

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

PROBATE DIVISION: IA
NO. 50-2023-MH-001072-XXXX-MB

IN RE:

Patricia A. Sahm,

An Alleged AIP,

EMERGENCY MOTION:
MANDATORY DISQUALIFICATION

EMERGENCY MOTION:
MANDATORY DISQUALIFICATION

COMES NOW, Petitioner Kevin R. Hall, an interested person under law with standing, proceeding pro se and being duly Sworn under oath and penalties of perjury to the contents of this motion and files this motion for Mandatory Disqualification of Judge Schosberg Feuer pursuant to Florida Statutes Sec. 38.10 and Florida Rules of Judicial Administration Rule 2.330, disqualification of trial judges, and states that Circuit Judge Schosberg Feuer has demonstrated prejudicial conduct, and bias by objectively reasonable standards and committed other misconduct and violations of statutory authority, rules and duties such that the Petitioner has a reasonably objective fear that a fair trial can not be had before

Judge Schosberg Feuer who shall be mandatorily disqualified according to law based on the following:

1. I am an interested person under law with standing who has made multiple appearances in this case and filed a formal Notice of Appearance on August 15, 2024 under DE No. 41 and now file this Sworn Statement and Affidavit under oath and penalties of perjury under FS Sec. 38.10 for the mandatory disqualification, of Judge Schosberg Feuer and under applicable Judicial Rules and the US Constitution and Florida Constitution.
2. The Notice of Appearance specifically noted as follows: NOTICE OF APPEARANCE AS INTERESTED PERSON AND DESIGNATION OF EMAIL ADDRESS Fla. Stat. § 731.201(23) and Probate Rule 5.060 - REQUEST FOR NOTICES AND COPIES OF PLEADINGS.
3. Thus, a proper Request for Notice under the Probate Rules was also filed.
4. Zelman v. Zelman, 175 So. 3d 871 (Fla. Dist. Ct. App. 2015), a 4th DCA case, provides that **an “interested person” who does not have to be a next of kin or family member may have “standing” in both Mental Health Incapacity cases and Guardianship cases.**
5. This is a first motion for mandatory disqualification of Judge Feuer in this Mental Health case and is governed by the rules for a first motion.

6. Kevin R. Hall, as an interested person, states that I will not receive a fair trial or hearing because of specifically described prejudice or bias of Judge Schosberg Feuer and that this fear is both reasonable and supported by other Witness Observers to the conduct of Judge Schosberg Feuer.
7. Under Florida Statutes Sec. 38.10, “Whenever a party to any action or proceeding makes and files an affidavit stating fear that he or she will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of that court against the applicant or in favor of the adverse party, the judge shall proceed no further, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes in which the presiding judge is disqualified.”
8. Judge Schosberg Feuer must now be mandatorily disqualified from this case and proceeding.
9. This motion for mandatory disqualification is also filed under Florida Rules of Judicial Administration Rule 2.330, disqualification of trial judges,
10. This rule applies to county and circuit judges in all matters in all divisions of Court.
11. Judge Schosberg Feuer is a Circuit judge in the 15th Judicial Circuit and this rule thus applies to her office.

12. Petitioner further moves for mandatory disqualification and to otherwise disqualify Judge Schosberg Feuer for mandatory grounds provided by the Florida rules, statutes, laws, Florida Code of Judicial Conduct and US Constitution and Florida Constitution.
13. The motion is legally sufficient as it is in writing, filed in good faith, is timely under the law, establishes reasonable grounds to believe I can not receive a fair trial before Judge Schosberg Feuer and is certified in good faith and sworn to under oath and served properly and is legally sufficient in all respects.
14. In that the actions and conduct of Judge Schosberg Feuer supporting the motion occurred on November 26, 2024, November 27, 2024, and November 15, 2024, this motion is filed within 20 days thereof and is timely in all respects.
15. Judge Schosberg Feuer must now be immediately Disqualified from all matters herein.

BACKGROUND

16. Judge Burton, prior to his mandatory Disqualification in the GA case had specifically Noticed me as an interested person in this MH case under DE No. 27 on June 27, 2023 the alleged Order of incapacity which was not made after any Hearing on Incapacity and there has never been a hearing on

incapacity nor any fact findings on alternatives to Guardianship made by clear and convincing evidence.

17. In fact, the original “Committee” was composed of an unlicensed doctor who did not see Pat Sahm, Sr in person and 2 others who are related through marriage.

18. The original Petition for Incapacity was filed 4-17-23 by one Joanna Sahm, daughter of Pat Sahm, Sr., just 4 days after allegations of fraud were exposed in the US Bankruptcy Court by Eliot Bernstein in relation to an ongoing foreclosure with Bernstein Family Realty, LLC (BFR) where I am a Listed Manager with the Florida Secretary of State and where my rights are directly impacted by these proceedings to “silence Pat Sahm, Sr” through Incapacity and Guardianship after Pat Sahm, Sr. revoked certain powers to Joanna before a Notary Public and discharged attorneys acting for Pat Sahm, Sr without her knowledge including one Robert Sweetapple. See DE No. 1.

19. Thus, not only did the original Petition name BFR and the foreclosure as being directly involved with this proceeding, Joanna’s attorney O’Malley expressly stated on the Record before Judge Burton that BFR matters were driving the proceedings.

20. Yet, in over 18 months Pat Sahm, Sr. has only been heard on the Record once officially in May of 2023 expressly Waiving privacy and demonstrating

competent, rational thoughts over the differences between her daughters that are also underlying the proceedings.

21. This Petition by Joanna Sahm which has “silenced” Pat Sahm Sr for over 18 months was not only filed 4 days after a Bankruptcy proceeding where Joanna Sahm “left the Zoom” before being able to be called as a Witness but also within 30 days of the Counsel she was working with Robert Sweetapple having been interviewed by the PBSO in relation to criminal allegations filed by Eliot Bernstein as Mr. Sweetapple was filing official documents in Foreclosure in the name of Deceased Walter Sah as if he was alive and concealing the death from the Court and parties and concealing that Mr. Sweetapple was really acting for Joanna Sahm by a POA that was hidden from the Court and parties for over a year.

**REASONABLE AND OBJECTIVE GROUNDS IN GOOD FAITH THAT A
FIAR TRIAL CAN NOT BE HAD BEFORE JUDGE FEUER**

22. On November 15, 2024, Judge Feuer held a Non Evidentiary 30 Minute “argument” Hearing on a Motion to Strike my Notice of Appearance filed by the Kitroser firm on behalf of Charles Revard.

23. Pat Sahm, Sr, the AIP, was not present at the hearing.

24. Her alleged Court appointed attorney Laura Burkhalter who had been previously Discharged by Pat Sahm, Sr. in lieu of attorney Amber Patewel, also was not present at the November 15, 2024 hearing.

25. Guardian Charleve Revard was not present at the Hearing

26. Only attorney Kathryn Lewis for the Kitsosser firm on behalf of Mr. Revard was present.

27. After being held in the “Waiting Room” by Phone for several minutes during the Zoom as my audio and microphone are disabled on my laptop as previously noticed to the Court from hacking, Judge Feuer only allotted 7-9 minutes to myself for Argument time which was interrupted several times by Counsel Lewis.

28. Judge Feuer refused to allot additional minutes even for Non Evidentiary Argument which itself creates a reasonable fear that a fair trial can not be had particularly when Judge Feuer allowed multiple false and improper disparaging statements be made Non Evidentiary by attorney Lewis and particularly in the absence of Pat Sahm, Sr. who the Court knows had specifically requested my involvement in the proceedings from the outset to protect her.

29. Judge Feuer, like Judge Burton had done before mandatory Disqualification, could simply have had the parties “wait” in Zoom and recalled the case to

allow fair and proper argument response time but consistent with the “rubber stamping” pre-determined rulings in favor of the Kitroser firm Judge Feueir refused to allot this time creating the reasonable fear a fair trial could not be had before this Judge especially when the Judge refused to address on the Record the very question of whether there even is a proper Guardianship as had been raised by my papers filed September 11, 2024 in DE No. 204 in the GA case showing no record of any proper Incapacity and thus no proper authority to Charles Revard via the Kitroser firm when Revard was not even present.

30. Specifically this September 11, 2024 filing showed for both cases the following: “This Court can note for it's own the following from the Records of the case and I note the time for motions under 1.540 (b) (3) fraud, misconduct, misrepresentation and (4) are still quite timely as is Disqualification:

No Record of any "Adjudicatory Hearing" to determine capacity as required by law;

No Record of any fact finding as required by law to determine the level of incapacity if any with specifics by clear and convincing evidence;

No Record of any consideration by the Court (Judge Burton) of alternatives to Guardianship;

No Consent by Pat Sahm, Sr. to Guardianship except possibly a limited ETG as shown by the Amber Patwell Answer and Response, not a limited Guardianship, an ETG at best which did not include any express waiver of the statutory right to Appear by Pat Sahm, Sr.”. See DE No 204 GA Case.

31. Inger Garcia had filed a year before in the GA Case showing that any “Consent” given by attorney Patwell for Pat Sahm in relation to “incapacity” was part of an agreement with the Kitroser firm and was premised on the very Settlement where I not only have rights but where Pat Sahm has been silenced and showed this “Consent” was done with the understanding that the Foreclosure was settled and Amber Patwell was the attorney. See De No. 71 in GA case.

32. Yet, on November 15, 2024 Judge Feuer again disregarded the threshold issue of whether there even is a proper Guardianship and any proper “Incapacity” and thus whether the Kitroser firm even has standing to act to bring the motion for Charles Revard who was not even present nor was Pat Sahm Sr or her counsel.

33. This alone combined with the refusal to allot additional time creates a reasonable fear that a fair trial can not be had before Judge Feuer.

34. More egregious is the conduct following the Non Evidentiary argument hearing where Judge Feuer began emailing with the Kitroser firm over the Order coming out of the Hearing while disregarding my response emails.

35. Judge Feuer was well aware I had already Stipulated in the May 2024 Hearing that my Standing and Interest was limited expressly to matters involving BFR and the Settlement and the “silencing” of Pat Sahm Sr by an improper Guardianship directly relates to those issues.

36. Judge Feuer was specifically Noticed by Email my Objections to any Proposed Order without Notice to provide an Alternative Proposed Order under the 15th Judicial Administrative Order allowing for 5 days Notice and specifically was aware that I sought until November 27, 2024 to submit the alternative proposed Order by my email dated November 22, 2024 titled “Notice of Objection to Proposed Order 11-22-24 Re: Guardianship of Sahm” and copied to the FBI and others working with Federal authorities as most all Eliot Bernstein family matters are since I was brought into his life by a Washington, DC source working on Integrity in the Courts and with multiple federal agencies where I met Mr. Bernstein through various corruption related proceedings in New York where I am from and where we had common issue of an FBI Agent “going missing” although Mr.

Bernstein's related to "Fraud on the United States" while mine was only in relation to Bar and Court matters in New York.

37. Yet, like the pattern in the GA case, Judge Feuer wholly disregarded this Notice, disregarded due process and disregarded the Admin Order on Notice for Alternative Orders all which creates a reasonable fear a fair trial can not be had before Judge Feuer.

38. What makes this action more egregious is that it occurs on the very issue of standing to be heard and that the Judge was violating procedural due process and directly in contravention of a standing Administrative Order of the 15th Judicial for the submission of alternate and proposed Orders.

39. Under the facts of the case, this action by Judge Schosberg Feuer itself on November 26, 2024 in knowingly denying procedural due process and due process rights to be heard and submit an alternative Proposed Order reasonably shows that a fair trial could not be had before Judge Schosberg Feuer particularly in a case where the Judge has repeatedly disregarded credible information of fraud in the proceedings and where the Judge had specifically denied any Evidentiary hearing, had never held an Evidentiary hearing, and improperly delegated her own Judicial obligations to make findings of fact to the very Kitroser firm furthering fraud in the proceedings

by not making her own findings of fact but instead “rubber stamping” word for word findings submitted by the Kitroser law firm.

40. Pat Sahm, Sr. waived her right on the record to close these proceedings at her only appearance and specifically invited me to attend and protect her and she should be produced before the Court to be heard as it is her case, her money, her rights.

41. This Court, Judge Feurer is well aware of this Statement on the Record by Pat Sahm, Sr. to keep the proceedings open and the Judge has been served by email with the Transcript and such Transcript is prominently in the record of proceedings in the GA case.

42. Judge Feuer has never even met Pat Sahm, Sr nor looked upon her in over 10 months nor had her before the Court nor inquired specifically on most occasions all which creates a reasonable fear a fair trial can not be had with Judge Feuer.

43. Judge Feuer prejudicially has allowed false statements by attorney Lewis that I am somehow trying to take money from Pat Sahm Sr when in fact I have been one of the ones like Eliot Bernstein and BFR and Josh, Jake, Daniel Bernstein and Candice Bernstein to put fair money in Pat Sahm’s pockets and end bad faith litigation which Pat Sahm Sr herself wanted but is being silenced by the Kitroser firm and this Court.

44. My only concern ever for Pat Sahm Sr is to have proper, independent and non conflicted counsel even if that meant not doing the Settlement.
45. Judge Feuer even further disregarded the new evidence that Pat Sam Sr was not even aware of the Motion against me and attorney Burhkalther had not discussed it with her or sought her approval and yet Judge Feuer did not move on her own motion for Rehearing and instead proceeds prejudicially and in denial of due process and Admin Orders and must be disqualified.
46. As shown in the GA case under DE No. 141, “It is noted that, “ Once a motion to disqualify is granted, even if granted in error, the court loses jurisdiction. Any subsequent orders by the disqualified judge are void.” Jenkins v. Motorola, Inc., 911 So. 2d 196 (Fla. 3d DCA 2005). It is further noted that in the Order of Disqualification after issuing mandatory Disqualification and losing jurisdiction, Judge Burton proceeded to issue additional Orders relating to Transfer and Assignment of the case and case scheduling. See, DE No. 132.” See De No 141 in GA case.
47. Judge Feuer has disregarded that her authority and assignment was improperly steered by a disqualified Judge and in fact has permitted counsel Lewis to seek retaliation for exercising statutory rights to Disqualify that every citizen and person covered by the Florida Constitution has the right to exercise.

48. This creates further reasonable fear from the November 15, 2024 hearing.

49. Judge Feuer “rubber stamped” the Kitroser proposed Order once again to such a degree as to create a reasonable fear a fair trial can not be had before her as it appears she does not even read the case she cites against me.

50. “Thus, a finding of bad faith conduct must be predicated on a high degree of specificity in the factual findings. In addition, the amount of the award of attorneys' fees must be directly related to the attorneys' fees and costs that the opposing party has incurred as a result of the specific bad faith conduct of the attorney. **Moreover, such a sanction is appropriate only after notice and an opportunity to be heard — including the opportunity to present witnesses and other evidence.** Moakley v. Smallwood, 826 So. 2d 221 (Fla. 2002).

51. Judge Feuer cited that case but must have been so quick to rubber stamp Kitroser she disregarded that the sanctions require the right to present witnesses and evidence which Judge Feuer has disregarded from the beginning.

52. "The question of disqualification focuses on those matters from which a litigant may reasonably question a judge's impartiality rather than the judge's perception of his ability to act fairly and impartially." Livingston v. State, 441 So.2d 1083, 1086 (Fla. 1983). In order to decide whether the motion is

legally sufficient, "[a] determination must be made as to whether the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial." MacKenzie v. Super Kids Bargain Store 565 So. 2d 1332 (Fla. 1990)

53. Email disregarded by Judge Feuer:

Notice of Objection to Proposed Order 11-22-24 Re: Guardianship of Sahm
Inbox

Kevin Hall <kh.itconsultingsalesoffices@gmail.com>
Nov 22, 2024, 7:52 PM (10 days ago)
to CAD-Division, FBI, Kathryn, dlwaugh, Frank, ddaros, Catherine, Eliot, Eliot, Candice, Luisa, Luisa, Hillary, Laura, Julie, Luanne, ATTORNEY@INGERGARCIA.COM, attorney@floridapotlawfirm.com, Tati, eileen.omalley@nelsonmullins.com, Mitchell, Clara, Taryn, bcc: Becky, bcc: Angela, bcc: Donna, bcc: Nita, bcc: Kevin, bcc: Bracco, bcc: me, bcc: marla, bcc: Marla

Hon. Judge Feuer:

Notice is hereby given that I Object to the Proposed Orders submitted by the Kitroser law firm on behalf of an alleged Guardian Charles Revard purporting to have lawful authority to act for Patricia A. Sahm despite no Adjudicatory Hearing on Incapacity or any finding of Incapacity by clear and convincing evidence ever occurring in the proceedings which the Court has been notified about by email and by Motion filing under DE No. 204 on September 11, 2024 and again by DE No. 216 filed last Friday, November 15, 2024.

A formal Proposed Alternative Order will be submitted under the 5 day Notice Rule by Administrative Order of the 15th Judicial which the Court disregarded on the prior "Standing" issue while never having conducted one

Evidentiary Hearing in nearly a year and where Judge Burton likewise did not conduct any Evidentiary Hearing where Pat Sahm, Sr. was present.

While the Court boasted about the "excellent" qualities of Court Appointed attorney Laura Burkhalter which was echoed by Ms. Lewis(which may or may not be true) during the Nov. 15, 2024 Hearing, neither Ms. Burkhalter was present nor Pat Sahm, Sr was present at the Hearing although the purpose of a Guardianship under Florida law to my knowledge is to Protect the alleged AIP, Pat Sahm, Sr.

Pat Sahm, Sr, however, perhaps against the wishes of Court Appointed Attorney Burkhalter, once again Freely spoke to the Public and did a TV Interview which aired today on CBS12.com as part of an Investigative series on the continuing issues around the use of Guardianships in the State of Florida. Here is a link to the article and the video link where Pat Sahm, Sr, is once again seen as Healthy, Coherent, Walking around and speaking intelligently consistent with the many conversations I had with Pat Sahm, Sr. in later March 2023 through May 2023 and then recently after not speaking with her for a year.

<https://cbs12.com/news/local/the-deciders-how-vulnerable-adults-end-up-in-guardianships#>

(Link to Video and Story of Pat Sahm, Sr where Pat Sahm, Sr seen as clearly healthy, competent, coherent, aware of who she is and where she is and speaking intelligently with the Video being taken sometime in the last few weeks before the story aired today).

Pat Sahm, Sr. recently remembered my name instantly and remembered I was from out of state from Florida just like she did in the May 2024 "Oral Argument" / Non Evidentiary hearing on "Standing" when she was called out of the blue and we had not had any contact for a year.

Yet, despite her own Sworn Statements before Notaries, handwritten letters in her handwriting, and the many friends and witnesses who know her, this Court has not held one evidentiary hearing in nearly a year nor heard from Pat Sahm, Sr, delaying and denying not just her rights but proper resolution with BFR, LLC while "Star Chamber" tactics in favor of politically connected lawyers continue while denying and disregarding fraud and fair

hearings with the perverse result that Kathryn Lewis and the Kitroser firm will ultimately charge money, yes pecuniary gain like she says, for standing in Court without Charlie Revard or Laura Bulkhalter even speaking to Pat Sahm, Sr on my "Standing" and then falsely claim that I am costing her money. Upon information and belief, Your Honor Judge Feuer has been making "Decisions" for Pat Sahm, Sr's life for nearly a year and has never once even seen Pat Sahm, Sr in your Court to even look upon her.

Upon information and belief, the source being Pat Sahm, Sr. neither Charlie Revard nor Laura Bulkhalter discussed any motion to strike "standing" with her nor advised her of any "hearing" last Friday Nov. 15, 2024 yet the Court is aware no Record of any proper "Incapacity Determination" exists in the Guardian or Mental Health cases.

For historical context, the Mental Health - Guardian petition was filed against Pat Sahm, Sr. within 4 days of fraud by her attorneys being exposed in Federal Bankruptcy Court by Eliot Bernstein and within 30 days of the PBSO informally "interviewing" attorney Robert Sweetapple after Eliot Bernstein had filed a Criminal Complaint relating to the filing by Mr. Sweetapple of formal documents in the Official Court Records of Palm Beach County in the name of Deceased Walter Sahm as if he was still alive in the Foreclosure case without Disclosing the Death to the parties or Court all impacting the equity and rights of BFR, LLC. In fact, according to the Transcripts Mr. Sweetapple even "appeared" on the Record in Summary Judgment as if Walter Sahm was alive when deceased 11 months before.

Additionally, Attorney Laura Bulkhalter, now Assigned again by this Court by Judge Feuer after withdrawing nearly a year ago before Judge Burton while Amber Patwell was in the case for Pat Sahm, Sr., is also someone Pat Sahm, Sr spoke to me about on or around May of 2023. This occurred by phone when Ms. Bulkhalter had been "Assigned" by Judge Burton for Pat Sahm, Sr and "showed up" at her home allegedly claiming the Order of Appointment gave her the authority to Enter the Home of Pat Sahm, Sr., like a Search Warrant when Pat Sahm, Sr had not even been Served with any Notice of the Mental Health Case or Guardian case against her.

It is my understanding that the Supportive Decision making Bill was signed into law in Florida in June of this year 2024.

<https://www.floridabar.org/the-florida-bar-news/governor-signs-measure-to->

prioritize-supported-decisionmaking-when-appointing-guardians-for-people-with-developmental-disabilities/

Under the 5 day Notice Rule, an alternative Proposed Order will be submitted by November 27, 2024.

Respectfully,

Kevin Hall
interested Person
Manager, BFR, LLC

Kevin R. Hall
IT Consulting Sales Offices
820-426-1354 Cell
518-309-2094
kh.itconsultingsalesoffices@gmail.com
www.linkedin.com/in/kevin-hall-ba563a14/

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54. The ongoing fraud in the proceedings specifically show standing as the judgment can and has impacted my right to payment by delay, a right which is not contingent but is direct and immediate.

55. Judge Feuer has disregarded all of the following which she was directed to on November 15, 2024 again under DE No. 204 in the GA case:

"I have attached and respectfully direct your Honor to DE No. 164 which is a List of Exhibits submitted prior to the challenged prior finding on Standing where it appears this Court has presently disregarded or overlooked the fraud outlined in the exhibits from the Foreclosure and Bankruptcy cases. Also note the Court was directed to the foreclosure Exhibits showing details of the Sweetapple fraud in the Foreclosure and that Sweetapple has refused and been hidden from answering when he first learned of the Walt Sahm passing which terminated his right to represent Walt Sahm yet instead he continued to file in deceased Walt Sahm's name as if alive, a fraud which Charlie Revard, the Kitroser firm as condoned by the Court has allowed to continue exposing the AIP the Court is supposed to protect to suit by BFR, LLC and others like myself, quite the opposite of the statutory protection of "best interest" for the AIP.

While not attached, I direct the Court's attention to DE No. 165 I filed in the GA case on the standing issue which is the original MH Petition filed by attorney O'Malley for Joanna Sahm making it very clear the Bernstein Family Realty, LLC (BFR) mortgage and foreclosure proceedings was at the heart of the Petition for Incapacity and GA case as also echoed by direct

statements on the Record by attorney O'Malley and of course now the Kitroser firm.

Specifically, the Court should note the Sworn Statement of William Stansbury attached to the MH Petition near the end which shows not only were the parents of Eliot Bernstein being Simon and Shirley Bernstein friends with Walter and Patricia Sahm, Sr, the AIP in this case, but as Stansbury shows the "Note" to the Sahms was supposed to have been paid off in 2013 in the Simon and Shirley Bernstein Estate and Trust cases where your Honor is now Assigned. Both the foreclosure case and Bankruptcy cases show Eliot Bernstein's attempts for years to have paid off this Note yet instead Accountings, Assets and records were continually blocked by Ted Bernstein acting through initially attorneys Tescher and Spallina who ultimately resigned after fraud was shown but then the fraud carried on by attorney Alan Rose for Ted Bernstein now carrying on into these cases where the Kitroser firm "re-hired" Robert Sweetapple who filed multiple false documents in the foreclosure case yet No Court to date has ever had a "best interest" hearing for Pat Sahm, Sr. as required by Statute under FS 744.361 (4) which was raised On the Record by attorney Inger Garcia on September 5, 2023 and by my written filings in the GA case under DE No.

87 which was supposed to be one of the motions reheard after a proper Standing determination.

In what should "shock the conscience" of any Tribunal and neutral Judge, the Stansbury Affidavit makes it clear that Joshua, Jacob and Daniel Bernstein as Owners of BFR, LLC were not even supposed to be responsible for the "Note" which should have been paid in 2013 by dedicated assets according to Stansbury yet these brothers and their parents have still tried to pay Pat Sahm, Sr. through use of Registry Funds held for the Sons yet even these actions have been blocked by conflicted Trustee Ted Bernstein and counsel Rose and instead the attorneys like Sweetapple and now Kitroser continue to use the Court as agents of fraud where adding insult to injury that no proper Judgment was taken against BFR, the Transcript in Foreclosure shows "Attorneys fees" were supposed to be subjected to a Hearing but instead Sweetapple pushes it through before Judge Kastranakes not even Serving counsel Ferderigos for the brothers of Record at the time nor Serving Candice Bernstein.

Upon information and belief, Eliot Bernstein, like his parents was "friend" to Walt and Pat Sahm, Sr. and has tried endlessly to Settle even where not required by law and even Pat Sahm, Sr. herself with great insight of a very competent person stated last year just before the signed Settlement that it

looked to her that "the lawyers" had taken over the case and not letting the parties act for themselves. This was a Settlement discussed well before while Walt Sahm was still alive and well before this Guardianship which again appears most to be a coordinated effort to Silence Pat Sahm, Sr. as a Witness to the fraud in these proceedings.

1. Florida Supreme Court - **Before a right can be removed from an incapacitated person**, section 744.331(3)(a) requires the guardianship court to appoint a three-member examining committee, of which one member must be a psychiatrist or other physician. **An adjudicatory hearing must then be held, and "the partial or total incapacity of the person must be established by clear and convincing evidence."** § 744.331(5)(c), Fla. Stat. Smith v. Smith, 224 So. 3d 740 (Fla. 2017).
2. **4th District Court of Appeals: Compliance with the requirements of section 744.331 is mandatory and the trial court's failure to adhere to those requirements constitutes reversible error.** Id. at 608-09. See § 744.331(4), Fla. Stat. (2008); see also In re Keene, 343 So. 2d 916, 917 (Fla. 4th DCA 1977) ("Proceedings to determine the competency of a person are generally controlled by statute and where a statute prescribes a certain method of proceeding to make that determination, the statute must be strictly followed.") (citation omitted). An attorney for the person may not waive an

adjudicatory hearing when required. See *In re Frederick*, 508 So. 2d 44, 45 (Fla. 4th DCA 1987). There is good reason for such a rule. If a person is incompetent, it is the duty of the court to assure that person's protection and his or her autonomy is respected to the greatest extent possible. See § 744.1012, Fla. Stat. (2008). To permit dismissal of proceedings where a party is in fact incompetent may endanger that person. On the other hand, without knowing whether the person is actually incompetent, the court could restrict a person's independent ability to deal with his property and place it out of the control of a person who may be completely capacitated. The guardianship statutes and rules should not be used to protect competent persons from their spendthrift ways or to protect their beneficiaries. An individual who is competent should not be subject to the control of the courts through guardianship proceedings, temporary or plenary. See, *Jasser v. Saadeh*, No. 4D10-140 (Fla. Dist. Ct. App. Jul. 18, 2012) 4th DCA

2nd District Court of Appeals citing 4th District Court of Appeals approved by Fla Supreme Court

3. “The trial court made these rulings without holding an adjudicatory hearing and without making findings based on clear and convincing evidence that Holmes was incapacitated with respect to the exercise of her right to contract and engage counsel as required by sections

774.331(5) and 774.331(6). Florida Statutes (1999). Moreover, the trial court did not make factual findings with respect to the exact nature and scope of her incapacity as required by these same statutory provisions. We conclude that, under the particular circumstances of this case, this constitutes a departure from the essential requirements of law which cannot be remedied on plenary appeal.

4. In Harmon v. Williams, 596 So.2d 1139, 1142 (Fla. 2d DCA 1992), approved, 615 So.2d 681 (Fla. 1993), this court held that a person is presumed competent to contract unless incompetency is established by due process of law. Cf. In re Guardianship of Bockmuller, 602 So.2d 608, 609 (Fla. 2d DCA 1992) (holding right to contract was removed by order determining ward's incapacity). Here, by failing to conduct an adjudicatory hearing before finding that Holmes did not have the capacity to contract and retain counsel of her choice, the trial court failed to establish Holmes' incapacity by due process of law. Cf. In re Fey, 624 So.2d 770, 772 (Fla. 4th DCA 1993) (holding compliance with requirements of section 744.331 to be mandatory and failure to adhere to those requirements constituted error of fundamental proportions). This requires us to issue the writ and vacate the trial court's order confirming Burchett's appointment as counsel.

Because Holmes is presumed competent to contract, on remand, the trial

court shall permit Holmes to substitute Persse as her counsel of choice pursuant to the written notice of substitution she filed.” See, Holmes v. Burchett, 766 So. 2d 387 (Fla. Dist. Ct. App. 2000).” See DE No 204 GA Case.

Wherefore, it is respectfully prayed for an Order of Immediate mandatory disqualification of Judge Schosberg Feuer and for leave to vacate Orders and Decisions as allowed by law other relief as just and proper.

CERTIFICATE OF GOOD FAITH

I, Kevin R. Hall, an interested person herein, hereby Certify that this motion is made in good faith and not frivolous under law.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Petition for Mandatory Disqualification of Judge Shosberg Feuer and that the facts stated in it are true to the best of my own knowledge except any matter stated upon information and belief and as to those matters to the best of my knowledge and belief I believe same to be true.

Dated: December 2, 2024

Kevin R. Hall

/s/ **Kevin R. Hall, Pro Se Interested Person**
PO Box 756
Kinderhook, NY 12106

518-309-2094
kh.itconsultingsalesoffices@gmail.com
krh.itconsulting@gmail.com alternate email

CERTIFICATE OF SERVICE

I hereby Certify that Judge Schosberg Feuer was electronically Served this Petition for Mandatory Disqualification by serving the Probate Division IA at :
CAD-DivisionIA@pbcgov.org and upon Service via the Florida ECourt portal filing system.

The undersigned further hereby certifies that all parties requiring service were served electronically via the Florida ECourt filing portal on this 2nd day of December, 2024.

Dated: December 2 , 2024

/s/ Kevin R. Hall, Pro Se Interested Person
PO Box 756
Kinderhook, NY 12106
518-309-2094
kh.itconsultingsalesoffices@gmail.com
krh.itconsulting@gmail.com alternate email