

District 2 Office
820 Adams Avenue
Suite 170
Trooper, PA 19403

Dear Sir or Ma'am,

I am writing to request the revocation of Diane Zabowski's attorney license (40497) due to endangering the life of a person she was supposed to represent and unprofessional conduct.

Diane Zabowski is the court appointed attorney for my uncle, F. Harvey Whitten. She also is the court appointed attorney to many other incapacitated persons. I would appreciate if her license could be revoked promptly, since her abhorrent treatment of my uncle is surely not an isolated occurrence.

Elder abuse is so prevalent in Pennsylvania the Supreme Court has initiated a task force to remedy the problem of guardianship abuse and neglect, <http://pennrecord.com/news/9803-pa-supreme-court-forms-task-force-to-address-elder-abuse>. Unfortunately, the physical and financial abuse and neglect that my uncle has endured is not an isolated incident in the state of Pennsylvania. However, by revoking Diane Zabowski's license immediately, you can do your part in stopping this atrocity that is occurring in the state and has enraged the citizens to the extent that a task force was implemented. If her license is immediately revoked, the incapacitated persons she has been appointed to will automatically be spared of her neglect and lack of interest in their wellbeing. Diane Zabowski has made a mockery of the judicial system and is an embarrassment to the practice of law.

The examples of her misconduct are so extensive; I have included a table of contents for the pages that follow.

Sincerely,

Mary Whitten, PhD

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Background and Overview

My uncle, F. Harvey Whitten, had a major stroke in the summer of 2010. He was diagnosed with vascular dementia and deemed an incapacitated person. Originally, he was appointed two co-health guardians. The first was my sister Cosmas Skaife, niece of F. Harvey Whitten, who lives in Wisconsin. The second was F. Harvey Whitten’s best friend, Robert Sprau, who resided at the Shannondell in Audubon, PA. The arrangement between Mr. Sprau and Cosmas Skaife worked well. Unfortunately, Robert Sprau was diagnosed with a fast growing lung cancer. Before, Robert Sprau died, he handpicked the 24/7 aides that he wanted to live with F. Harvey Whitten, so that he could go in peace knowing that his best friend would be cared for properly.

Upon, Robert Sprau’s death, Judge Stanley Ott and attorney Diane Zabowski asserted that a nurse, Deborah Klock, should be available to put pills in a pillbox for F. Harvey Whitten, since my uncle lived in an independent living facility. Judge Stanley Ott (License number 19511) in the Montgomery County Orphan’s Court routinely appoints Diane Zabowski and Deborah Klock (License number RN198863L) as a

court appointed attorney and health guardians, respectively, to elder incapacitated persons. He also appoints attorney Julianna Van Duyne-King (License number 84716) from Univest Bank as the financial guardian.

Diane Zabowski has represented Deborah Klock in probate court in Montgomery County in an estate case in which I believe the deceased person, Robert E. Tagliatela, Sr. was appointed Deborah Klock and Diane Zabowski by the courts as his guardian. Essentially, Deborah Klock was Diane Zabowski's client. The probate case was also overseen by Judge Stanley Ott, the same judge who appointed them.

Diane Zabowski recommended Deborah Klock as a co-health guardian to my uncle F. Harvey Whitten, while Diane Zabowski was still representing Deborah Klock in probate court concerning a matter which has the potential to be similar.

In November of 2012, Deborah Klock was spoken to by an attorney who represented the Whitten Family through Cosmas Skaife, because the Whitten Family was dissatisfied with Deborah Klock's level of communication concerning F. Harvey Whitten. In the Spring, another meeting took place concerning Deborah Klock's poor care of F. Harvey Whitten. For example, Deborah Klock would not bring F. Harvey Whitten his glasses, hearing aides, and dentures for months and months from his old apartment. Diane Zabowski, Deborah Klock, and Julianna Van Duyne-King were present at the meeting. However, Diane Zabowski made remarks that gave legal representation to Deborah Klock during the meeting, when she was supposed to be representing F. Harvey Whitten. In the meeting, Diane Zabowski told Deborah Klock that she recommended that she not answer anymore of the Whitten family's questions.

Following the meeting, Cosmas Skaife had to go through enormous obstacles to obtain F. Harvey Whitten's medical records. Upon reviewing the documents, F. Harvey Whitten's medication and doctor selections were changed without the knowledge or consent of Cosmas Skaife, co-health guardian, and F. Harvey Whitten's medication was inappropriate. Deborah Klock, and the medical staff and administrators at The Meadows at Shannondell in Audubon, PA chose to ignore the Whitten Family's concern for F. Harvey Whitten, since he is being administered an inappropriate drug for his condition, as well as at a level that has caused side effects and overdose symptoms, and is in excess of federal guidelines. Essentially, F. Harvey Whitten was being chemically restrained. Furthermore, they quit administering F. Harvey Whitten vitamins and folic acid, when F. Harvey Whitten has a documented B12 deficiency. The Whitten family through Cosmas Skaife requested that our uncle, F. Harvey Whitten, get a second opinion concerning the inappropriate medication he was being administered. Instead of taking his care seriously, the financial guardian of F. Harvey Whitten, Julianna Van Duyne-King, petitioned the court to have Cosmas Skaife removed as co-health guardian.

Diane Zabowski and Julianna Van Duyne-King received an extensive response to the petition to remove Cosmas Skaife that outlined the inappropriate care that F. Harvey Whitten received from Deborah Klock and medical doctors at the Meadows at Shannondell. Instead of representing the best interest of F. Harvey Whitten in court, Diane Zabowski represented the best interest of her former client, Deborah Klock. In my opinion, Diane Zabowski is more interested in financial gain from F. Harvey Whitten and

Deborah Klock, then she is in the best interest of the incapacitated man that she was supposed to represent.

Diane Zabowski has violated numerous rules concerning professional misconduct, including conflicts of interest, candor toward the tribunal, fairness to opposing party and counsel, and dealing with an unrepresented person. Her license should be revoked.

Diane Zabowski Represents Deborah Klock in Probate Court

The following shows a case that can be found at Montgomery County Probate website:

<http://webapp.montcopa.org/PSI3/Viewer/Detail.aspx?q=aWQ9MjYzMjgmZW50aXR5PUNhc2U=>

In this case, Diane Zabowski is listed as the council for Deborah Klock. She is also listed as the council for herself. Both Diane Zabowski and Deborah Klock (DLK Managed Care Solutions, Inc.) submitted a claim on the estate of Robert E. Tagliatela for \$9,630.81 and \$7,092.52, respectively.

Orphans' Court Case Details

Case Number	2010-X3408
Commencement Date	1/12/2011
Status	Open
Caption	ESTATE OF TAGLIALATELA, ROBERT E. SR., DECEASED
Case Foundation Party	TAGLIALATELA, ROBERT E. SR.
Case Type	DECEDENT'S ESTATE
Initial Filing	Petition with a Citation Requested
Judge	STANLEY R. OTT
Township	UPPER GWYNEDD TOWNSHIP
Sealed	No

Docket Date Range: ▾

Docket Type Filter:

- Orphans' Court Subsequent Filing
- Probate Subsequent Filing

Case Foundation Parties

Name	Date of Death	Date of Birth	Address	Counsel
TAGLIALATELA, ROBERT E. SR.	7/20/2010	7/29/1922	197 BRADFORD LANE LANSDALE, PA 19446 UNITED STATES	GREENBERG, STACY

Personal Representatives

Name	Representative	Address	Counsel
GREENBERG, STACY L	ADMINISTRATRIX CTA	2000 MARKET STREET, SUITE 2803 PHILA, PA 19103-3201	GREENBERG, STACY

Interested Parties

Name	Address	Counsel
DUSZAK, CAREY GALVIN	2112 PINE STREET PHILA, PA 19103	
GALVIN, TARA	1433 A STREET, NE - UNIT A WASHINGTON, DC 20002	
GOODMAN, ANN ESQ	UNKNOWN UNITED STATES	
GORMAN, BEATRICE	P.O. BOX 65 OXFORD, MD 21654	
GORMAN, ELIZABETH T	P.O. BOX 65 OXFORD, MD 21654	
GORMAN, ELIZABETH T.	UNKNOWN UNITED STATES	
GORMAN, PETER JR.	P.O. BOX 65 OXFORD, MD 21654	
GREEN, DIANE T	8947 LEVY ISLAND CIRCLE NAPLES, FL 34113	
GREEN, DIANE T.	UNKNOWN UNITED STATES	
GREEN, R BRENNER	803 CRITTENDEN STREET PHILADELPHIA, PA 19118 UNITED STATES	GREENBERG, STACY
GREEN, ROBERT BRENNER SR.	8303 CRITENDEN STREET PHILA, PA 19118	
GREENBERG, STACY L	2000 MARKET STREET, SUITE 2803 PHILA, PA 19103-3201	GREENBERG, STACY
GREENBERG, STACY L. ESQ	UNKNOWN UNITED STATES	
JULIANO, BEATRICE T	P.O. BOX 264 OXFORD, MD 21654	
JULIANO, BEATRICE T.	UNKNOWN UNITED STATES	
JULIANO, LAUREN	P.O. BOX 264 OXFORD, MD 21654	
JULIANO, ROBIN	P.O. BOX 264 OXFORD, MD 21654	
KLOCK, DEBORAH L	UNKNOWN	ZABOWSKI, DIANE M

	UNITED STATES	
LAUCHMEN, CAROL M. ESQ	UNKNOWN UNITED STATES	
MOORE, PHYLLIS GALVIN	UNKNOWN UNITED STATES	BOULDEN, THOMAS A
MOORE, PHYLLIS T GALVIN	P.O. BOX 25411 WILMINGTON, DE 19899	
POSATKO, THOMAS J ESQ	UNKNOWN UNITED STATES	ZABOWSKI, DIANE M
SCHMITT, FRANCINE T	421 CHERRY ROAD, R.D. 6 QUAKERTOWN, PA 18951	
SCHMITT, FRANCINE T.	UNKNOWN UNITED STATES	
SCHMITT, HARRY	421 CHERRY ROAD, R.D 6 QUAKERTOWN, PA 18951	
SCHMITT, MAXWELL	421 CHERRY ROAD, R.D. 6 QUAKERTOWN, PA 18951	
TAGLIALATELA, ROBERT E JR.	3011 ALMOND STRET PHILA, PA 19134	
TAGLIALATELA, ROBERT E. JR.	3011 ALMOND ST. PHILADELPHIA, PA 19134 UNITED STATES	
ZABOWSKI, DIANE M ESQ	UNKNOWN UNITED STATES	ZABOWSKI, DIANE M

Dockets

[View as thread](#)

Filing Date	Suffix	Description	Docket Text	Sealed	Date Scanned	State Tax Receipt
7/20/2010 12:00 AM	14	Caveat (Informal)	INFORMAL CAVEAT RROBERT TAGLIALATELA	No		
7/20/2010 12:00 AM	23	Caveat (Informal)	Filed by: ROBERT E TAGLIALATELA, JR.	No		
7/29/2010 12:00 AM	27	Additional Probate Fee	System generated transaction	No		
7/29/2010 12:55 PM	20	Initial Estimated Assets		No		
8/6/2010 12:00 AM	15	Caveat (Formal with Bond)	FORMAL CAVEAT/BOND	No		
8/6/2010 12:00 AM	25	Caveat (Informal)	Filed by: ROBERT E TAGLIALATELA, JR	No		
8/6/2010 12:00 AM	45	General	GENERAL FORMAL HEARING NOTICE MAILED	No		
10/25/2010 12:00 AM	12	Will		No		
10/25/2010 12:00 AM	16	Order / Decree	DECREE	No		
10/25/2010 12:00 AM	21	LETTERS ADMINISTRATION CTA		No		
10/25/2010 12:00 AM	22	Letters Granted		No		
10/25/2010 12:00 AM	23.1	Caveat Withdrawn		No		
10/25/2010 12:00 AM	25.1	Caveat Withdrawn		No		
12/6/2010 12:00 AM	13	Certification of Notice (Complete)		No		
1/12/2011 11:51 AM	1	Petition with a Citation Requested		No		
1/12/2011 11:53 AM	2	Petition with a Citation Requested	PETITION FOR PRELIMINARY ESTATE ACCOUNTING AND JUDICIAL ACTION	No	1/14/2011 7:26 AM	
1/13/2011 9:42 AM	3	Order / Decree	THE PETITION FOR PRELIMINARY ACCOUNTING FILED BY ROBERT E. TAGLIALATELA, JR., ON JANUARY 12, 2011, IS DISMISSED AS AN INAPPROPRIATE PLEADING. (JO)	No	1/20/2011 9:37 AM	
3/1/2011 12:32 PM	4	Trustee Renunciation	OF FRANCINE T. SCHMITT	No	9/9/2011 1:31 PM	
3/1/2011 12:33 PM	5	Trustee Renunciation	OF R. BRENNER GREEN, SR.	No	9/9/2011 1:31 PM	

Montgomery County				7/11/13 8:34 PM		
4/19/2011 12:00 AM	17	Inheritance Tax Return	INHERITANCE TAX RETURN	No		
4/20/2011 12:00 AM	18	Inventory Report	INVENTORY	No		
5/23/2011 12:00 AM	28	Additional Probate Fee		No		
5/30/2011 12:00 AM	19	Inheritance Tax Appraisement	INHERITANCE TAX APPRAISEMENT (INSOLVENT)	No		
1/4/2012 12:00 AM	38	Account		No		
1/4/2012 9:56 AM	6	Account	FIRST AND FINAL	No	1/10/2012 10:50 AM	
1/30/2012 10:03 AM	7	Petition for Adjudication		No	1/30/2012 2:21 PM	
1/31/2012 11:44 AM	8	Objections	TO FINAL ACCOUNTING AND RESPONSE TO PETITION FOR ADJUDICATION	No	1/31/2012 12:35 PM	
2/3/2012 11:37 AM	32	Entry of Appearance	OF DIANE M ZABOWSKI, ESQUIRE FOR DIANE ZABOWSKI ESQUIRE, THOMAS J POSATKO, ESQUIRE AND DEBORAH L. KLOCK	No	5/14/2012 2:10 PM	
2/3/2012 1:36 PM	6.1	Objections	TO FIRST AND FINAL ACCOUNT AND STATEMENT OF PROPOSED DISTRIBUTION	No	2/6/2012 1:03 PM	
2/3/2012 1:37 PM	6.2	Objections	OF PHYLLIS GALVIN MOORE TO THE FIRST AND FINAL ACCOUNT OF STACY L. GREENBERG, ADMRX. CTA	No	2/6/2012 1:03 PM	
2/3/2012 1:38 PM	6.3	Entry of Appearance	OF THOMAS A. BOULDEN, ESQUIRE ON BEHALF OF PHYLLIS GALVIN MOORE	No	2/6/2012 1:03 PM	
3/27/2012 3:02 PM	8.1	Order / Decree	HEARING ON THE OUTSTANDING OBJECTIONS TO THE ACCOUNTING IS SCHEDULED FOR MAY 16 AND 17, 2012. (JO)	No	3/30/2012 11:09 AM	
4/24/2012 12:49 PM	6.4	Answer / Reply / Response	OF ROBERT E TAGLIALATELA, JR TO THE INTERROGATORIES OF THE ESTATE OF ROBERT E TAGLIALATELA, SR.	No	4/26/2012 9:17 AM	
4/25/2012 8:40 AM	6.4.1	Order / Decree	THE RESPONSE OF ROBERT E. TAGLIALATELA, JR., FILED ON APRIL 24, 2012, TO INTERROGATORIES PROPOUNDED BY STACY L. GREENBERG, IS DISMISSED AS AN INAPPROPRIATE PLEADING. (JO)	No	5/3/2012 2:25 PM	
5/10/2012 10:15 AM	29	Claim	OF DIANE M ZABOWSKI, ESQUIRE FOR \$9,630.81	No	5/10/2012 10:19 AM	
5/10/2012 10:16 AM	30	Claim	OF SUPPORTIVE CARE SERVICES, INC. FOR \$21,160.00	No	5/10/2012 10:20 AM	
5/10/2012 10:17 AM	31	Claim	OF DLK MANAGED CARE SOLUTIONS, INC. FOR \$7,092.52	No	5/10/2012 10:21 AM	
5/10/2012 1:50 PM	33	Petition without a Preliminary Decree	AND REQUEST FOR CONTINUENCE	No	5/16/2012 11:15 AM	
5/11/2012 10:20 AM	34	Order / Decree	UPON CONSIDERATION OF THE REQUEST OF ROBERT E. TAGLIALATELA, JR., PRO SE, FOR A CONTINUANCE OF THE HEARINGS SCHEDULED FOR MAY 16 AND 17, 2012, A CONTINUANCE IS DENIED. (JO)	No	5/22/2012 9:35 AM	
8/15/2012 2:40 PM	6.5	Adjudication	AUDIT FEBRUARY 6, 2012. (JO)	No	8/17/2012 9:29 AM	
8/24/2012 4:00 PM	8.2	Notes of Testimony	MAY 17, 2012	No		
10/4/2012 10:01 AM	39	Objections	TO THE PROPOSED SCHEDULE OF DISTRIBUTION	No	10/31/2012 11:28 AM	
10/19/2012 9:52 AM	40	Schedule of Distribution		No	10/25/2012 10:55 AM	
10/19/2012 1:59 PM	40.1	Adjudication	SUPPLEMENTAL ADJUDICATION AND ORDER SUR OBJECTIONS TO SCHEDULE OF DISTRIBUTION. PHYLLIS GALVIN MOORE'S OBJECTION TO THE ADMINISTRATRIX'S SCHEDULE OF DISTRIBUTION IS DENIED, AND THE SCHEDULE IS CONFIRMED ABSOLUTELY. (JO)	No	10/25/2012 10:55 AM	
11/13/2012 10:04 AM	40.2	Praecipe	TO ATTACH TO SCHEDULE OF DISTRIBUTION	No	11/19/2012 1:18 PM	
2/15/2013 1:54 PM	46	Status Report (Complete)		No	2/19/2013 8:42 AM	

Diane Zabowski Represents Deborah Klock in a Meeting Concerning F. Harvey Whitten

On March 13th of 2013, Cosmas Skaife was alerted to F. Harvey Whitten, an incapacitated person signing a document that Deborah Klock had signed. A meeting was called on March 25th 2013, with

Deborah Klock, Diane Zabowski, Julianna Van Duyne-King, Patricia David, Cosmas Skaife, and I to determine what kind of document F. Harvey Whitten signed. The other discussion concerned the unprofessional care Deborah Klock was providing F. Harvey Whitten. F. Harvey Whitten had been without his glasses, dentures, and hearing aids for three months, since Deborah Klock would not retrieve the items from his old apartment. Deborah Klock also refused to leave the keys to F. Harvey Whitten's old apartment with F. Harvey Whitten. During the meeting, I wanted to know why Deborah Klock had failed to bring F. Harvey Whitten his glasses, dentures, and hearing aids from his old apartment for the last three months and where the items were. Diane Zabowski told me that she didn't care what my concerns were about my uncle, since I was not a health guardian. My sister, Cosmas Skaife, continued to question Deborah Klock about the dissatisfaction the Whitten family had with her care of our uncle. Specifically, Cosmas Skaife introduced into the conversation the form that Deborah Klock had filled out that stated that F. Harvey Whitten didn't have allergies, which resulted in his being exposed to soap that he was allergic to, causing F. Harvey Whitten to scratch until he bled. Before Deborah Klock could fully respond to my sister's questions, Diane Zabowski interrupted Deborah Klock by telling her that she recommended that she didn't answer anymore of our questions. In my opinion, Diane Zabowski was clearly in the meeting to represent her former client Deborah Klock instead of my uncle, F. Harvey Whitten. Furthermore, I believe that Diane Zabowski charged F. Harvey Whitten for the meeting, when she was providing representation to Deborah Klock in the form of directing her to not answer questions from Whitten family members.

Additionally, it is rather odd, that after Deborah Klock is asked by the family to resign as co-health guardian, she says she's going to contact "Harvey's" attorney to address the matter. In my opinion, she was contacting her own attorney.

From: Deborah Klock <klockdl@aol.com>
To: Andrew Whitten <andrewwhittenc@gmail.com> **Cc:** Cosmas Whitten <bakercoz@hotmail.com>; Daniel Whitten <danwhitten@verizon.net>; "LesterMo7@aol.com" <LesterMo7@aol.com>; Mary Whitten <maryvirus@yahoo.com>; "Diane Zabowski Law, LLC" <Zabowskilawllc@verizon.net>
Sent: Tuesday, May 7, 2013 10:53 AM
Subject: Re: FHW GOP

Andrew,
Per your request for my resignation, I have contacted Ms. Zabowski, Harvey's attorney who will address the matter.
Deborah


Approximately one week after the above email was received, the Whitten family received notice that the financial guardian, Julianna Van Duyne-King had petitioned the court to remove my sister as co-health guardian.

Diane Zabowski is Told in Writing about F. Harvey Whitten's Family's Concerns about F. Harvey Whitten's Care

I did not want my sister, Cosmas Skaife, to be removed as co-health guardian, since it was clear to me that she was the only guardian that was advocating on behalf of my uncle. My cousins, Leslie, Andrew, and Daniel, along with my Uncle Les, also did not want my sister to be removed as co-health guardian. The family was unified in our opinions for the care of our uncle/brother. Diane Zabowski received letters from me, my cousins, and my uncle stating that we had concerns about our uncle being administered 5 mg of Haldol daily, concerns that our uncle was no longer being given vitamins when he has a vitamin B12 deficiency, and that Deborah Klock was representing herself as F. Harvey Whitten's family. All the responses to the petition are included in their entirety as an enclosure. Diane Zabowski received copies of all F. Harvey Whitten's family responses to the petition to remove my sister as co-health guardian. The following are some excerpts.

The following was shown to Diane Zabowski, which shows Deborah Klock excluding Cosmas Skaife as an emergency contact at the Shannondell. Deborah Klock also lists that there are no known allergies for F. Harvey Whitten, which isn't true. F. Harvey Whitten has a severe allergy to certain soaps.

Shannondell at Valley Forge 610-728-5200		EMERGENCY MEDICAL INFORMATION	
Name	F Harvey Whitten	610-728-5255	
Address	13224 Shannondell Drive Audubon, PA 19403		
Date of Birth	5/5/1930	Social Security No.	577-42-3738 A
		Secondary Ins	Keystone 65
		ID No.	
		Group No.	
Emergency Contact	Deborah Klock		
Relationship	care manager		
Address	Norristown 1		
Phone	c-610-416-5773		
Primary Doctor	Dr Raffi Megerian / Main Line Health @ Shannondell		
Phone	610-728-5241		
Hospital of Choice	Paoli Memorial Hospital		
Allergies	no known drug allergies		



MRN: 101006527
 WHITTEN, HARVEY F
 DOB: 06/05/1930 82 Y M
 AFT: 01/07/2013
 FLN: 29064404
 AFT: Queberg MD, Susan

Documents in which Deborah Klock gave inaccurate medical and family history to doctors was addressed in the responses to the petition, as well as Deborah Klock's lack of communication with Cosmas Skaife concerning medication changes, meetings with social workers, and paperwork concerning F. Harvey

Whitten. Diane Zabowski was also given documentation in which Deborah Klock represented herself as family of F. Harvey Whitten, and shown pictures demonstrating that material items were missing from F. Harvey Whitten's apartment, when Deborah Klock had the keys. These are available in the Enclosures.

Diane Zabowski was given information concerning the appropriate use of Haldol as a medication from webmd.com.

From: <http://www.webmd.com/drugs/drug-8661-Haloperidol+Oral.aspx?drugid=8661&drugname=Haloperidol+Oral>

Haloperidol may be used in hospitalized patients who have severe behavior problems or confusion for short periods of time.

Diane Zabowski was given information about the mortality of elderly patients with dementia increasing with the administration of Haldol, per the National Institute of Health's website.

From <http://dailymed.nlm.nih.gov/dailymed/lookup.cfm?setid=73754c96-1442-455e-8724-9e6d4e796b04>

WARNINGS

Increased Mortality in Elderly Patients with Dementia-Related Psychosis

Elderly patients with dementia-related psychosis treated with antipsychotic drugs are at an increased risk of death. HALDOL Injection is not approved for the treatment of patients with dementia-related psychosis

Diane Zabowski was given information from the Mayo Clinic stating that older adults with dementia should not be administered Haldol.

From <http://www.mayoclinic.com/health/drug-information/DR600751>

Description

Haloperidol is used to treat nervous, emotional, and mental conditions (e.g., schizophrenia). It is also used to control the symptoms of Tourette's disorder. This medicine should not be used to treat behavior problems in older adult patients who have dementia.

Haloperidol is also used to treat severe behavioral problems (e.g., aggressive, impulsive behavior) or hyperactivity in children who have already been treated with psychotherapy or other medicines that did not work well.

Diane Zabowski was given information concerning strange documentation from Mercy Suburban Hospital, in which Dr. Miquel Agulio-Seara had F. Harvey Whitten, an incapacitated person sign a form stating that he was aware of the risks of the medicine that he was taking, and that Dr. Miquel Aguillo-Seara signed that the patient was capable of making an informed decision.

Diane Zabowski was shown that in the document F. Harvey Whitten's signature was far to the right from where a person would normally sign, and that F. Harvey Whitten clearly couldn't write a date, or notice that the wrong date was written, since presumably, it was January 11th and not June 5th.

3. I understand that the practice of medicine is not an exact science and I acknowledge that no guarantees have been made to me concerning the results of the proposed treatment.

In acknowledgement of the above terms, I agree to the administration of the medications listed above.

Patient's signature

X

Korway Whuttemm

Date

6/5/13

Witness signature

Heidi Y. Hall

Date

6/5/13

Physician's certification

I hereby certify that I have explained to the patient the nature of his/her condition, the purpose, nature, dosage and method of administration; the anticipated benefits, risk and side effects of the medication; the patient's prognosis with and without medication; and any alternatives. Based on my assessment of this patient, I have concluded that the patient is capable of making an informed decision and providing consent to medication and is willing to do so.

Signature:

[Handwritten signature]

Date:

1/11/13

Physician's Name (Printed):

Medication information sheet given

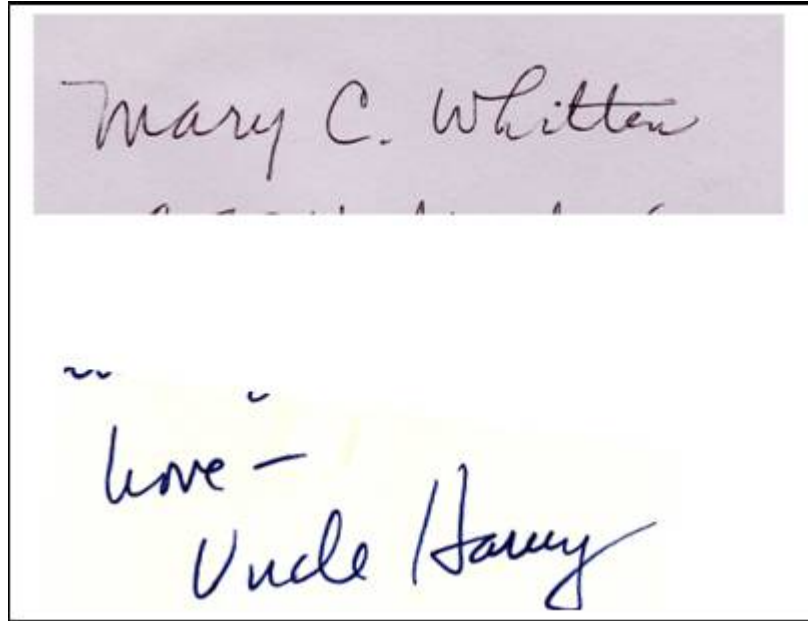
Yes

No


Date:

Signature:

Diane Zabowski was shown an example of F. Harvey Whitten writing his first name and last name when he was a lucid, capable man, when F. Harvey Whitten spelled his last name *Whitten*, not *Whuttemm*.



Diane Zabowski was shown that Dr. Seara signed that F. Harvey Whitten was capable of understanding the risks and side effects of the medication that he was taking, when during the same visit to Mercy Suburban Hospital, F. Harvey Whitten scored 4/27 on a “mini-mental state examination.”


Maximum Score	Score	
5	(1)	ORIENTATION What is the (year) (season) (date) (day) (month)? Where are we: (state) (county) (town or city) (hospital) (floor)?
3	(0)	REGISTRATION Name 3 common objects (eg, "apple," "table," "penny"): Take 1 second to say each. Then ask the patient to repeat all 3 after you have said them. Give 1 point for each correct answer. Then repeat them until he/she learns all 3. Count trials and record. Trials:
5	(0)	ATTENTION AND CALCULATION Spell "world" backwards. The score is the number of letters in correct order (D ___ L ___ R ___ O ___ W ___).
3	(0)	RECALL Ask for the 3 objects repeated above. Give 1 point for each correct answer. [Note: recall cannot be tested if all 3 objects were not remembered during registration]
2 1 3	(0)	LANGUAGE Name a "pencil," and "watch." Repeat the following. "No ifs, ands, or buts." Follow a 3-stage command: "Take a paper in your right hand, fold it in half, and put it on the floor." Read and obey the following: Close your eyes. Write a sentence. Copy the following design.
1 1 1	() () ()	<p>CLOSE YOUR EYES</p> <p>refused to answer questions on Admission</p>
		 <p>No construction problem.</p>
Total Score	<u>4/27</u>	<p>MILD TO MODERATE DEMENTIA 26 > TOTAL SCORE > 10</p>

Diane Zabowski was shown that Dr. Seara had changed the medications of F. Harvey Whitten without Cosmas Skaife's knowledge or consent. The following table was included in the response to the petition given to Diane Zabowski, along with other medical documentation. The table compares the two sets of medicine that Einstein Healthcare Network and Mercy Suburban Hospital have recommended upon release from their facilities. There are nine recommended doses from Einstein Healthcare that didn't make the list from Dr. Seara (i.e. "start taking," "continue taking," "stop taking"). The existence of the previous medical protocol vanished. In the table, the cells with "See Note 1" under the Mercy Suburban Hospital header for the column in the table are the medicines not addressed at all. If it was a legitimate oversight, a competent co-health guardian should have noticed the error and addressed it, after all Deborah Klock had been putting F. Harvey Whitten's pills in pillboxes for months. Especially alarming to me is the missing vitamin pills, since Deborah Klock had listed at Einstein Healthcare Network that F.

Harvey Whitten had a B12 deficiency. Vitamin B12 was removed from his medication list. Diane Zabowski was made aware of this discrepancy that Deborah Klock did not address.

Medicine	Dose	Frequency	Total daily dose	Einstein Healthcare Network	Mercy Suburban Hospital
Cholecalciferol (Vitamin D3)	400 int units	not specified	not specified	Yes	See Note 1
cyanocobalamin (Vitamin B12)	50 mcg	1 per day	50 mcg	Yes	See Note 1
docusate (Colace)	50 mg	2 times a day, as needed	as needed	Yes	See Note 1
donepezil (Aricept)	5 mg	1 per day	5 mg	Yes	See Note 2
folic acid	1 mg	1 per day	1 mg	Yes	See Note 1
haloperidol (Haldol)	5 mg/mL injectable	every 4 hours, as needed	as needed	Yes	See Note 1
haloperidol	0.5 mg	every 4 hours, as needed	as needed	Yes	See Note 2
Haldol	2 mg	2 per day	4 mg	--	Yes
lorazepam	0.5 mg	3 times a day, as needed	as needed	Yes	See Note 1
multivitamin with minerals	--	1 per day	1 per day	Yes	See Note 1
rosuvastatin (Crestor)	20 mg	1 per day	20 mg	Yes	See Note 2
sertraline	50 mg	1 per day	50 mg	Yes	See Note 1
sitagliptin (Januvia)	50 mg	1 per day	50 mg	Yes	Yes
tamsulosin (Flomax)	0.4 mg	1 per day	0.4 mg	Yes	Yes
timolol	5 mg	2 per day	10 mg	Yes	See Note 1
traZODONE	50 mg	1 per day	50 mg	Yes	See Note 2
traZODONE	100 mg	1 per day	100 mg	--	Yes
venlafexine (Effexor)	25 mg	2 per day	50 mg	--	Yes
Note 1: Dr. Seara does not mention these medications at all, (i.e. under start taking, continue taking, or stop taking.)					
Note 2: Dr. Seara specifically states to stop taking these medications.					

Diane Zabowski was made aware that the pharmacist at Mercy Suburban Hospital alerted Dr. Seara to adverse effects of mixing two drugs, one of them being Haldol. These two drugs are listed on the suggested medication list upon F. Harvey Whitten's release from Mercy Suburban Hospital.

 **Mercy Suburban Hospital**
A member of Mercy Health System

Pharmacy Memo

Patient Name: Whitten, Harvey
To Dr. Seara
Room #: 148-1
Acct #: SA1300501097

Regarding: Haldol + Effexor
Combination of Haldol and Effexor may result in an increase in the Qtc interval
Please consider obtaining an EKG and please monitor patient. Thank you.

Pharmacist: A. Rothbart
(Print name)
Date/Time: 1/11/12 1pm

For further information or questions please contact the Pharmacy at 4-2025.
Thank you.

Diane Zabowski was made aware that according to the medical records, no EKGs were given at The Meadows at Shannondell, after leaving Mercy Suburban Hospital, per mentioned by the pharmacist at Mercy Suburban Hospital.

Diane Zabowski was made aware that F. Harvey Whitten's dose of Haloperidol was increased on January 23rd, 2013 to 5 mg a day.

According to the CMS Manual System Pub. 100-07 State Operation Provider Certification from the Department of Health and Human Services, the daily dose threshold is 2 mg per day for haloperidol.

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1SOM.pdf>

Dosage

- *Doses for acute indications (for example, delirium) may differ from those used for long-term treatment, but should be the lowest possible to achieve the desired therapeutic effects*

Daily Dose Thresholds for Antipsychotic Medications Used to Manage Behavioral Symptoms Related to Dementing Illnesses

Generic Medication	Dosage
First Generation	
<i>chlorpromazine</i>	<i>75 mg</i>
<i>fluphenazine</i>	<i>4 mg</i>
<i>haloperidol</i>	<i>2 mg</i>
<i>loxapine</i>	<i>10 mg</i>
<i>molindone</i>	<i>10 mg</i>
<i>perphenazine</i>	<i>8 mg</i>
<i>pimozide</i>	*
<i>prochloroperazine</i>	*
<i>thioridazine</i>	<i>75 mg</i>
<i>thiothixene</i>	<i>7 mg</i>
<i>trifluoperazine</i>	<i>8 mg</i>
Second Generation	
<i>aripiprazole</i>	<i>10 mg</i>
<i>clozapine</i>	<i>50 mg</i>
<i>olanzapine</i>	<i>7.5 mg</i>
<i>quetiapine</i>	<i>150 mg</i>
<i>risperidone</i>	<i>2 mg</i>
<i>ziprasidone</i>	*

* *Not customarily used for the treatment of behavioral symptoms*

Additionally, recall Deborah Klock failed to retrieve F. Harvey Whitten’s glasses, dentures, and hearing aids. According to the CMS Manual System, antipsychotic medication (i.e. haloperidol) should have never been initiated in the first place, and certainly not increased without ruling out the cause of the behavior being from his lack of hearing aids and glasses, or from being in a new environment. All of these scenarios were pertinent for F. Harvey Whitten.

o *Enduring Psychiatric Conditions*

Antipsychotic medications may be used to treat an enduring (i.e., non-acute, chronic, or prolonged) condition, if the clinical condition/diagnosis meets the criteria in #1 above. In addition, before initiating or increasing an antipsychotic medication for enduring conditions, the target behavior must be clearly and specifically identified and monitored objectively and qualitatively, in order to ensure the behavioral symptoms are:

A. Not due to a medical condition or problem (e.g., headache or joint pain, fluid or electrolyte imbalance, pneumonia, hypoxia, unrecognized hearing or visual impairment) that can be expected to improve or resolve as the underlying condition is treated; and

B. Persistent or likely to reoccur without

continued treatment; and

C. Not sufficiently relieved by non-pharmacological interventions; and

D. Not due to environmental stressors (e.g., alteration in the resident's customary location or daily routine, unfamiliar care provider, hunger or thirst, excessive noise for that individual, inadequate or inappropriate staff response, physical barriers) that can be addressed to improve the psychotic symptoms or maintain safety; and

E. Not due to psychological stressors (e.g., loneliness, taunting, abuse), or anxiety or fear stemming from misunderstanding related to his or her cognitive impairment (e.g., the mistaken belief that this is not where he/she lives or inability to find his or her clothes or glasses) that can be expected to improve or resolve as the situation is addressed

Diane Zabowski was made aware that F. Harvey Whitten's medical records also noted that he had an increase in incontinence. She was also made aware of how serious a B12 deficiency can be per the below article from Harvard University.

F. Harvey Whitten had a B12 deficiency, but the administration of B12 stopped after the medication vanished from Mercy Suburban Hospital. According to a Harvard Medical Report, severe B12 deficiency can lead to incontinence, as well as depression and paranoia.

From <http://www.health.harvard.edu/blog/vitamin-b12-deficiency-can-be-sneaky-harmful-201301105780>

Vitamin B12 deficiency can be sneaky, harmful

POSTED JANUARY 10, 2013, 10:03 AM

Patrick J. Skerrett, Executive Editor, *Harvard Health*

What harm can having too little of a vitamin do? Consider this: Over the course of two months, a 62-year-old man developed numbness and a "pins and needles" sensation in his hands, had trouble walking, experienced severe joint pain, began turning yellow, and became progressively short of breath. The cause was lack of vitamin B₁₂ in his bloodstream, according to [a case report](#) from Harvard-affiliated Massachusetts General Hospital published in *The New England Journal of Medicine*. It could have been worse—a severe vitamin B₁₂ deficiency can lead to deep depression, paranoia and delusions, memory loss, incontinence, loss of taste and smell, and more, according to [another article in today's *New England Journal*](#).

A B12 deficiency is nothing to take lightly and should be monitored. The administration of folic acid and vitamin B12 were removed from F. Harvey Whitten's medication list and Diane Zabowski was made aware of this.

Diane Zabowski was aware that one of the side effects of Haldol was documented in the Meadows report dated February 13, 2013, shuffling when walking. The side effect is clearly identified in the following "Summary of Skill".

Date of Service: 2/13/2013	
Summary of Skill	
97116	97116: To improve gait mechanics, indep, safety awareness, & endurance for amb: Pt amb 200ft w/ Rollator, CGA, & w/ch follow. Pt amb w/ forward flex 2" not amb close enough to the rollator, VC provided to inc safety awareness, however pt unable to correct. Pt amb w/ shuffling gait pattern & demonstrates dec foot clearance, dec gait speed, & dec step length. VC provided to inc foot clearance & inc step length, however pt not compliant.

Diane Zabowski was made aware that based on concerns about Haldol raised by Home Instead Aids (i.e. not Deborah Klock or any medical staff at the Meadows), the Whitten Family researched this medication. Diane Zabowski was told that F. Harvey Whitten was suffering from the side effects of Haldol, and demonstrated symptoms of overdose. Whitten Family members have seen F. Harvey Whitten intermittently between Fall of 2012 and Spring of 2013. In the Fall of 2012, F. Harvey Whitten could walk on his own, occasionally using his walker for long distances. He would ride the exercise bike every morning. His body was more capable than his mind though, since he couldn't recognize family members; he couldn't remember that his brother and sister-in-law were dead; he couldn't remember that his best friend and former roommate Robert Sprau had recently died; and he would like to wear formal attire while exercising in the gym. He was unable to live independently and had 24/7 help from Home Instead aides for dressing, making sure he didn't wander off, ensuring he was fed, escorting him to events sponsored by the Shannondell, etc. The decline in his physical state since the Fall of 2012 is reflected in side effects of Haldol, and Haldol overdose. An extremely respectable institution, The Mayo Clinic, recommends that if the side effects of Haldol are seen, to see a doctor immediately. F. Harvey Whitten had loss of balance and control, mask-like face, shuffling walk, and trembling and shaking fingers and hands when the Whitten Family visited in the Spring of 2013. These symptoms were not evident in the Fall of 2012. The Mayo Clinic also recommends that if symptoms of overdose appear to get emergency help immediately. F. Harvey Whitten suffered from the symptoms of overdose as he was severely drowsy and extremely stiff. Again, in the Fall of 2012, F. Harvey Whitten was not extremely drowsy and stiff.

From: <http://www.mayoclinic.com/health/drug-information/DR600751/DSECTION=side-effects>

Haloperidol (Oral Route)

Side Effects

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects may occur, if they do occur they may need medical attention.

Check with your doctor immediately if any of the following side effects occur:

More common

Difficulty with speaking or swallowing

Inability to move the eyes

Loss of balance control

Mask-like face

Muscle spasms, especially of the neck and back

Restlessness or need to keep moving (severe)

Shuffling walk

Stiffness of the arms and legs

Trembling and shaking of the fingers and hands

Twisting movements of the body

Weakness of the arms and legs

Get emergency help immediately if any of the following symptoms of overdose occur:

Symptoms of overdose

Difficulty with breathing (severe)

Dizziness (severe)

Drowsiness (severe)

Muscle trembling, jerking, stiffness, or uncontrolled movements (severe)

Unusual tiredness or weakness (severe)

Diane Zabowski was made aware that after the Whitten Family was alerted to F. Harvey Whitten demonstrating the symptoms for overdose of Haldol, Cosmas Skaife began questioning the Meadows and asking for second opinions. Dan Freed from the Meadows was not proactive in the Whitten Family's request.

The following is an excerpt from Dan Freed's response to Cosmas Skaife (i.e. not Cosmos Skaiffe). Dan Freed claimed that the amount of Haldol being prescribed was ordered by Mercy Suburban Hospital, but the medical records do not support this claim. Mercy Suburban Hospital prescribed 4 mg per day, and the Meadows at Shannondell increased the medication to 5 mg per day. Diane Zabowski was made aware of this.

April 30, 2013

To: Cosmos Skaiffe, Co-Guardian for Harvey Whitten
Cc: Deborah Klock, Co-Guardian for Harvey Whitten
From: Dan Freed
Re: Response to April 24, 2013 Email to Shirley Morris
Response to April 29, 2013 Email to Dan Freed

Mr. Whitten was admitted to his current apartment on March 1, 2013. Upon his admission to Berwyck Personal Care, he was taking Haldol 2.5mg (twice per day) and Venelaxafine 25mg (twice per day). These doses are consistent with the doses that he had been taking while he was a Resident on the 2nd floor of The Meadows for "skilled nursing". In fact, both of these medications were ordered for your Uncle on his arrival from Mercy Suburban Behavioral Health Unit on January 22, 2013. I am including a list of Mr. Whitten's current medications for your review.

Your Uncle's primary care physician is Dr. Rafi Megerian. His partner's Dr. Galinsky and Dr. Breish may also treat your Uncle in the event that Dr. Megerian is not available. Your Uncle is also being followed by Dr. William Miller (Psychologist) at The Meadows and Dr. Miller provides consultative input for behavioral therapy to your Uncle's primary care physicians. Dr. Miller and Dr. Megerian are co-managing Mr. Whitten's medications (both psychotropic and routine medications), including Haldol and Venelaxafine. Both of these physicians agree that currently these medications continue to benefit Mr. Whitten as his behavioral challenges have been minimized on this medication.

Furthermore in the same response, Dan Freed claims that it would be unlikely for F. Harvey to have cardiac failure, when in fact the literature states that older people with dementia being administered Haldol have an increased chance of cardiac failure, and the pharmacist at Mercy Suburban Hospital also warned Dr. Seara of interaction of drugs prescribed to F. Harvey Whitten causing cardiac failure.

Neither the staff at The Meadows or your Uncle's Physicians have discussed and/or elected to pursue "comfort care" for Mr. Whitten. Your Uncle's "code status" in the unlikely event of Cardiac Failure is "full code". He is NOT a DNR.

Dan Freed's claim concerning DNR (do not resuscitate) vs. Full code is also contradicted. The following comments were in the records on February 14th, 2013.

Comments	Subjective/Objective: **falls** **behavioral issues** **combativeness at times** **agitation at times** **dementia with delirium and outbursts** **DNR**
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Diane Zabowski was made aware of this discrepancy. I am concerned that the Meadows or Deborah Klock do not remain abreast of rulings made in the Supreme Court of PA in what is supposed to be their areas of expertise. Since F. Harvey Whitten has not been diagnosed with a terminal condition, the Meadows has the responsibility to try to resuscitate him, based on a ruling on August 17th, 2010. The following is an excerpt from: <http://www.defenseofmedicine.com/2010/08/29/pennsylvania-supreme-court-addresses-end-of-life-decisions/>

The Court observed that the Health Care Agent and Representatives Act provides certain powers to guardians and health care representatives, but does not specifically authorize either surrogate to object to life-preserving care where the patient neither has an end-stage medical condition nor is permanently unconscious. The Court indicated that the statute "more sharply regulates the situation in which the incompetent person suffers from a life-threatening but treatable condition, obviously reflecting the Legislature's assertion of a policy position of greater state involvement to preserve life in such circumstances." Succinctly stated by the Court, "the Act simply does not allow for the refusal of life-preserving care to one who has never had the ability to appoint a health care agent and does not suffer from an end-stage condition or permanent unconsciousness."

Diane Zabowski was made aware that the Whitten Family was tired of nothing being done to address the administration of Haldol and the lack of administration of vitamins and folic acid. She also knew that in desperation, Cosmas Skaife called F. Harvey Whitten's former neurologist to see if she could get an appointment. The plan was for Whitten Family members to drive to Audubon, PA to take F. Harvey Whitten to get a second opinion ourselves. When Cosmas Skaife told F. Harvey Whitten's previous neurologist, Dr. Caplin, that F. Harvey Whitten had been administered 5 mg per day of Haldol since

January of 2013, the doctor said he was surprised that F. Harvey Whitten was alive, and it's enough Haldol to "kill a horse."

Diane Zabowski was also made aware that the Whitten Family was tired of all the shenanigans surrounding Deborah Klock. (e.g. keeping F. Harvey Whitten's medical information to herself; not retrieving clothes, dentures, hearing aids, and glasses from his home to bring to the hospital; requesting Home Instead Aides do laundry instead of attending to F. Harvey Whitten; referring to Home Instead Aides as grunts; filling out negligent paperwork concerning allergies causing F. Harvey Whitten to break out in a rash, etc.) The Whitten Family recognized that Deborah Klock was no longer required to put pills in a pillbox for F. Harvey Whitten, since he was now living in an assisted living facility. The Whitten Family politely thanked her for her services and asked her to step down as co-health guardian.

From: Andrew Whitten [mailto:andrewwhittenc@gmail.com]
Sent: Friday, May 03, 2013 9:25 PM
To: Deborah Klock
Cc: Cosmas Whitten; Daniel Whitten; LesterMo7@aol.com; Mary Whitten
Subject: FHW GOP

Ms. Klock:

Pursuant to our phone conversation on 5/1/2013 regarding your resignation as GOP for my uncle Mr. F. Harvey Whitten, based on our agreement that you sleep on your decision, I was anticipating a response from you today. As it is now close of business PST, I can only assume you need additional time for thought.

To be blunt, The Whitten Family would like very much for you to abdicate your position. As I stated on the phone, there are too many people involved in decision making for our uncle. We look forward to your amicable departure with our appreciation for your efforts on his behalf. Please let me know as soon as possible that you will be notifying Judge Ott of your intention to resign.

Very truly,

For The Whitten Family
Andrew Whitten, Principal
Fallen Leaf Custom Construction
Construction Management
11459 E. La Junta Rd.
Scottsdale, AZ 85255-8700
480-299-4105
AndrewWhittenC@gmail.com

Instead of stepping down, Julianna Van Duyne-King, the financial guardian, who can financially gain by petitioning the court, petitioned the court for Cosmas Skaife to be removed from her position as co-health guardian. In my opinion, the fact that an employee from Univest Bank would petition the court is unethical in and of itself. Julianna Van Duyne-King never once contacted the Whitten Family to ask why we were concerned about the medication that our uncle was being administered, which in my opinion, wasn't in the best interest of F. Harvey Whitten.

Immediately, Dan Freed from The Meadows at Shannondell, replaced Home Instead Employees with all parties accept the Whitten's approval. This was not in the best interest of F. Harvey Whitten, since in The Meadows at Shannondell's records, it states that he gets agitated with staff he doesn't know. Reflective of emails Cosmas Skaife received previously, F. Harvey Whitten still doesn't "know" the staff of the Meadows. Diane Zabowski was made aware of this.

ADDITIONAL PERTINENT INFORMATION
(Explain necessary details of care, diagnosis, medications, treatments, prognosis, teaching, habits, preferences, etc. Therapists and social workers add signature and title to notes.)

Res. has had 24^o Companion
since adm. to Shannondell
Can become agitated w/ staff
he does not know

Furthermore, the calming effect the Home Instead aides had on F. Harvey Whitten is also documented.

1/23/2013 02:32 **Type:** Nurses Note

Note Text:
Note Text : Adm. #3/9 S/P psychosis. Alert, HOH, able to state needs, VSS. Companion at bedside. Res. in a playful and jovial mood when VS were obtained by CNA. He first acted like he was going to hit CNA, then would laugh and make a joke of it. Companion has a very calming effect on res. and interacts well with him. Res. resting quietly in low bed at this time. Call bell within close reach.
Author: Denise Catullo - RN [ESOF]

Deborah Klock is fully aware that F. Harvey Whitten is not being administered folic acid or Vitamin B12 and has the symptoms of side effects and overdose from Haldol, she continues to assert that there is nothing wrong with the medication being administered to F. Harvey Whitten. Diane Zabowski was aware that Deborah Klock did not support altering the inappropriate medication that F. Harvey Whitten was being administered.

CC: bakercoz@hotmail.com; Zabowskilawllc@verizon.net; VanDuyne-KingJ@univest.net
From: klockdl@aol.com
Subject: Re: Companion Follow Up
Date: Wed, 15 May 2013 17:50:05 -0400
To: dfreed@shannondell.com

Dan :
In reply to your request for approval of Angel Companions, I am willing to give them a chance. I am not comfortable with a change of medicine in the midst of another significant change in his care. Perhaps this could be revisited after he's adjusted to the change in caregivers.. Please call if you have any further questions.
Deborah Klock #610-416-5773

Diane Zabowski Represents Deborah Klock in Court instead of F. Harvey Whitten

On July 8th, 2013 a hearing was held to remove Cosmas Skaife as co-health guardian, when Cosmas Skaife was the only guardian advocating for F. Harvey Whitten's health and wellbeing. During the hearing, in my opinion, Diane Zabowski represented her former client Deborah Klock instead of representing the best interest of F. Harvey Whitten. After all, if F. Harvey Whitten moved to Wisconsin as the entire Whitten family wished, she would no longer be able to charge his accounts as his court appointed attorney. Furthermore, if F. Harvey Whitten moved to Wisconsin, Diane Zabowski wouldn't have the opportunity to represent Deborah Klock in probate court as she had before if the opportunity arose.

Diane Zabowski was made aware that F. Harvey Whitten was being administered a dose of Haldol in excess of what was recommended by government agencies. The Omnibus Budget Reconciliation Act (OBRA) passed during the administration of Ronald Reagan set forth regulations that have been refined through the CMS Manual System. She was also aware that two of the medications had adverse effects if mixed, as well as that F. Harvey Whitten was no longer being administered vitamin B12 for his vitamin B12 deficiency or folic acid. However, when she questioned Dan Freed from the Meadows at Shannondell, she did not address the fact that the Meadows at Shannondell was overmedicating F. Harvey Whitten per guidelines set forth by government agencies. She glossed over the fact that the person she was supposed to be representing, F. Harvey Whitten, was not being given adequate care at the facility where he resides.

The excerpt below is from the July 8th hearing to remove Cosmas Skaife as co-health guardian. The "Q" is questions from Diane Zabowski, while the "A" is answers from Dan Freed from the Meadows at Shannondell.

Q. What involvement have you had to have regarding the medication that my client receives?

A. What do you mean?

Q. Do you normally deal with all of the different medications that every single resident at the Meadows is on?

A. I never do.

Q. Okay. Why did you have to get involved and address the issue of Haldol in this communication?

A. Because the accusations that Coz continued to make regarding inappropriate dosing, overdosing Mr. Whitten, frankly, are offensive to me, and so I took it upon myself, with the help of his doctor, and all of the nursing staff, to do my best to explain the history of that medication in this paragraph.

Q. So do I understand you to say when you wrote this, you also spoke with his doctors and the nurses at the Meadows in order to correctly state what you did?

A. Well, what this is trying to explain is that these doses of these two medications, the two that Coz brought up, were medications that came with him from the hospital. There was some adjustments right after he came to the skilled nursing floor. The person that prescribed them prescribed him when he left the hospital. He arrived at the Meadows. He had been seen routinely by the MD's at the facility. So I was just trying to say that these medications were consistent with the plan all along, and they were not started new since he had been at the Meadows.

Q. On Page 2, you reference three other bullet points. What were the issues that you had to address in these areas, sir?

A. Well, dermatology, Coz had some concerns over dermatology. Any consult is available to any resident at any time, if someone asks for it. We have to run it by his doctor, but we would have to get a dermatology consult. I have that in the facility, every week.

Instead of showing concern about F. Harvey Whitten being overmedicated with Haldol, which is documented in the medical records, and also a violation of the CMS Manual System which states that 2 mg a day is the threshold dose of Haldol, Diane Zabowski shows no concern for the treatment of her court appointed client.

Diane Zabowski demonstrates not representing F. Harvey Whitten when she objects to attorney Jim Maza confronting Dan Freed concerning the violation of federal legislation, signed by President Reagan, in 1987. The representation F. Harvey Whitten was appointed by the courts, objected to questions concerning violations of federal regulations in regards to his care. The "Q" in the transcripts below is Jim Maza, attorney representing Cosmas Skaife, and the "A" is Dan Freed.

Q. Yes. Given your experience and familiarity, as you described your work, was her original fears regarding the use of this medication, in your mind, unreasonable?

A. Fears?

Q. Yes.

A. I don't know what fears.

Q. Okay. Are you aware that in federal legislation, signed by President Reagan, in 1987, the Congress severely changed --

MS. ZABOWSKI: Objection.

When Diane Zabowski questions her former client, Deborah Klock, she shows her lack of concern that F. Harvey Whitten was being chemically restrained by stating that the discussion about Haldol had been "ad nauseam."

BY MS. ZABOWSKI:

Q. Miss Klock, there's been discussion about Haldol, ad nauseam. There was another drug that was referenced by Miss Skaife with Dr. Magerian and Dr. Miller, and that was Risperdal; is that correct?

Additionally, Deborah Klock was made aware that Cosmas Skaife preferred switching F. Harvey Whitten's medication to 0.5 mg of Risperdal daily instead of 5 mg of Haldol.

From: dfreed@shannondell.com
To: klockdl@aol.com
CC: bakercoz@hotmail.com
Date: Thu, 16 May 2013 10:16:17 -0400
Subject: RE: Companion Follow Up

Just in a follow up to the medication recommendations from yesterday –

At this time, we are going to hold on making the medication changes that were recommended by Dr. Miller and Dr. Megerian yesterday to give Mr. Whitten some time to adjust to his new companions as has been requested by Deb. I discussed this suggestion with Dr. Miller and he agreed that it made sense to delay any medication changes until after we can evaluate Mr. Whitten's demeanor with his new companion service.

Also, just as an additional point regarding these medication changes –

Cos – please keep in mind that you and the physicians have a different understanding as to what was recommended. The physicians both indicate that they have recommended Risperdal .5mg two times per day to replace the Haldol. This information is also contained in Mr. Whitten's medical record as both physicians documented yesterday.

You stated that the dose was supposed to be .25 twice a day.

I suggest that we follow back up on this topic on Monday so we can evaluate how Mr. Whitten has done with his new companion service

If that appears to be going well, we'll need to address the discrepancy in the dose of Risperdal before we initiate the medication change that Cos requested.

Please let me know if you don't agree with this plan

Under oath, Diane Zabowski continued to show no concern for F. Harvey Whitten by asking Deborah Klock about switching F. Harvey Whitten's medication to Risperdal. In Deborah Klock's answer, she stated essentially that 0.5 mg a day of Risperdal would be worse for F. Harvey Whitten than 5 mg a day of Haldol. The "Q" is questions from Daine Zabowski, while the "A" is answers from Deborah Klock under oath. Diane Zabowski didn't question how ridiculous the statement that Deborah Klock made

under oath was. The footnotes provide literature stating how Risperdal has less side effect at similar doses, let alone at 10 times less an amount.^{1,2,3,4,5}

BY MS. ZABOWSKI:

Q. Miss Klock, there's been discussion about Haldol, ad nauseam. There was another drug that was referenced by Miss Skaife with Dr. Magerian and Dr. Miller, and that was Risperdal; is that correct?

A. Correct.

Q. Now, if they tapered Harvey off Haldol, and used Risperdal, would there have been side effects to Risperdal?

A. Yes, it increases --

Diane Zabowski goes on to question Dan Freed about F. Harvey Whitten's weight during the trial on July 8th. Dan Freed claimed that F. Harvey Whitten hadn't lost any weight. The "Q" is questions from Diane Zabowski, and the "A" is answers from Dan Freed.

¹ P.P. De Deyn, MD, K. Rabheru, MD, A. Rasmussen, MD, J.P. Bocksberger, MD, P.L. J. Dautzenberg, MD, S. Eriksson, MD and B.A. Lawlor, MD, A randomized trial of risperidone, placebo, and haloperidol for behavioral symptoms of dementia, *Neurology* September 1, 1999 vol. 53 no. 5 946, <http://www.neurology.org/content/53/5/946.short>

² Peter Tyrer, Patricia C Oliver-Africano, Zed Ahmed, Nick Bouras, Sherva Cooray, Shoumitro Deb, Declan Murphy, Monica Hare, Michael Meade, Ben Reece, Risperidone, haloperidol, and placebo in the treatment of aggressive challenging behaviour in patients with intellectual disability: a randomised controlled trial
The Lancet, Volume 371, Issue 9606, Pages 57-63

<http://linkinghub.elsevier.com/retrieve/pii/S0140673608600720?via=sd&cc=y>

³ Volavka, Jan MD, PhD*; Czobor, Pal PhD*; Nolan, Karen PhD*; Sheitman, Brian MD†; Lindenmayer, Jean-Pierre MD‡; Citrome, Leslie MD, MPH*; McEvoy, Joseph P. MD§; Cooper, Thomas B. MA*; Lieberman, Jeffrey A. MD†||, *Journal of Clinical Psychopharmacology*: April 2004 - Volume 24 - Issue 2 - pp 225-228, http://journals.lww.com/psychopharmacology/Abstract/2004/04000/Overt_Aggression_and_Psychotic_Symptom_s_in.18.aspx

⁴ Henry A. Nasrallah, Thantween White, Amelia T. Nasrallah, Lower Mortality in Geriatric Patients Receiving Risperidone and Olanzapine Versus Haloperidol: Preliminary Analysis of Retrospective Data
The American Journal of Geriatric Psychiatry, Volume 12, Issue 4, Pages 437-439, <http://linkinghub.elsevier.com/retrieve/pii/S1064748112618016?via=sd>

⁵ Barton Frenchman a1 and Theodore Prince a1, Clinical Experience With Risperidone, Haloperidol, and Thioridazine for Dementia-Associated Behavioral Disturbances, *International Psychogeriatrics* / Volume 9 / Issue 04 / December 1997, pp 431-435, <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=272646>

Q. Okay. And the bottom topic of this page is entitled weight monitoring. Was Miss Skaife complaining about Mr. Whitten's weight?

A. She was, and the issue was that the weights being recorded by Home Instead were different than the weights being recorded by the Meadows staff. Those inaccurate weights were being recorded and reported to Coz. She would be upset by that. If the weights were right, she would have had a reason to be upset. The issue was that they were not. They were being done on a scale bought somewhere. I don't know where the scale is from. We saw it in the bathroom. I thought it was important to give her a history of Mr. Whitten's weights. If you look, this goes back to October 1st, 2010. He was in on and out of our facility before, for different reasons. Back in 2010 he was there. And I was just trying to demonstrate that from October 1st, 2010, to April 1st, 2013, he lost .8 pounds. So, you know, you can see the variation in his weights, the ones we have recorded in our medical records, using our equipment. I'm not debating there was another scale that maybe had different weights. I can't compare those weights to the weights that I have always done on my scale, consistently by my staff. So I was just trying to show her, trying to put her mind at ease, that, hey, back in -- so almost three years ago, two and a half, he was 159. Today -- well, back in April, he's 158.2.

Q. Okay. Page 3 addresses other topics. Let's first refer to the third bullet point, comfort care. Was this an issue -- or strike that. How did this become an issue by Miss Skaife?

Although Diane Zabowski was aware that Deborah Klock had not brought F. Harvey Whitten his glasses, hearing aids, and dentures for months, as well as being instrumental in his continued overmedication on Haldol, Diane Zabowski gives Dan Freed the opportunity to praise Deborah Klock in the following portion of the transcripts from the July 8th hearing.

Q. Now, let's talk about Miss Klock for a second. Does Miss Klock pick up the slack that two guardians would have provided for my client? Is she able to provide for his needs as the guardian of his person?

A. Yes.

Q. Has she done anything, behavior-wise, since she was appointed, that will jeopardize his continued residency at Shannondell?

A. No.

Diane Zabowski was aware that Deborah Klock didn't retrieve F. Harvey Whitten's glasses, dentures, and hearing aids for several months. F. Harvey Whitten lived without these items for approximately 4 months. Instead of highlighting this fact in court as being a negative occurrence, Diane Zabowski paints it in a positive light. The "Q" is questions from Diane Zabowski, while the "A" is answers from Deborah Klock.

Q. So some of the differences that you had with Cosmas Skaife were her complaints about the fact that his dentures were not fitting, that he was not wearing his hearing aides, and that he wasn't wearing his eyeglasses all the time, right?

A. Tragically, it makes us feel better because we have given them all of these resources.

Q. But were these issues she was complaining to you about?

A. Yes.

Q. And in your experience, those issues are secondary, and there are more critical issues that you have to deal with, with Harvey, right?

A. Correct.

Q. And she was obsessing about the minutia, when you're worrying about the more critical issues, right?

A. Correct.

Furthermore, Diane Zabowski was in a meeting when Deborah Klock claimed that F. Harvey Whitten's dentures wouldn't fit, since he had lost so much weight. The fact that Diane Zabowski knew F. Harvey Whitten had lost weight is evident by her question above to Deborah Klock, "So some of the differences that you had with Cosmas Skaife were her complaints about the fact that his dentures were not fitting..." However, Diane Zabowski didn't bother to bring this fact up to Dan Freed, when Dan Freed claimed that F. Harvey Whitten hadn't lost any weight. The Whitten family has pictures that document that F. Harvey Whitten has lost weight, and his weight is documented in other medical documents being over 170 pounds. The pictures below are dated and show visually how rapidly F. Harvey Whitten lost weight.



Additionally, Dan Freed also stated under oath that the Home Instead employees would bring up issues concerning F. Harvey Whitten to his family instead of the staff of the Shannondell. This is not true. The medical documents show that Home Instead aids complained about the administering of Haldol to staff at the Meadows back in February, and nothing was done to adjust F. Harvey Whitten's medication. Below in an excerpt from the trial, the "Q" is Diane Zabowski and the "A" is Dan Freed.

Q. Can you give us any examples of the lack of communication between Home Instead and Shannondell?

A. Well, the biggest issue that we had was that there was no communication with us. The communication was directly to Coz, and any time something would come up, in their eyes, as an issue, whether it be Mr. Whitten's weight, whether it be Mr. Whitten's medication, whether it be Mr. Whitten's blood sugar, whether it be anything that would come up, their communication was directly back to Coz, never to us.

Dan Freed contradicts his statement later under oath during further questions from Diane Zabowski, when he states that the Home Instead staff accused his doctors "countless times of overdosing Mr. Whitten." Apparently, the Home Instead aides were communicating with Shannondell staff, they just chose to ignore the communications. However, Diane Zabowski did a poor job of representing F. Harvey Whitten by not addressing this contradiction or addressing the fact that indeed the doctors were overdosing Mr. Whitten.

My staff were accused countless times of overdosing Mr. Whitten. My doctors were accused countless times of overdosing Mr. Whitten, not only by Coz, but also by Home Instead staff.

Diane Zabowski questions Deborah Klock concerning a psychiatric evaluation, and she doesn't question Deborah Klock when Deborah Klock implies how difficult and time consuming it was to find the psychiatrist, Dr. Pasternak. Deborah Klock stated under oath on the July 8th, 2013 hearing to remove Cosmas Skaife as co-health guardian that she had to research psychiatrists to find one. She made it sound like a huge endeavor. The Q is questions by Diane Zabowski. Deborah Klock is the answer.

Q. And when was Dr. Seara available to see Harvey?

A. This coming September.

Q. So as a result of that, what did you do?

A. I then researched psychiatrists, numerous, out of the area, in the area, to explore coming out to see him, so that they could evaluate him in his setting, his living setting.

Q. Were you successful in doing that?

A. Finally.

Q. Who did you get to see Harvey?

A. Dr. Robin Pasternak (Ph.) saw him this past week.

The court reporter meant to write "Rona Pasternak." The email below is from Deborah Klock concerning the visit from Dr. Pasternak.

From: klockdl@aol.com
To: bakercoz@hotmail.com
CC: zabowskilawllc@verizon.net
Subject: Harvey Whitten updates 7/12/13
Date: Fri, 12 Jul 2013 09:58:35 -0400

Coz
Please distribute to the Whitten Family.
Thank you.

Harvey was seen by psychiatrist, Dr. Rona Pasternak, on June 26 at Shannondell. One recommendation was to include a standing dose of Tylenol for pain relief as pain may be a contributing factor to agitation behaviors. Liver studies will be drawn beforehand to verify Tylenol can be started. Other recommendations have been offered and shared with Dr. Megerian and Dr. Miller regarding possible changes of antipsychotics and antidepressant doses. Dr. Megerian has begun a schedule of slowly tapering the Haldol and increasing the Venlafaxine. Dr. Pasternak will return to reevaluate him after being on the regimen for a month.

Staff reports a small skin tear on his left hand above his thumb. It was cleansed, antibiotic applied and Steri-Strips. I have contacted the music therapist to check availability to add an additional session weekly since we all know how important music is to Harvey. His eating varies but he does still feed himself with some set up and cuing. Harvey had a good appetite during my visit this week and enjoyed a pomegranate/ blueberry frozen smoothie. It's been too oppressive weather wise to go outside too much but it is part of his routine if weather cooperates.

I will keep you apprised of Harvey's status.

Deborah
Deborah L. Klock, MS, CDMS, CCM, RN BC
DLK Managed Care Solutions, Inc.
34 East Germantown Pike #287
Norristown, PA 19401
Office: 610-631-5689

In my opinion, what Deborah Klock says under oath seems odd, since she didn't have to look far and wide to find Dr. Pasternak, since she had just used Dr. Pasternak's services to have a daughter removed as a co-health guardian, with Diane Zabowski as the court appointed guardian in 2010. Below gives background on the case.

Tarquini, Incapacitated

Removal of co-guardian of person

Removal of daughter of incapacitated mother as co-guardian of mother's person, leaving DLK Managed Care Solutions, Inc., as sole guardian of the person reviewed and approved. (Hunter — Incapacitated Persons 8).

In the Orphans' Court Division of the Court of Common Pleas of Montgomery County. Marie Verna Tarquini, incapacitated person. Opinion sur appeal. No. 08-2040.

Diane M. Zabowski, court appointed counsel for Marie Verna Tarquini.

Michael T. van der Veen, for appellant.

Gerald J. Mullaney, Sr., for Francis J. Tarquini, Jr.

Kimberly Ann McNamara, pro se.

OPINION BY OTT, J., FEB. 17, 2010:

On June 20, 2008, Kimberly Ann McNamara filed a petition to have her mother, Marie Verna Tarquini, declared an incapacitated person and to be appointed plenary guardian of her person and estate. On August 7, 2008, Francis J. Tarquini, Jr., one of Mrs. Tarquini's sons, filed an answer and new matter, contesting the issue of incapacity and requesting, in the alternative, that he be appointed guardian. The undersigned appointed Diane M. Zabowski, Esquire, as counsel for Mrs. Tarquini, and directed Paul R. Moyer, M.D., to conduct an independent medical examination of her. Counsel were granted leave to take discovery. After several conferences *in camera*, the matter proceeded to a hearing on May 7, 2009, which resulted in an agreed order whereby the Court found Mrs. Tarquini to be totally incapacitated and appointed DLK Managed Care Solutions, Inc., and Kimberly Ann McNamara co-guardians of her person. The Court also appointed Univest National Bank as guardian of her estate.

Later in the trial summary, it states that Deborah Klock went to see Rona Pasternak on August 19, 2009.

After ruling on this motion, we heard testimony from Rona Eve Pasternak, M.D., a geriatric psychiatrist who saw Mrs. Tarquini after attorney Zabowski obtained an order authorizing the examination.⁵ Dr. Pasternak conducted the examination on August 19, 2009, and both of the co-guardians of her person accompanied Mrs. Tarquini there. From the co-guardians, the doctor learned that the issues prompting the exam were the appropriateness of Mrs. Tarquini's living situation, and the allegations that she was being "brainwashed," that certain family members were being denied access to her, and that Frank, Jr., was exploiting his mother finan-

Diane Zabowski obtained an order authorizing the examination, so it is odd that she would allow Deborah Klock to state under oath how difficult it was to find this woman without questioning it, when

in fact Diane Zabowski made arrangements for Deborah Klock to meet the same psychiatrist a few years prior.

Another oddity about the email sent from Deborah Klock concerning Dr. Pasternak is that she CCed Diane Zabowski. It is my belief that Diane Zabowski knew that F. Harvey Whitten was being removed from Haldol on June 26th after F. Harvey Whitten met with the very psychiatrist that Diane Zabowski had arranged for in 2009 for another case. However, when Diane Zabowski questioned Cosmas Skaife on July 8th, 2013, she states that F. Harvey Whitten was still on Haldol.

Q. You're aware that Dr. Magerian and Dr. Miller have discussed Haldol because you talked to them about that, right?

A. Correct.

Q. And they're aware of your concerns, and they have still prescribed -- Dr. Magerian still writes the script for the Haldol, right?

A. Right.

Q. So he knows what your concerns are, and he has not acted upon those concerns, right?

In Diane Zabowski's closing statements, she claims that the accusations that F. Harvey Whitten was being overdosed was a false accusation, when in fact 2 mg a day is the daily threshold dose based on the CMS Manual System, and F. Harvey Whitten demonstrated the symptoms of overdose. Again, Diane Zabowski demonstrates that she doesn't have the best interest of her client F. Harvey Whitten.

What do we have? We have someone, who calls 911 at 9:30 or 9 o'clock in the evening, and startles an elderly, severely demented gentleman, with false accusations of an overdose on a drug, and then my client is subjected to God knows what trauma that evening.

In my opinion, I find it very alarming that "Miss Klock, Miss Van Duyne" and Diane Zabowski have had a "host of cases that have been so challenging." Diane Zabowski takes the opportunity to compliment her former client, Deborah Klock one last time in her closing statement also.

Sadly, Miss Klock, Miss Van Duyne and I have had a host of cases that have been very challenging before your Court, and I think in this instance, Miss Klock has performed superbly.

More details of the lack of care that Deborah Klock provided for F. Harvey Whitten are in the Enclosures, all of which were provided to Diane Zabowski.

Diane Zabowski Violates the Rules of Professional Conduct

The Pennsylvania Code of Rules of Professional Conduct were reviewed (Subchapter A found at <http://www.pacode.com/secure/data/204/chapter81/chap81toc.html>)

§ 81.1. Preamble: A Lawyer's Responsibilities

Diane Zabowski's violations are evident under the first rule:

§ 81.1 (1). A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having a special responsibility for the quality of justice.

In my opinion, Diane Zabowski failed to represent F. Harvey Whitten, an incapacitated person, whom she was appointed as a court appointed attorney in the Orphan's Court of Montgomery County, PA by Judge Stanley Ott. Instead, she represented her former client, Deborah Klock.

Client-Lawyer Relationship, Rule 1.7. Conflict of Interest: Current Clients.

(a) Except as provided in paragraph (b),

a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent.

In my opinion, the representation of Deborah Klock was directly adverse to the representation of F. Harvey Whitten. Diane Zabowski knew that the potential existed that F. Harvey Whitten could pass, and Diane Zabowski would have the opportunity to represent Deborah Klock in probate court again.

Under the “Comments” portion of the same section it says

Identifying Conflicts of Interest: Directly Adverse

(6) Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client’s informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated. The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer’s ability to represent the client effectively. In addition, the client on whose behalf the adverse representation is undertaken reasonably may fear that the lawyer will pursue that client’s case less effectively out of deference to the other client, i.e., that the representation may be materially limited by the lawyer’s interest in retaining the current client. Similarly, a directly adverse conflict may arise when a lawyer is required to cross-examine a client who appears as a witness in a lawsuit involving another client, as when the testimony will be damaging to the client who is represented in the lawsuit. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only economically adverse, such as representation of competing economic enterprises in unrelated litigation, does not ordinarily constitute a conflict of interest and thus may not require consent of the respective clients.

Since F. Harvey Whitten is an incapacitated person, he would be unable to give informed consent to Diane Zabowski to represent him, since a conflict of interest was evident. The comment specifically identifies the instance of cross-examination in court when testimony could be damaging to the other client. Diane Zabowski certainly didn’t make any attempt to have damaging testimony about her former client, Deborah Klock, in the July 8th hearing.

Rule 1.14. Client with Diminished Capacity

Under Rule 1.14, under the “Comments” section part (4), it states,

If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters

involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. See Rule 1.2(d).

Rule 1.2(d) states,

A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Diane Zabowski did not do anything to prevent or rectify Deborah Klock's misconduct toward F. Harvey Whitten, including not retrieving his glasses, dentures, and hearing aids from his apartment, causing him to be without these items for 4 months; changing his doctors and his medication without informing the other co-health guardian; representing herself as F. Harvey Whitten's family; and not communicating with the family concerning decisions pertinent to his care.

Under Rule 1.14, under the "Comments" section part (5), it states,

If a lawyer reasonably believes that a client is at risk of substantial physical, financial or other harm unless action is taken, and that a normal client-lawyer relationship cannot be maintained as provided in paragraph (a) because the client lacks sufficient capacity to communicate or to make adequately considered decisions in connection with the representation, then paragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision-making tools such as durable powers of attorney or consulting with support groups, professional services, adult-protective agencies or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities and respecting the client's family and social connections.

Diane Zabowski failed to consult with family members about what we thought was best for F. Harvey Whitten, and she certainly didn't respect F. Harvey Whitten's family and social connections. F. Harvey Whitten is residing in PA, where no relatives live. His social connections are with his family only, and Diane Zabowski has used her position to block F. Harvey Whitten from moving closer to his family. In my opinion, Diane Zabowski is more interested in charging his accounts than she is in his wellbeing. Diane Zabowski was told in an email that the family

wished for Deborah Klock to resign from her position, and Diane Zabowski ignored the family's wishes at the detriment of her client F. Harvey Whitten.

From: Dan Whitten <danwhitten@verizon.net>
To: Deborah Klock <klockdl@aol.com>
Cc: Andrew Whitten <andrewwhittenc@gmail.com>; Cosmas Whitten <bakercoz@hotmail.com>; "LesterMo7@aol.com" <LesterMo7@aol.com>; Mary Whitten <maryvirus@yahoo.com>; "Diane Zabowski Law, LLC" <Zabowskilawllc@verizon.net>
Sent: Tuesday, May 7, 2013 11:09 AM
Subject: Re: FHW GOP

Ms. Klock, it is very hard to understand why you don't just comply with the request and resign, and its not at all clear who Ms. Zabowski is representing at this point. All we want is to be able to make decisions about Harvey's remaining days that reflect the many decades of love that we all have felt for him. As a family we are unified, and we just don't need your help any more, regardless of intention. Please don't drag is through the mud on this.

Furthermore, in addition to the responses to the petition from F. Harvey Whitten's family concerning removing Cosmas Skaife as a health guardian, Diane Zabowski received an email stating this fact, since she was carbon copied in an email from my cousin, Andrew.

From: Andrew Whitten [<mailto:andrewwhittenc@gmail.com>]
Sent: Monday, May 20, 2013 9:37 AM
To: VanDuyne-King, Julie
Cc: Cosmas Whitten; Daniel Whitten; Les Whitten 3; Mary Whitten; Pat David; Diane Zabowski; Deborah Klock
Subject: Mr. Frank Harvey Whitten

Ms. Van Duyne King:

Since this petition emanated from you it seemed appropriate to respond to you directly. None of this is what my uncle would have wanted. This action is so very unnecessary. The family is completely united in their vision and commitment to providing for Mr. Whitten. Where is the moral and ethical foundation that would lead you to believe this is the right thing to do? What about your fiduciary responsibilities to Mr. Whitten? While it is gratifying that Ms. Klock has offered to resign, and we hope she does, further pursuit of the petition you have submitted to the court is just wrong. Thank you for your past efforts on behalf of my uncle, but please abide by the wishes of the family. It is all so heartbreaking.

Very truly,
Andrew Whitten, Principal
Fallen Leaf Custom Construction
Construction Management
11459 E. La Junta Rd.
Scottsdale, AZ 85255-8700
480-299-4105
AndrewWhittenC@gmail.com

Rule 3.3. Candor Toward the Tribunal

a) A lawyer shall not knowingly:

(1) make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence before a tribunal or in an ancillary proceeding conducted pursuant to a tribunal's adjudicative authority, such as a deposition, and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Diane Zabowski failed to correct a false statement in court. She knew that F. Harvey Whitten had lost weight, but she allowed Dan Freed from the Meadows to claim that he hadn't.

In my opinion, Diane Zabowski offered evidence that she knew to be false, when she claimed in court that F. Harvey Whitten was still being administered 5 mg of Haldol a day, when in fact on June 26th, 2013, prior to the court date, F. Harvey Whitten was removed from 5 mg of Haldol a day by seeing the very psychiatrist that Diane Zabowski had recommended in a previous case to remove a daughter as a co-health guardian.

Diane Zabowski objected to informing the tribunal of all material facts during trial, since she would not allow into the court proceeding that the CMS Manual System had a threshold limit of Haldol of 2 mg, which would clearly show that F. Harvey Whitten was being severely overdosed on the medication. F. Harvey Whitten was a victim of chemical restraining.

Rule 3.4. Fairness to Opposing Party and Counsel

A lawyer shall not:

c) when appearing before a tribunal, assert the lawyer's personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the lawyer may argue, on the lawyer's analysis of the evidence, for any position or conclusion with respect to the matters stated herein;

The following is an excerpt from Diane Zabowski's closing statements in the July 8th, 2013 hearing, in which she asserts her personal opinions.

And the other issue – thank you, Mr. Prior -- is they can always file for a review hearing, if they think that Miss Klock is behaving inappropriately. I don't think she is. I think she's done an admirable job, under the most difficult of circumstances. Sadly, Miss Klock, Miss Van Duyne and I have had a host of cases that have been very challenging before your Court, and I think in this instance, Miss Klock has performed superbly.

Rule 4.3. Dealing with Unrepresented Person

(b) During the course of a lawyer's representation of a client, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the lawyer knows or reasonably should know the interests of such person are or have a reasonable possibility of being in conflict with the interests of the lawyer's client.

When Diane Zabowski was in the meeting on March 25th with Cosmas Skaife, Deborah Klock, Patricia David, Julianna Van Duyne-King, and I, she was supposed to be representing F. Harvey Whitten. However, she advised Deborah Klock not to answer anymore of Cosmas Skaife's questions, when Cosmas was asking why Deborah Klock filled out paperwork claiming that F. Harvey Whitten didn't have any allergies. This is in violation of Rule 4.3. Diane Zabowski should have only advised Deborah Klock to secure council.

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

Julianna Van Duyne-King, from Uninvest Bank and the financial guardian of F. Harvey Whitten, filed a petition to have Cosmas Skaife removed as co-health guardian in the Montgomery County Orphan's Court. Julianne Van Duyne-King did not contact Cosmas Skaife or any member of the Whitten family to discuss the concerns the Whitten family had about the care that F. Harvey Whitten was receiving. In her petition, she states that she "has been informed of the following problems."

4. Petitioner believes and therefore avers that the Co-Guardianship of the Person is not working for the benefit of Mr. Whitten.

5. Petitioner has been informed of the following problems:

The petition had many inaccuracies. For example, the petition claimed that aids from Home Instead had no medical training. Diane Zabowski and Deborah Klock knew that the aids had medical backgrounds, especially, F. Harvey Whitten's aid named Jonathan Mitchell, who was a medical student so far along in his studies that by the time Dan Freed from the Meadows terminated Home Instead, Dr. Jonathan Mitchell had earned his degree.

D. On information and belief, Ms. Skaife has relied and continues to rely upon information from private personal care aides, who are non-medical personnel, hired from Home Instead rather than discussing Mr. Whitten's needs with the Co-Guardian by telephone.

In my opinion, Diane Zabowski knowingly assisted or induced Julianna Van Duyne-King to file the petition against Cosmas Skaife knowingly including false material. The following email documents that Diane Zabowski was involved in the petition written by Julianna Van Duyne-King to remove Cosmas Skaife as co-health guardian.

From: "VanDuyne-King, Julie" <VanDuyneJ@univest.net>
Date: May 21, 2013, 10:00:18 AM EDT
To: Andrew Whitten <andrewwhittenc@gmail.com>
Cc: Cosmas Whitten <bakercoz@hotmail.com>, Daniel Whitten <danwhitten@verizon.net>, Les Whitten 3 <LesterMo7@aol.com>, Mary Whitten <maryvirus@yahoo.com>, Pat David <pdavid@mcdlawfirm.com>, Diane Zabowski <zabowskilawllc@verizon.net>, Deborah Klock <klockdl@aol.com>, "Grafton, Darlene" <GraftonD@univest.net>, "Holliday, Matt" <HollidayM@univest.net>
Subject: RE: Mr. Frank Harvey Whitten

Thank you for your email. After consideration of the events that transpired, we determined that filing the petition was necessary. Mr. Whitten's court-appointed attorney fully supported the petition, and following a telephone conference with all counsel, the court took the step of granting the requested relief until it can review the matter via hearing. We do not intend to withdraw the petition and want the court to have the opportunity to hear all of the evidence. I understand your disagreement with it, and you will be able to present your position at that time.

Julianna Van Duyne-King, J.D., LL.M.

Trust Officer, Trust Services

Univest Bank and Trust Co.

14 N. Main Street | PO Box 64559 | Souderton, PA 18964

☎ (215) 721-2414 | 7 (215) 721-2411 | ✉ vanduyne-kingj@univest.net

Summary

In my opinion, Diane Zabowski has endangered the life of F. Harvey Whitten by not representing his best interest by advocating her former client Deborah Klock to be the sole health guardian of F. Harvey

Whitten. She has violated several codes of professional conduct including Rule 1.7, 1.14, 3.3, 3.4, 4.3, and 8.4. The sooner Diane Zabowski's license to practice law is revoked, the better. She did not represent the best interest of her court appointed client, F. Harvey Whitten, since she was more concerned with her own financial gain instead of the wellbeing of her client. Additionally, she is routinely appointed as an attorney for incapacitated persons, and all of them and their families are at risk from her abhorrent behavior. I think she is a menace to the people of Pennsylvania and the people of the United States. She has made a mockery of the judicial system and is an embarrassment to the practice of law. Please revoke her license immediately to deter other families from being subjected to her lack of care, lack of ethics, lack of candor, and lack of humanity.

Enclosures

The following enclosures are copies of the petition to remove Cosmas Skaife as co-health guardian and responses to the petition from Whitten family members concerning the removal of Cosmas Skaife as co-health guardian. Diane Zabowski was supplied copies of the responses to the petition and failed to uphold the wishes of the family, and did opposite of what was best for F. Harvey Whitten, an incapacitated man, in a court of law.