Circuit Court in and for the Seventh Judicial Circuit, Volusia County, Florida. A copy of that Complaint is attached hereto as Exhibit "B".

6. Mathew Turner retained counsel and answered the Complaint. After discussions with Mathew Turner's counsel, the Guardian and Mathew Turner agreed to list the Real Property for sale. Shortly after listing it for sale, an unrelated third party agreed to purchase the Real Property. On September 23, 2020, the Guardian filed a Petition for Approval of Contract to Sell the Ward's Real Property which was approved via an Order entered by this Court on September 30, 2020.

7. On October 19, 2020, the Sale of the Real Property was completed and the net proceeds were deposited into Shuffield Lowman & Wilson's Trust account, as Shuffield Lowman & Wilson was serving as the escrow agent with the consent of the Guardian and Mathew Turner. The net proceeds were held in escrow because Mathew Turner and the Guardian were unable to reach a resolution concerning the manner in which the net proceeds were to be distributed. On October 27, 2020, the Guardian and Mathew Turner entered into an agreement concerning the distribution of the net proceeds. This Court approved that settlement agreement on October 27, 2020. Thereafter Mathew Turner's portion of the net proceeds was distributed to Mathew Turner.

8. The Ward died on November 5, 2020 in Florence, Alabama in Lauderdale County. At the time of her death the Ward was 86 years old.

9. On March 15, 2021, the Probate Court for the County of Lauderdale Alabama issued its Letters of Administration authorizing Hilda Wilson to serve as the Personal Representative of the Ward's Estate. A copy of the Letter of Administration is attached hereto as Exhibit "C".

10. The total amounts of all prior fees or costs awarded to Petitioner in this proceeding are:

Fees \$0

Costs \$0

11. Petitioner has rendered services to the guardian and incurred expenses for the benefit of the Ward, from September 2019, through the present, as more fully described and set forth in the itemized schedule of services and expenses attached hereto as Exhibit "D".

12. The services rendered to the Guardian during the time period at issue involved, (1) the filing and the pursuing of an action for partition which resulted in the resolution of a dispute between the Guardian and the Co-Owner of the Real Property, and the sale of the Real Property; (2) administration of the foreign guardianship in Florida, resulting in the distribution of much of the contents of the Real Property to the Ward's heirs, and return of the other items to Alabama for the Ward's benefit; and (3) acting as an escrow agent relating to the proceeds from the sale of the Real Property.

13. Petitioner's records indicate that during the period of time above mentioned 124.20 hours have been devoted to the representation of the Guardian and the interests of the Ward as follows:

a. In representation of the Guardian in the guardianship administration: Total of \$12,621.50, in fees, for a total of 45.50 hours. This includes time improperly placed in the escrow agent file, but more properly relates to representation of the Guardian generally. The breakdown of the 45.50 hours spent representing the Guardian generally in the guardianship administration is as follows:

- .50 Hours of Litigation Partner (ASD) at \$425/hr.
- .80 Hours of Guardianship Partner (HWI) at \$400/hr.
- 4.60 Hours of Guardianship Partner (HWI) at \$420/hr.
- 25.80 Hours of Litigation Associate (CPH) at \$295/hr.
- .60 Hours of Guardianship Associate (ANV) at \$285/hr.
- .50 Hours of Guardianship Associate (ANV) at \$290/hr.
- 2.80 Hours of Litigation Paralegals (LMC and CSB) at \$160/hr.
- 9.90 Hours of Guardianship Paralegals (MXB and CJR) at \$180/hr.

The Guardian has already paid the Petitioner a total of \$3,728.50 in fees and \$182.25 in costs relating to its representation of the Guardian in the Guardianship. A balance of \$8,893.00 in expenses and \$103.60 in costs has left to be paid, for a total amount of \$8,996.60 which has left to be paid to Petitioner for its representation of the Guardian generally.

b. In representing the Guardian in matters relating to the Partition action: Total \$22,798.50 in fees for a total of 78.70 hours. The breakdown of the 78.70 hours spent representing the Guardian in the Partition Action is as follows:

- 1.70 Hours of Litigation Partner (ASD) at \$415/hr.
- 1.80 Hours of Litigation Partner (ASD) at \$425/hr.
- .50 Hours of Guardianship Partner (HWT) at \$400/hr.

1.10 Hours of Guardianship Partner (HWI) at \$420/hr.

16.50 Hours of Litigation Associate (CPH) at \$285/hr.

43.20 Hours of Litigation Associate (CPII) at \$295/hr.

5.70 Hours of Real Estate Attorneys (DLC and MRA) at \$315/hr.

2.60 Hours of Litigation Paralegal (LMC and CSB) at \$160/hr.

5.60 Hours of Guardianship Paralegals (MXB and CJR) at \$180/hr.

The Guardian has already paid the Petitioner a total of \$18,829.10 in fees and costs relating to its representation of the Guardian in the Partition Action. A balance of \$5,245.04 has left to be paid.

14. Based upon the criteria established by Florida Statutes Section 744.108(2), Florida Guardianship Law, petitioner believes that a reasonable fee for the services performed by the petitioner for its representation of the Guardian in the guardianship administration and in the Partition Action during that period of time is \$35,420.00.

15. Costs in the amount of \$1,561.49 have been incurred on behalf of the Ward

16. The Guardian has already paid Petitioner a total of \$21,296.00 in fees and \$1,443.85 in costs, such that \$14,241.64 has left to be paid. Of that amount \$14,124.00 represents outstanding fees which has left to be paid and \$117.64 represents outstanding costs which have yet to be reimbursed.

17. The Petitioner anticipates that they will incur an additional 2 hours of attorneys' fees and costs in finalizing, filing and submitting this Petition, a hearing of the petition, and final steps in distributing escrow, at a rate of \$295 for a total of \$590.00.

18. As Escrow Agent for the sale of the Real Property, the Petitioner was holding \$122,306.61 of the sale proceeds from the sale of the Real Property which represented the Ward's

share of the proceeds from the sale of the Real Property. Now that the Guardian has been appointed as Personal Representative of the Estate of Mary Ruth Austin Giddens, Shuffield Lowman & Wilson, P.A. has distributed \$102,306.61 of the sale proceeds to Hilda Wilson as Personal Representative of the Estate, and is withholding \$20,000.61 in its escrow account until the final administration of this foreign guardianship.

Petitioner requests that an order be entered determining a reasonable fee for the services rendered by Petitioner for the benefit of the deceased Ward, and authorizing and directing the Guardian to pay to Petitioner from the assets held in the Petitioner's trust account a total amount of \$14,241.64 for payment of the outstanding costs and expenses owed, and authorizing and directing the Petitioner to pay the remaining amounts held in the trust account to Hilda Wilson as Personal Representative of the Estate of Mary Ruth Giddens.

Dated: October 28, 2021.

/s/ Alexander S. Douglas, II
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