

COMMON PLEAS COURT
WARREN COUNTY OHIO
FILED

06 MAY -9 PM 12: 56

JANICE L. SPAETH
CLERK OF COURTS

COURT OF COMMON PLEAS
WARREN COUNTY
CIVIL DIVISION

	:	JUDGE <u>OGCV 66195</u>
	:	
STEPHEN R. LILLEY	:	CASE NO. <u>BRONSON</u>
2900 S. Waynesville Road	:	
Morrow, Ohio 45152	:	COMPLAINT FOR
	:	
Plaintiff	:	PROFESSIONAL TORT
	:	
	:	MISAPPROPRIATION OF PROPERTY
	:	AND FUNDS; CIVIL CONVERSION
	:	NEGLIGENCE
	:	
	:	DISCOVERY REQUESTS ATTACHED
	:	
	:	JURY DEMAND
	:	
-v-	:	
	:	
BRENDA DUNLAP	:	
42 East Mulberry Street	:	
Suite B	:	
Lebanon, Ohio 45036	:	
	:	
	:	
and	:	
	:	
JACKSON C. HEDGES	:	
24 N. Broadway	:	
Lebanon, Ohio 45036-1770	:	
	:	
	:	
and	:	
	:	
	:	
PATRICIA SUTTMANN	:	
Adelante Development Center, Inc.	:	

3900 Osuna Road, NE :
Albuquerque, New Mexico 87109-4459 :

and :

PAMELA LILLEY :
13411 Capetown Avenue :
Pickerington, Ohio 43147 :

And

JACK C. McGOWAN :
246 High Street :
Hamilton, Ohio 45011 :

Defendants :

FIRST COUNT

1. All actions alleged herein occurred in Warren County, Ohio.
2. All Defendants named herein were at the relevant times and are residents of or doing business with minimal contacts in Warren County, State of Ohio.
3. Plaintiff, Stephen R. Lilley had been duly appointed by the Warren County Probate Court to be the Executor of the Will and Estate of Randall Lilley and is a beneficiary of the Estate of Marion G. Lilley.
4. Defendants, Brenda Dunlap and Jackson C. Hedges were appointed by the Warren County Probate Court as joint and co-administrators of the Estate of Marion G. Lilley.
5. Defendant, Jackson C. Hedges was hired by Executor Stephen R. Lilley as attorney for the Estate of G. Randall Lilley.

6. Defendant, Patricia Suttman was, at all times relevant, an attorney licensed to practice law in the State of Ohio and was appointed guardian of Marion G. Lilley by the Warren County Probate Court on March 9, 1995.
7. Randall Lilley was competent until he died on December 23, 1991.
8. Randall Lilley did not intend his heirs to receive even shares from his estate and he made this lack of intention clear prior to his death.
9. Randall Lilley purchased Certificate of Deposit Number 4591 (C.D. 4591) from the First National Bank of Warren County (FNBWC) on August 8, 1990 in the names of Marion G. Lilley or Stephen R. Lilley with rights of survivorship in the face amount of \$100,000.00.
10. C.D. 4591 had a maturity term of five years and was to mature on August 8, 1995.
11. Patricia Suttman (Suttman) was appointed guardian of Marion G. Lilley on March 9, 1995 by the Warren County Probate Court.
12. On July 25, 1995, Pamela A. Lilley wrote a memo to Suttman suggesting that Suttman ask FNBWC not to remind Stephen Lilley that C.D. 4591 was about to mature and suggesting that Suttman cash in C.D. 4591 as soon as it matured.
13. Suttman redeemed C.D. 4591 on the date it matured and placed \$40,000.00 in the checking account of the Marion G. Lilley guardianship at FNBWC. The balance of \$60,000.00 was invested in Certificate of Deposit Number 7461 (C.D. 7461) in the sole name of Marion Lilley at First National Bank of Warren County.

14. The \$40,000.00 taken from C.D. 4591 and deposited by Suttmann in the Marion G. Lilley guardianship checking account was expended by Suttmann without a full and adequate accounting of the expenditures.
15. On October 5, 1995, Suttmann used the proceeds of C.D. 7461 to purchase a \$100,000.00 Single Premium Deferred Annuity with National Western Life Insurance Company for Marion G. Lilley.
16. The receipts and disbursements from the Estate of Marion G. Lilley on July 21, 1998 disclose that the National Western Insurance Company Annuity's date of death value was \$119, 239.70.
17. There were other non-survivorship funds in the Marion G. Lilley Guardianship which should have been used first by Suttmann to pay the expenses for the care of Marion G. Lilley.
18. Stephen Lilley is entitled to the joint and survivorship funds which were originally represented by C.D. 4591 in the amount of \$100,000.00.
19. The Estate of Marion G. Lilley is indebted to Stephen R. Lilley in the sum of \$60,000.00 for funds wrongfully taken from C.D. 4591.
20. The Estate of Marion G. Lilley owes Stephen R. Lilley statutory interest on \$60,000.00 represented by C.D. 4591 from August 8, 1995.
21. Patricia Suttmann and Pamela Lilley are indebted to Stephen R. Lilley in the sum of \$60,000.00 for funds wrongfully taken from C.D. 4591.

SECOND COUNT

22. Plaintiffs incorporate herein each and every allegation of the First Count as if repeated herein.

23. Defendant, Brenda Dunlap, (Dunlap) at all times relevant, was a licensed attorney at law practicing in the State of Ohio.
24. While Brenda Dunlap was acting as the court appointed administrator for the Estate of Marion G. Lilley, she, Dunlap, was also acting as the private lawyer for one of the beneficiaries, Pamela Lilley.
25. While Defendant Brenda Dunlap was acting as the court appointed administrator, she did not reveal that she was owed substantial sums of money from Pamela Lilley.
26. While Defendant Dunlap was acting as Pamela Lilley's private lawyer, she conspired with Suttman to obtain additional money from the guardianship to assist Pamela Lilley to pay substantial sums of money to Dunlap.
27. Dunlap, while serving as the administrator of the Estate of Marion G. Lilley, engaged in a conflict of interest as to beneficiary Stephen R. Lilley.
28. As a direct and proximate result of the malicious, devious, wrongful, grossly negligent acts of the Defendants, Plaintiff incurred substantial stress, medical and mental distress, emotional stress, depression, loss of enjoyment of life, financial loss and partial disability.

THIRD COUNT

29. Plaintiffs incorporate herein each and every allegation of the foregoing Counts One and Two as if repeated herein.
30. Brenda Dunlap and Jackson Hedges, as co-Administrators of the Estate of Marion Lilley's estate, failed to take appropriate steps to restrict

distribution of assets until after all disputed issues regarding the assets had been resolved.

31. Dunlap and Hedges, knowing that there were legitimate disputes regarding the distribution of the aforementioned certificate of deposit, recklessly, negligently and imprudently made distribution of the assets to beneficiaries other than their rightful owner, Stephen R. Lilley.
32. Dunlap and Hedges, through their neglect in making distribution of assets belonging to Stephen R. Lilley to the Estate of Christopher Lilley and to Pamela Lilley, have caused damage to beneficiary Stephen R. Lilley.
33. Pamela Lilley owes Stephen Lilley \$30,000.00 plus statutory interest on that amount from August 8, 1995 until paid.
34. As the Estate of Christopher Lilley is insolvent, Dunlap and Hedges owe Stephen R. Lilley \$30,000.00 plus statutory interest on that amount from August 8, 1995 until paid.

FOURTH COUNT

35. Plaintiffs incorporate herein each and every allegation of the foregoing Counts One, Two, and Three as if repeated herein.
36. Defendant, Jack McGowan, (McGowan) at all times relevant, was a licensed attorney at law practicing in the State of Ohio.
37. While Jack McGowan was acting as Stephen R. Lilley's private lawyer, Jack McGowan was fully aware of unresolved issues inflicted on his client by the misconduct of Patricia Suttman.

38. Jack McGowan was fully aware of the conflict of interest by Brenda Dunlap from the time that Brenda Dunlap began acting as administrator of the Estate of Marion G. Lilley.
39. Jack C. McGowan was fully aware of unresolved issues; that if the distribution was to take place, his client Stephen R. Lilley would be unable to recover assets that are rightfully his.
40. Jack C. McGowan, while acting as Stephen R. Lilley's private lawyer, failed to take appropriate steps in resolving the issues of misconduct by Patricia Suttman against his client, the conflict of interest by Brenda Dunlap as administrator, and by not restricting the distribution of asset by Brenda Dunlap and Jackson Hedges.
41. Jack C. McGowan has been Negligent in the representation of his client Stephen R. Lilley in an ethical, professional and legal manner thereby causing damage and harm to his client Stephen R. Lilley.
42. The actions and inactions of Jack C. McGowan fell below the acceptable standard of care required of reasonably competent lawyers practicing under the same or similar circumstances.
43. As a direct and proximate result of McGowan's failure to provide legal representation to his client at a level commensurate with the acceptable standard of care for lawyers similarly situation, Plaintiff incurred substantial stress, medical and mental distress, emotional stress, depression, loss of enjoyment of life, financial loss and partial disability.

44. Plaintiff has, as a direct result of the negligence of McGowan, been forced to incur additional legal fees to ameliorate, lessen or resolve the conflicts caused by McGowan.

WHEREFORE, Plaintiff demands judgment against the Defendants individually and jointly for a sum of compensatory damages in excess of \$25,000.00 and for a sum of punitive damages in an amount in excess of \$25,000.00 and in the maximum amount awarded by the jury together with court costs, reasonable attorney fees, and interest. Plaintiff further demands an order of specific performance requiring all parties to return to Plaintiff any and all property belonging to Plaintiffs and misappropriated by the Defendants and an order rescinding all transfers of property from the name of and to collect the proceeds for the Estate.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action.

Respectfully Submitted,



Roger D. Staton (0002060)
Trial Attorney for Plaintiff
101 Dave Avenue, Suite B1
Lebanon, Ohio 45036
513-934-0522

PRAECIPE FOR SERVICE

Please serve a true and accurate copy of the Complaint, Jury Demand, Interrogatories, Requests for Admission and Request for Production of Documents and Things by CERTIFIED MAIL RETURN RECEIPT REQUESTED upon the following persons:

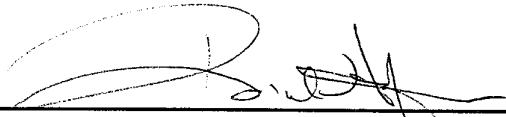
BRENDA DUNLAP
42 East Mulberry Street
Suite B
Lebanon, Ohio 45036

JACKSON C. HEDGES
24 N. Broadway
Lebanon, Ohio 45036-1770

PATRICIA SUTTMANN
Adelante Development Center, Inc.
3900 Osuna Road, NE
Albuquerque, New Mexico 87109-4459

PAMELA LILLEY
13411 Capetown Avenue
Pickerington, Ohio 43147

JACK C. McGOWAN
246 High Street
Hamilton, Ohio 45011



Roger D. Staton