

JSH FRAUD PETITION FOR GUARDIANSHIP TO OWN JANE HERRING AT 96

On May 16 2021, Mother had her 96th birthday. Fake daughter, jsh (age 70), refused to have a birthday dinner with Mother and me because I would be there with Mother. Jsh has hated me all of her life for unknown reasons. Jsh was a extremely spoiled child. On May 17, jsh had a "birthday lunch" with Mother. Jsh knew her shister lawyer camp was going to file jsh's fake petition for guardianship on Mother on May 18, but jsh NEVER told Mother that she (jsh) was going to have the petition filed so jsh would own Mother, Mother's vast assets and Mother's house. Jsh admitted in court, during the petition hearing, that she (jsh) never discussed the petition with her Mother. I asked jsh why not? Jsh replied she (jsh) did not think the matter of guardianship on Mother was that important. WTF?

On May 21, corrupt judge weilheimer appointed corrupt shister, "jack ass" jaskowiak, as Mother's permanent shister. But, shister camp did not send me her email, with the guardianship petition attached, until May 24, almost a week after camp filed jsh/camp's fake petition. Mother and I had NO time to get our own lawyer.

Why did weilheimer appoint jack ass jaskowiak so fast before Mother could hire her own lawyer? Because having one of the mafia's own appointed as Mother's shister (jack ass), that was the first step by this guardian mafia to be sure someone was on their side who could control/own Mother. The mafia wanted to be sure Mother would never know and never learn about the guardian fraud on her only for Mother's vast assets and her house to be stolen by this mafia. The mafia also wanted to be sure Mother could never learn about her federal and state rights as a AIP and exercise those rights against the mafia.

By law, Jsh's fake petition was supposed to have at least one example of a problem that Mother had and what steps were taken to correct it. Jsh/camp's fake petition NEVER had one. Jsh/camp also NEVER brought in any of the 15 or so professionals (doctors, lawyers, CPA, house keeper, investment people, etc,) that Mother dealt with every year to say that Mother had any type of problem. Why? Because none of those professionals would lie about Mother in court for jsh to say Mother had any problems because Mother did not have any problems. Pennsylvania law demands the LEAST restrictive measure BEFORE guardianship. WHERE was the justification or need for guardianship? NONE!

Since both corrupt judge weilheimer and jack ass were experts in guardianship laws and since jack ass was Mother's court appointed whose ONLY job was to protect, defend and ADVOCATE for Mother and what Mother wanted, WHY didn't either of them demand the fake petition be denied? They NEVER did because the mafia WANTED Mother to be guardianized for Mother's vast assets until they could steal all of it, including Mother's huge house in a gated community.

Look at the fake petition and basically it consists only of lies about me, NOT about any problems Mother had because Mother did not have any Financial, medical, mental or personal problems at age 96.

Jsh originally wanted to be guardian of person and estate only so jsh could put Mother into a nursing home, junk all of Mother's much loved possessions of almost 100years and to spend Mother's money. Jsh did NOT have any experience of investing that much money and real estate that Mother owned. Jsh was living in Maryland and decided to move back to Pennsylvania because she was out of work. When she moved back to Pennsylvania in 2009, jsh had to borrow \$100,000 from my parents because jsh was so broke. Since jsh could not manage her own money, why would she think she could manage Mother's vast assets that were being invested by a major investment company for my parents for over 15 years at the time?

HECKSCHER, TEILLON, TERRILL & SAGER
A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1081 CONSHOHOCKEN STATE ROAD, SUITE 1-300
WEST CONSHOHOCKEN, PA 19428

(610) 940-2600
FAX (610) 940-6042
www.htta.com

May 24, 2021

Martin A. Heckscher
John A. Terrill, II
Margaret E.W. Sager
Kim D. Fetrow*
Thomas O. Elliott*
Jill R. Fowler*
Patricia S. Dumont*
Adam T. Gaudin*
Bradley D. Tarabolo*
Jennifer A. Kostava*
Michael A. Breslow*
Brittany J. Camp*
Peter E. Moskang*[†]

Direct Dial: (610) 940-4197
Email: BCamp@htta.com

Allison S. Lepat
Patrick A. Russo*
Marjorie E. Gallagher*[†]
Erica A. Russo
Ryan J. Ahrens
Chloe Mullen-Wilson
Margaret P. Oberdorfer

OF COUNSEL
Karen A. Fahrner[†]

* also admitted to NJ
† also admitted to FL
• also admitted to VA

Mr. Arthur Herring, III
26 Chancery Court
Souderton, PA 18964

Via U.S. Mail & E-Mail

RE: Estate of Jane T. Herring, an Alleged Incapacitated Person
Montgomery County O.C. No. 2021-X2110

Dear Mr. Herring:

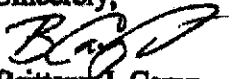
Our firm represents Jill Scott Herring with respect to her mother, Jane T. Herring ("Mrs. Herring"). This is the formal notice that Jill Scott Herring has filed a Petition for Adjudication of Incapacity and for Appointment of Permanent Plenary Guardians of the Person and Estate Pursuant to 20 Pa. C.S. §5511 (the "Guardianship Petition") with respect to Mrs. Herring in the Orphans' Court Division of the Court of Common Pleas of Montgomery County, Pennsylvania (the "Court"). The Honorable Gail Weilheimer has appointed David Jaskowiak, Esquire ("Attorney Jaskowiak") to serve as legal counsel for Mrs. Herring in the above-captioned matter and scheduled a conference for June 1, 2021 at 1:30 p.m. to be held via videoconference using the Zoom Cloud Meeting program/app. A hearing on the Guardianship Petition will be scheduled in due course.

I enclose a copy of the filed Guardianship Petition, as well as the related Court Orders dated May 21, 2021 and May 24, 2021 with respect to the Court's appointment of counsel for Mrs. Herring and the scheduling of the June 1 conference, respectively.

As noted above, Attorney Jaskowiak is court-appointed counsel for Mrs. Herring in this matter, and so he may be contacting you for information in connection with the June 1 conference with the Judge and/or the hearing on the Guardianship Petition. More specifically, Attorney Jaskowiak will likely be contacting you in order to make arrangements to meet with Mrs. Herring at her home in advance of the conference next Tuesday. Please be advised accordingly.

Finally, if you are represented by counsel, please forward this letter to them so that I may communicate with your counsel directly moving forward.

Sincerely,


Brittany J. Camp

BJC/CMW/01825839.DOCX / Enclosures

cc: Ms. Jill Scott Herring (via e-mail; w/ encl.)
David A. Jaskowiak, Esquire (via e-mail; w/ encl.)

Brittany Camp

From: Brittany Camp
Sent: Monday, May 24, 2021 7:11 PM
To: 'herthur20@protonmail.com'
Cc: 'David Jaskowiak'
Subject: Jane Herring, an Alleged Incapacitated Person (Mont. Co. O.C. No. 2021-X2110)
Attachments: Herring-5.24.2021 Ltr to Arthur Herring encl. Guardianship Petition and Court Orders (01886872x9CCE7).pdf

Mr. Herring:

Attached please find a copy of a letter enclosing copies of a guardianship petition that has been filed with respect to Jane T. Herring ("Mrs. Herring") and related Orders issued by the Montgomery County Orphans' Court, hardcopies of which are also being sent to you via U.S. Mail.

As noted in the attached letter, please be advised that the Court has appointed David Jaskowiak, Esquire to serve as legal counsel for Mrs. Herring in this matter. Accordingly, Attorney Jaskowiak will likely be reaching out to you in the very near term to obtain additional information and to make arrangements so that he may meet with Mrs. Herring.

If you are represented by legal counsel, please forward this email and the attachments to your counsel and ask him or her to contact me so we may communicate directly moving forward.

Regards,

Brittany J. Camp, Esquire
Heckscher, Teillon, Terrill & Sager, P.C.
1001 Conshohocken State Rd., Ste. 1-300
West Conshohocken, PA 19428
P: 610.940.4197
F: 610.940.6042
bcamp@htts.com
www.htts.com

PLEASE NOTE: WE HAVE NOT MOVED, BUT WE HAVE A NEW MAILING ADDRESS. ALSO THE NAME OF THE BUILDING HAS CHANGED FROM "FOUR FALLS" TO "1K1". AGAIN, WE HAVE NOT CHANGED OUR PHYSICAL LOCATION.

This email is for the intended recipient(s) only, and this email and any attachments (and any metadata contained in any attachments) may be confidential and protected by the attorney/client privilege. If you are not the intended recipient, please advise the sender immediately, and delete or remove the email and any attachments from your system. Receipt of this email and any attachment by anyone other than the intended recipient(s) is neither a waiver of any attorney/client or any other privilege with respect to the email and any attachment, nor without limitation is it a waiver of the privileged nature of any metadata that may be contained in any attachment. Unauthorized review, use or distribution of this email, any attachment, or any metadata contained within any attachment is prohibited and may be unlawful.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

NO. 2021-X2110

IN RE: JANE T. HERRING,
AN ALLEGED INCAPACITATED PERSON

AFFIDAVIT OF SERVICE
ON HEIRS AND INTERESTED PARTIES

I, Brittany J. Camp, hereby verify that on May 24, 2021, I personally caused to be served true and correct copies of the Petition for Adjudication of Incapacity and for Appointment of Permanent Plenary Guardians of the Person and Estate Pursuant to 20 Pa. C.S. §5511, together with the Orders dated May 21, 2021 and May 24, 2021 issued by this Court in connection therewith, as follows:

Via U.S. Mail & E-Mail

Mr. Arthur Herring, III
26 Chancery Court
Souderton, PA 18964
herthur20@protonmail.com

Via Hand Delivery & E-Mail

Ronald W. Fenstermacher, Jr., Esquire
1001 Conshohocken State Rd., Ste. 1-311
West Conshohocken, PA 19428
rfenstermacher@fenstermacherlaw.com

Copies of the May 24, 2021 notice letters and e-mail correspondence for each recipient (without attachments) are attached hereto.

I make these statements subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Dated: June 1, 2021



Brittany J. Camp (I.D. No. 314160)
Heckscher, Teflon, Terrill & Sager, P.C.
1001 Conshohocken State Rd., Ste. 1-300
West Conshohocken, PA 19428
(610) 940-4197 – bcamp@htts.com

Counsel for Petitioner, Jill Scott Herring

Court of Common Pleas of Montgomery County Orphans' Court Division

COVER SHEET

1A. Does this matter already have an Orphans' Court number or Register of Wills number? Yes		1B. Orphans' Court Number/Register of Wills Number 2021-X2110	
2. Name of Estate/Entity (e.g.: Name of Decedent or Decedent's Estate) JANE T HERRING			
3. Type of Estate/Entity ALLEGED INCAPACITATED PERSON (GUARDIANSHIP)			
4. Name of Filing Party (not Attorney for Filing Party) JILL SCOTT HERRING			
5. Filing Party's Relationship to Estate/Entity PETITIONER DAUGHTER			
6A. Name of Self-Represented Party or Attorney for Filing Party. BRITTANY CAMP		6B. Address of Attorney (or Filing Party, if not represented) 100 FOUR FALLS SUITE 300 WEST CONSHOHOCKEN, PA 19428	
7A. Phone Number (610) 940-4197		7B. Fax Number (610) 940-6042	
8A. Supreme Court ID Number of Attorney 314160		8B. E-Mail Address bcamp@htts.com	
9. To the Clerk of the Orphans' Court: Kindly enter my appearance on behalf of the filing party identified above.			
10. Signature of Attorney (or if unrepresented, signature of Filing Party) By eFiling a legal paper, I will be considered to have signed this cover sheet and, if I am an attorney, to have entered my appearance for the party on whose behalf I am eFiling this legal paper.			10A. Date 5/18/2021
11. If this filing responds to a prior filing, please provide the title, date and docket number of the filing to which this responds: Prior Filing(s):			
12. Other Parties: PLEASE ATTACH A SEPARATE SHEET LISTING THE NAME, ADDRESS AND TELEPHONE NUMBER FOR EACH UNREPRESENTED PARTY, AND THE NAME OF EACH REPRESENTED PARTY, TOGETHER WITH THE NAME, ADDRESS AND TELEPHONE NUMBER OF THAT PARTY'S ATTORNEY OF RECORD.			
13. Pleading or Document filed (Please select from list of pleadings at http://rwoc.montcopa.org/forms or available from the Clerk of the Orphans' Court): Petition for Adjudication of Incapacity and to Appoint a Guardian (of the Estate and/or Person)			
14. PLEASE SELECT ONE (AND ONLY ONE) OF THE SPECIFIED TYPES OF FILINGS: Citation Requested			

You are hereby ordered to appear at a hearing to be held in Courtroom No. _____
ONE MONTGOMERY PLAZA, 4th FLOOR, NORRISTOWN, Pennsylvania on
_____, 2021, at _____ .m. to tell the Court why it
should not find you to be an Incapacitated Person and appoint a Guardian to act on
your behalf.

To be an Incapacitated Person means that you are not able to receive and
effectively evaluate information and communicate decisions, and that you are
unable to manage your money and/or other property, or to make necessary
decisions about where you will live, what medical care you will get, or how your
money will be spent.

At the hearing, you have the right to appear, to be represented by an attorney, and
to request a jury trial. If you do not have an attorney, you have the right to request
the Court to appoint an attorney to represent you and to have the attorney's fees
paid for you if you cannot afford to pay them yourself. You also have the right to
request that the Court order that an independent evaluation be conducted as to your
alleged incapacity.

If the Court decides that you are an Incapacitated Person, the Court may appoint a
Guardian for you, based on the nature of any condition or disability and your
capacity to make and communicate decisions. The Guardian will be of your
person and/or your money and other property and will have either limited or full
powers to act for you.

If the Court finds you are totally incapacitated, your legal rights will be affected
and you will not be able to make a contract or gift of your money or other property.
If the Court finds that you are partially incapacitated, your legal rights will also be
limited as directed by the Court.

If you do not appear at the hearing (either in person or by an attorney representing
you) the Court will still hold the hearing in your absence and may appoint the
Guardian requested.

By: _____
Clerk, Orphans' Court

(SEAL)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

NO. 2021 - X _____

IN RE: JANE T. HERRING,
AN ALLEGED INCAPACITATED PERSON

**PETITION FOR ADJUDICATION OF INCAPACITY AND FOR
APPOINTMENT OF PERMANENT PLENARY GUARDIANS OF
THE PERSON AND ESTATE PURSUANT TO 20 PA. C.S. §5511**

Petitioner, Jill Scott Herring, by her undersigned counsel, respectfully requests this Honorable Court to: (a) appoint independent counsel to represent Jane T. Herring in connection with the guardianship proceedings; (b) order an independent medical evaluation pursuant to 20 Pa. C.S. §5511(d), which shall meet the requirements of 20 Pa. C.S. §5518, regarding whether Jane T. Herring is partially or totally incapacitated and thus unable to manage her financial resources and/or to meet essential requirements for her physical health and safety; and (c) to the extent this Court finds that Jane T. Herring should be adjudicated an incapacitated person, to appoint plenary guardians of her Person and Estate, and in support thereof avers the following:

I. JURISDICTION AND VENUE

1. The alleged incapacitated person, Jane T. Herring ("Mrs. Herring"), was born on May 16, 1925 and is presently 96 years of age.

2. Mrs. Herring currently resides in her own home located at 26 Chancery Court, Souderton, Pennsylvania with her son, Arthur Herring, III, who moved into the home in 2020.

3. Accordingly, pursuant to 20 Pa. C.S. §5512(a), this Court has jurisdiction over and is the proper venue for the appointment of guardians of the person and estate of Mrs. Herring.

4. No other court has ever assumed jurisdiction in any proceeding to determine Mrs. Herring's capacity, and no guardian has ever been appointed for Mrs. Herring's person or estate.

II. PARTIES IN INTEREST

5. Mrs. Herring's husband, Arthur Herring, Jr. ("Mr. Herring"), suffered from Lewy body dementia and predeceased her on January 21, 2013. Mrs. Herring's presumptive intestate heirs are her two children, Petitioner, Jill Scott Herring ("Jill" or "Petitioner") and Arthur Herring, III ("Arthur"), both of whom are *sui juris* (collectively, "Mrs. Herring's children").

6. Mrs. Herring was never a member of the armed services of the United States and is not receiving benefits from the United States Veterans' Administration.

7. Mrs. Herring has a Durable General Power of Attorney dated July 9, 2004 (the "2004 General Power of Attorney"), which was prepared by her longtime estate planning attorney, Ronald W. Fenstermacher, Jr. ("Attorney Fenstermacher") of the Law Office of Ronald W. Fenstermacher, Jr., P.C., and names Mrs. Herring's children, Jill and Arthur, as her agents to make both financial and health care decisions on her behalf, provided, however that should Jill and Arthur be unable to agree on any decision, Attorney Fenstermacher is directed to make the final decision. A copy of the 2004 General Power of Attorney is attached as **Exhibit A**.

8. As detailed more fully below, due to Mrs. Herring's cognitive condition and the inability of Jill and Arthur to be able to come to an agreement regarding Mrs. Herring's personal and financial matters, Attorney Fenstermacher exercised his authority under the 2004 General Power of Attorney to bifurcate the powers granted to each of Jill and Arthur such that Jill would be responsible for the financial powers granted under the 2004 General Power of Attorney and Arthur, who is residing with Mrs. Herring, would be responsible for the health care powers granted under the 2004 General Power of Attorney. A copy of the Jane T. Herring Power of Attorney Supplemental Directive of Ronald W. Fenstermacher, Jr. dated May 7, 2020 (the "2020 Supplemental Directive") is attached as **Exhibit B**.

9. In February of 2021, Jill was advised by Mrs. Herring's advisors at Raymond James, where the majority of Mrs. Herring's financial assets are currently held, that Arthur produced a new financial power of attorney purportedly executed by Mrs. Herring on December 3, 2020, which names Arthur as sole agent (the "2020 Financial Power of Attorney"). A copy of the 2020 Financial Power of Attorney is attached as **Exhibit C**. As explained in further detail below, Petitioner believes that the 2020 Financial Power of Attorney is invalid.

10. Jill and Arthur are also the sole beneficiaries under Mrs. Herring's Will dated November 26, 2018 ("Mrs. Herring's Will") and the Agreement of Trust of Jane T. Herring dated April 26, 1993, as amended and restated on November 26, 2018 ("Mrs. Herring's Revocable Trust"). Copies of Mrs. Herring's Will and Revocable Trust are attached as **Exhibits D and E**, respectively.

11. Petitioner notes that Attorney Fenstermacher prepared Mrs. Herring's Will and Revocable Trust, along with her 2004 General Power of Attorney and related 2020 Supplemental Directive, as noted above, but the 2020 Financial Power of Attorney was not prepared by Attorney Fenstermacher.

12. The parties in interest are as follows:

Name

Relationship/Interest

Jane T. Herring
26 Chancery Court
Souderton, PA 18964
(to receive Citation with Notice)

Alleged Incapacitated Person

Jill Scott Herring
4383 Buttercup Circle
Collegeville, PA 19426
(Verification and Acceptance
to Serve attached)

Daughter; a Presumptive Intestate
Heir; Co-Agent under 2004 General
Power of Attorney; Proposed
Guardian of the Person and of the
Estate; and Petitioner herein

Arthur Herring, III
26 Chancery Court
Souderton, PA 18964
(Notice to be provided)

Son; a Presumptive Intestate Heir;
Co-Agent under 2004 General
Power of Attorney; and Agent under
2020 Financial Power of Attorney

Ronald W. Fenstermacher, Jr., Esquire
1001 Conshohocken State Rd., Ste. 1-311
West Conshohocken, PA 19428
(Notice to be provided)

Estate Planning Attorney for the
Alleged Incapacitated Person; and
Agent under 2004 General Power of
Attorney in the event of Co-Agent
Disagreement

Jill is one of Mrs. Herring's two children and presumptive intestate heirs, a co-agent under the 2004 General Power of Attorney, proposed guardian of the person and estate and Petitioner herein; her Verification is attached to the Petition. Notice will be provided to Mrs. Herring's son, Arthur, who is a presumptive intestate heir, a co-agent under the 2004 General Power of Attorney and sole agent under the 2020 Financial Power of Attorney, and to Attorney Fenstermacher, who is Mrs. Herring's longtime estate planning attorney and designated as agent under the 2004 General Power of Attorney in the event of disagreement between Mrs. Herring's children. Notice of the instant Petition will be provided to Mrs. Herring in accordance with the applicable court rules governing incapacity petitions. As noted earlier, Mrs. Herring currently resides in her own home such that there is no residential care provider to which notice is required.

III. FACTUAL AND PROCEDURAL BACKGROUND

13. As noted above, Mrs. Herring's husband suffered from Lewy body dementia before his death in January 2013.

14. When Mr. Herring's health began to seriously decline in 2009, Jill, who had been living in Annapolis, Maryland, moved back to Pennsylvania in order to care for both of her parents.

15. Mr. Herring, who owned an insurance agency, had always been responsible for handling the family finances and so when he became unable to continue to do so in light of his failing health, Jill was tasked with stepping into his shoes and managing her parents' financial affairs along with the family's longtime advisors.

16. During the last few years of Mr. Herring's life and since his 2013 death, Jill, who has worked in the financial services industry for decades, has been nearly exclusively responsible for ensuring that Mrs. Herring's financial affairs have been properly managed, including maintenance and management of investments, ensuring proper bill payment, organization of mail, financial documents and other important records, and coordinating with the family's longtime professional advisors, including the family's tax preparers, Buxmont Accounting, and financial advisors at Morgan Stanley and then Raymond James, with whom Jill has established close working relationships over the years.

17. Aside from some basic check writing, with assistance from Jill, Mrs. Herring has never meaningfully managed her own finances, either prior to her husband's death and certainly not after.

18. In addition to ensuring Mrs. Herring's financial wellbeing, Jill and Mrs. Herring shared a close personal relationship as mother and daughter visiting with each other at least several times a week following Jill's return to Pennsylvania in 2009, attending church together weekly, routinely preparing meals, and accompanying each other on 16 vacations. Jill also arranged for a MedAlert system to be installed in Mrs. Herring's home immediately after Mr. Herring's death as a safety precaution.

19. Beginning in 2018 at age 93, Mrs. Herring began exhibiting signs of age-related cognitive decline and was subsequently diagnosed with dementia by her primary care physician,

Kim P. Kuhar, D.O. ("Dr. Kuhar"), as reflected on the copy of Mrs. Herring's Health Record from Grand View Health attached as **Exhibit F**.

20. Mrs. Herring's decline in her mental capacity became increasingly apparent to Jill as well as her professional advisors. More specifically, on March 23, 2019, Mrs. Herring's longtime accountants at Buxmont Accounting ("Buxmont") reported that Mrs. Herring seemed unusually confused during a prior telephone call to discuss Mrs. Herring's 2018 tax filings, and when Jill met with Mrs. Herring at her home later that day, Mrs. Herring did not recall their conversations when Jill called to check in on her that same evening.

21. On or about early 2019, Jill was advised by Dr. Kuhar that she had administered a cognitive test on which Mrs. Herring scored 18 out of 30 points (which Petitioner believes was a Mini-Mental State Examination based on the point scale) indicating that Mrs. Herring had "moderate cognitive impairment," and that she scheduled a CT scan to be performed on Mrs. Herring May 15, 2019 to further evaluate the level of Mrs. Herring's cognitive impairment and dementia diagnosis.

22. On September 3, 2019, Jill and Arthur, who was at that time residing in his own home in Quakertown, Pennsylvania, attended Mrs. Herring's appointment with Dr. Kuhar, during which Dr. Kuhar recommended that Mrs. Herring make an appointment with Penn Neurology for further memory assessment, neurological testing and the prescription of medication to treat her cognitive impairment; however, Arthur insisted that Mrs. Herring was "fine" and pressured Mrs. Herring several times to echo that belief and relay it to Dr. Kuhar herself so Mrs. Herring ultimately declined to seek further recommended treatment with Arthur's support.

23. As of November 2019, however, Jill was advised that Dr. Kuhar began prescribing Mrs. Herring medication for her dementia diagnosis.

24. In the fall of 2019, Arthur produced two handwritten notes purportedly prepared by and/or signed by Mrs. Herring earlier that year which allegedly authorized Arthur, *inter alia*, to live in or sell her home, and shortly thereafter in February of 2020, Arthur, who had previously been residing in his own home in Quakertown, Pennsylvania, unexpectedly moved into Mrs. Herring's home.

25. On February 22, 2020 in the midst of Arthur's move into Mrs. Herring's home, Jill was visiting with Mrs. Herring at her home when Arthur began acting erratically, became physically abusive to Jill and threatened her while she was exiting the home not to return to Mrs. Herring's property. Jill reported this incident to the local police, although she chose not to pursue formal charges against her brother in the hope that the family could amicably resolve the living arrangements at Mrs. Herring's home. A copy of the Franconia Township Police Department Incident Report dated February 24, 2020 is attached as **Exhibit G**.

26. In the months that followed, however, Arthur continued to ostracize Jill and pressured their mother to do the same while ingratiating himself with Mrs. Herring. Mrs. Herring began to exhibit unusual behavior departing from the routine management of both her personal and financial matters. Specific instances of Mrs. Herring's unusual behavior beginning around the time Arthur began residing in her home include the following:

(a) Mrs. Herring began purportedly cancelling medical appointments with Dr. Kuhar with Arthur's support and encouragement to ignore the recommendations of her treating physicians;

(b) Mrs. Herring concealed and/or misplaced documents in her home, including, among others, expired dividend checks that Jill discovered she had hidden in drawers;

(c) Numerous credit cards had neglected to be paid, including one with \$500 worth of late fees imposed on it, and another that had been sent to arrears for non-payment; and

(d) Mrs. Herring's longtime housekeeper reported that Arthur had been encouraging Mrs. Herring to cancel her cleaning appointments since he moved in and that when she spoke with Mrs. Herring directly on the phone she was very short and not acting like herself.

27. Due to concerns regarding Mrs. Herring's wellbeing following the February 22, 2020 incident with Arthur at Mrs. Herring's home and Jill's inability to personally check on Mrs. Herring herself for fear of her own personal safety, Jill called the Montgomery County Office of Aging on February 25, 2020, to request that the agency perform a wellness check on Mrs. Herring at her home; however, due to Covid-19-related restrictions, the Office of Aging's representative informed Jill that they were unable to perform home visits at that time, but that they would reach out to Mrs. Herring by phone to determine whether further investigation would be required.

28. In the spring of 2020, Attorney Fenstermacher, who had been representing Mrs. Herring and her husband since 2004 and was familiar with the family's historical background and dynamics, attempted to arrange a meeting with Jill and Arthur in order to come to an agreement regarding their mother's care in light of their shared agency arrangement under the 2004 General Power of Attorney, which Arthur initially agreed to but ultimately declined to attend. In light of Mrs. Herring's continued decline and the inability of Jill and Arthur to be able to effectively work together as co-agents and come to an agreement regarding Mrs. Herring's personal and financial matters, Attorney Fenstermacher exercised his authority under the 2004

General Power of Attorney and executed the 2020 Supplemental Directive on May 7, 2020 delegating the financial powers to Jill and the health care powers to Arthur as detailed above.

29. Petitioner notes that financial responsibility for Mrs. Herring was delegated to her not only because of her long history of managing those areas of her mother's life and her particular expertise and experience in the financial services industry, but also because Arthur has a history of personal financial difficulties. More specifically, Arthur has filed for bankruptcy twice in the United States Bankruptcy Court for the Eastern District of Pennsylvania, and Petitioner notes that on December 22, 2020 during the pendency of the second bankruptcy proceeding, Arthur filed a Motion to Release Mrs. Herring's Safe Deposit Box and Savings Account at Harleysville Bank, which Arthur had added himself to as a joint owner. Fortunately, the parties to the bankruptcy proceeding filed a Stipulation of Settlement on March 2, 2021, a copy of which is attached as **Exhibit H**, which negated the need for the court to rule on Arthur's petition, although Jill, as agent for her mother under a previously executed power of attorney specific for the Harleysville Bank accounts, did receive a letter from Harleysville Bank dated March 8, 2021, a copy of which is attached as **Exhibit I**, indicating that Mrs. Herring's accounts would be frozen pending issuance of a court order.

30. Jill was advised by Mrs. Herring's financial advisors at Raymond James that on February 22, 2021, Arthur produced the 2020 Financial Power of Attorney and sought access to Mrs. Herring's financial accounts in his capacity as sole agent for Mrs. Herring under that document.

31. Mrs. Herring's advisors at Raymond James had been aware of Mrs. Herring's declining mental state for at least the preceding year, and upon notifying its legal and compliance department of the new 2020 Financial Power of Attorney, Raymond James flagged the document

as being potentially fraudulent and advised that it would investigate the 2020 Financial Power of Attorney before allowing Arthur to act on Mrs. Herring's accounts.

32. Raymond James informed Arthur that in order to honor the 2020 Financial Power of Attorney, he would need to provide a letter or statement from Mrs. Herring's doctor confirming that she is not incapacitated and is able to make financial decisions, but Arthur has failed to provide such a letter purportedly because he has been unable to find a doctor who is available to prepare such documentation confirming Mrs. Herring's competency.

33. Raymond James has advised Jill that it is investigating Arthur's actions, including through notification of the issues to county and state adult services agencies, and that all of Mrs. Herring's accounts, with the exception of her checking account, have been frozen in the interim pending the results of that investigation.

34. Since that time, Jill has been able to speak with and see her mother minimally, with one of their last two in-person interactions occurring on March 12, 2021, when Jill took Mrs. Herring out for lunch, but hours after Jill brought Mrs. Herring back home, Mrs. Herring called Jill in tears indicating that she could no longer see Jill without any further explanation. Since then, Jill has only been able to see her mother once more, on May 17, 2021, when Arthur allowed Jill to take Mrs. Herring out for a few hours during the day in light of Mrs. Herring's 96th birthday the day before on May 16, 2021.

35. Mrs. Herring's advisors at Raymond James have continued to advise that Arthur has been unrelenting in his quest to gain access to Mrs. Herring's accounts, and since Arthur's access to those accounts (which hold the vast majority of Mrs. Herring's financial assets) continues to be denied, Jill has been advised that Arthur has been seeking unauthorized access to Mrs. Herring's other assets.

36. More specifically, on April 27, 2021, Jill was notified by a fraud investigator at Lincoln Financial Group ("Lincoln") that Arthur had called seeking to surrender one of Mrs. Herring's life insurance policies in exchange for the cash value of the policy. The fraud investigator requested to speak with Mrs. Herring but Arthur refused and so the fraud investigator then called Jill, who had been listed as the authorized person of record for Mrs. Herring since June 2020, to report the suspicious activity and that Mrs. Herring's policies would be frozen pending an investigation. Lincoln also advised Jill that it would be filing a report of elder abuse and exploitation with the Montgomery County Office of Aging.

37. Fortunately, Raymond James and Lincoln have been concerned for Mrs. Herring's welfare and taken necessary precautions to safeguard and protect her assets for the time being; however, Jill has been notified by Buxmont that it will not prepare Mrs. Herring's 2020 income tax returns while the questions remains as to who is duly authorized to act on Mrs. Herring's behalf in that regard.

38. Additionally, Petitioner has since learned that payments totaling \$17,550 were made in 2020 from Mrs. Herring's Raymond James checking account to 7 different law firms. Petitioner believes that at least one of those law firms was retained by Arthur in connection with the preparation of the 2020 Financial Power of Attorney, but that the majority of those law firms paid from Mrs. Herring's funds were retained by Arthur, individually, to represent him in connection with various legal proceedings, including his bankruptcy proceedings, as well as his criminal conviction for harassing a Lehigh University professor, an eviction action that resulted in his move from the mobile home park where he lived prior to moving into Mrs. Herring's home, and numerous other criminal and civil litigation matters that have been brought against Arthur or initiated by him.

39. Petitioner has, understandably, become increasingly concerned for her mother's wellbeing, both personally and financially, due to Arthur's persistent interference with Mrs. Herring's relationships with not only herself, but Mrs. Herring's longtime professional advisors, and now his targeted attempts to access Mrs. Herring's significant assets, which activities compelled Jill to file the instant Petition to ensure that more permanent safeguards are established for the management of Mrs. Herring's affairs.

IV. FINANCIAL INFORMATION

40. Mrs. Herring's annual income consists primarily of Social Security benefits; dividends and capital gains from her brokerage accounts; interest income and annuity payments. Based on Mrs. Herring's 2019 income tax returns and the information Petitioner has with respect to Mrs. Herring's 2020 income taxes, Petitioner estimates Mrs. Herring's gross annual income to total approximately \$120,000.

41. Petitioner estimates the current total market value of Mrs. Herring's estate to be between approximately \$2,500,000 and \$3,000,000, which is comprised of the following assets owned in her individual name or in the name of her Revocable Trust (described in more detail below):

<u>Assets</u>	<u>Estimated Total Value</u>
<i>Real Property</i> - 26 Chancery Court, Souderton, PA	\$350,000
<i>Non-Retirement Financial Accounts</i>	\$2,046,000
Raymond James Checking & Money Market Accounts	
Harleysville Bank Account	
<i>Retirement Assets/Annuities</i>	\$96,000
Raymond James Traditional IRA	
Raymond James Roth IRA	
Various Annuities (Nationwide Quatro, Protective Life/Zurich, Equitrust, Old Mutual, F&G)	

Life Insurance Policies

\$134,000

Great West Life Insurance Policy

Two Lincoln Financial Group Life Insurance Policies

Miscellaneous

Harleysville Safe Deposit Box (contents unknown)

42. Mrs. Herring does not currently receive Medicaid benefits although she does qualify for and currently receives benefits through Medicare.

43. To the extent of Petitioner's knowledge, Mrs. Herring has no income or assets other than those referenced above.

V. INDEPENDENT MEDICAL EVALUATION AND EVIDENCE OF INCAPACITY

44. In light of the foregoing, Petitioner believes that Mrs. Herring is incapacitated and in need of plenary guardians of her person and estate pursuant to 20 Pa. C.S. §5501 *et seq.*

45. As noted above, in light of Arthur's unexpected production of the 2020 Financial Power of Attorney and his unusual and suspicious activity in trying to gain access to Mrs. Herring's significant financial resources, Mrs. Herring's advisors and the financial institutions where her assets are custodied have made multiple requests for a letter or statement from Mrs. Herring's treating physician confirming that she is of sound mind and has the cognitive ability to make complex financial decisions related to her finances, which Arthur has failed to produce to date.

46. Although Mrs. Herring has been a longtime patient at Penn Health, Petitioner has been advised by Mrs. Herring's advisors at Raymond James that Arthur indicated he has been unable to identify or locate a doctor who is able to provide the requested "competency letter".

47. In light of the foregoing and due to Jill's inability to access her mother, as well concerns regarding manipulation of Mrs. Herring in her current residential setting, as detailed

above, the within petition requests that an independent medical evaluation be ordered by this Court so that medical evidence can be provided in accordance with 20 Pa. C.S. § 5518.

VI. NO LESS RESTRICTIVE ALTERNATIVE

48. As noted above, although Mrs. Herring executed the 2004 General Power of Attorney naming her children as co-agents, to make financial and medical decisions on her behalf, and Attorney Fenstermacher has since executed the 2020 Supplemental Directive bifurcating the financial and health care responsibilities between Jill and Arthur, respectively, Arthur's production of the 2020 Financial Power of Attorney has caused Mrs. Herring's financial institutions to freeze her accounts due to questions regarding who is legally authorized to act on Mrs. Herring's behalf.

49. Further, Mrs. Herring's current living arrangement with Arthur in her home has enabled Arthur to interfere with Jill's efforts to communicate with her mother and prevent Petitioner from being kept informed regarding their mother's medical condition and general wellbeing. Petitioner notes that she previously had access to various online portals linked to Mrs. Herring's medical records and status updates; however, Arthur has since had that access revoked such that she does not currently have the ability to independently monitor her mother's medical condition.

50. Accordingly, Mrs. Herring's 2004 General Power of Attorney and 2020 Supplemental Directive, which Petitioner believes to be the most current, valid documents in place for Mrs. Herring regarding the designation of agents to make health care and financial decisions on her behalf, do not constitute a less restrictive alternative than the within request for the appointment of a plenary guardian of Mrs. Herring's person and estate.

VII. PERMANENT PLENARY GUARDIANSHIP REQUESTED

51. In light of the foregoing, Petitioner believes that Mrs. Herring is incapacitated and in need of plenary guardians of her person and estate pursuant to 20 Pa. C.S. §5511.

52. The severity of Mrs. Herring's cognitive and physical impairment and the lack of viable, less restrictive alternatives necessitates the appointment of a plenary guardian of Mrs. Herring's *person* to handle all issues relating to her person, other than those set forth in 20 Pa. C.S. §§5521(d) and (f), including but not limited to:

- (a) authorizing consent to medical treatment or medication, employment and discharge of physicians, psychiatrists, dentists, nurses and other professionals for Mrs. Herring's physical and mental treatment and care;
- (b) deciding where Mrs. Herring will live, giving consideration to her lifestyle and her preferences, if known or determinable;
- (c) providing basic care or arranging for nurses, aides or other personnel for Mrs. Herring's care, as well as for physical and other therapies;
- (d) making decisions about and the arrangements for Mrs. Herring's social, recreational, educational or vocational activities and other personal care matters;
- (e) facilitating the qualification of government benefits, if any; and
- (f) coordinating with the guardian of Mrs. Herring's estate to develop a budget and to ensure that Mrs. Herring's care needs are funded.

53. The severity of Mrs. Herring's cognitive and physical impairment and the lack of viable, less restrictive alternatives also necessitate the appointment of a plenary guardian of Mrs. Herring's *estate* to handle any financial matters on Mrs. Herring's behalf, including:

- (a) managing Mrs. Herring's cash, real estate, and any other individually owned property;
- (b) coordinating with the trustee(s) of the trusts in which Mrs. Herring has interests as necessary to ensure her needs are being met and the trusts are being administered properly and in accordance with her best interests;

- (c) paying medical and other bills incurred to provide Mrs. Herring with proper medical care, insurance, and maintenance of her lifestyle;
- (d) executing documents and entering into contracts;
- (e) managing any assets or income;
- (f) coordinating with the guardian of Mrs. Herring's person to ensure that her needs are being met;
- (g) handling claims made on behalf of or against Mrs. Herring; and
- (h) preparing and signing tax returns and paying Mrs. Herring's federal, state and local income taxes.

VIII. PROPOSED PLENARY GUARDIANS OF THE PERSON AND ESTATE

54. Plenary Guardian of the Person. Petitioner proposes that Jill Scott Herring be appointed as plenary guardian of Mrs. Herring's *person*.

(a) Jill has been primarily responsible for coordinating her mother's care since Mr. Herring's 2009 illness and subsequent death in 2013 and is one of the individuals most familiar with Mrs. Herring's past and present medical and personal situation.

(b) Because of Arthur's animosity and hostility towards Jill and his efforts to isolate Mrs. Herring from her, Jill's ability to speak with or spend any time with her mother without fear of either her or her mother being subjected to physical or verbal abuse from Arthur is severely limited. Arthur's engagement in intimidating activity towards Mrs. Herring with respect to her interactions with Jill and his refusal to acknowledge Mrs. Herring's cognitive and physical decline raises significant concerns that Mrs. Herring's health, safety and wellbeing will only be jeopardized if Arthur remains in a position to isolate Mrs. Herring and interfere with her ability to communicate with anyone other than him.

(c) As noted above, Jill was appointed by Mrs. Herring as co-agent under her 2004 General Power of Attorney to make health care and medical decisions on her behalf when

necessary, and although Mrs. Herring named Arthur as co-agent to serve together with Jill, Petitioner believes that Arthur has demonstrated an inability to make impartial decisions regarding their mother's care while acting as agent and is making personal care decisions that are not only not in their mother's best interest, but also are likely to cause irreparable harm to her physical and mental condition, which necessitates the appointment of a guardian of the person to act on Mrs. Herring's behalf.

(d) Jill is extremely concerned for her mother's physical and mental welfare and is the person best equipped to handle Mrs. Herring's personal care decisions and thus, should be appointed guardian of the person.

55. Plenary Guardian of the Estate. Petitioner proposes that Jill Scott Herring be appointed as plenary guardian of Mrs. Herring's *estate*.

(a) Jill is 70 years old and has 25 years of experience working as an executive at corporate headquarters for global banking and investment management companies.

(b) Jill received her undergraduate degree from Arcadia University and completed a number of master's level classes in business administration at Drexel University's LeBow College of Business. She worked in the corporate management side of the financial services sector for approximately 25 years until she made a career change to sales in 2007. Jill's employment history is set forth in more detail in her curriculum vitae attached as **Exhibit J**.

(c) Jill went on to become certified in medical coding, and she currently works full-time as a medical coder for Main Line Health System.

(d) Due to her expertise as well as her close relationship with her parents, Jill served as a life-long advisor to her father with respect to both family and business investments, and she began handling the management of her parent's finances almost exclusively in 2012

shortly before her father's death and has continued managing her mother's financial affairs since her father's death in 2013.

(e) Since that time, Jill has had a close working relationship with Mrs. Herring's longtime financial advisors, accountants and estate planning attorney, whom she intends to continue to employ for ongoing assistance and guidance in managing Mrs. Herring's financial affairs should she be appointed as guardian of Mrs. Herring's estate.

(f) As noted above, Jill was appointed by Mrs. Herring as co-agent under her 2004 General Power of Attorney to make financial decisions on her behalf when necessary, and although Mrs. Herring named Arthur as co-agent to serve together with Jill, Petitioner believes that Arthur has demonstrated an inability to manage his own personal finances, as detailed above, let alone his mother's finances. More specifically, Petitioner believes that Arthur is not maximizing Mrs. Herring's funds for her benefit to ensure that her care needs are being funded but instead, Arthur is making financial decisions that are in his own best interests as opposed to their mother's, which decisions are likely to cause irreparable harm to Mrs. Herring's financial situation necessitating the appointment of a guardian of the estate to act on Mrs. Herring's behalf.

(g) Jill is concerned for her mother's financial welfare and is more than equipped to handle her financial matters in light of Mrs. Herring's past reliance on Jill to assist her in meeting her financial responsibilities, including payment of bills, maintenance and repair of real estate and coordination with her longtime accountants and other professional advisors and thus, should be appointed guardian of Mrs. Herring's estate.

56. Jill has no interest adverse to Mrs. Herring, although she acknowledges that she is one of Mrs. Herring's two intestate heirs if she were to die intestate at this time.

57. Jill's Acceptance to Serve as Plenary Guardian of Mrs. Herring's Person and Estate is attached as **Exhibit K**.

58. In accordance with Pa. O.C. Rule 14.2(b), Jill notes that she has not completed any guardianship training to date, she does not currently have a guardianship certification and she is not and never has been a guardian in any other matters.

59. In accordance with Pa. O.C. Rule 14.2(c)(2), a copy of the Pennsylvania State Police Response for Criminal Record Check for Jill, which was issued on March 22, 2021 and reflects no criminal record for Jill, is attached as **Exhibit L**.¹ Jill has not resided outside of the Commonwealth within the previous five-year period.

IX. APPOINTMENT OF INDEPENDENT COUNSEL REQUESTED

60. In accordance with 20 Pa. C.S. § 5511(a), Mrs. Herring has the right to be represented by counsel in connection with this Petition.

61. Although Attorney Fenstermacher has been Mrs. Herring's estate planning attorney since 2004, he has advised that he will not be representing Mrs. Herring for the purposes of the guardianship proceedings.

62. In light of the fact that Mrs. Herring's long time estate planning attorney will not be entering his appearance on behalf of Mrs. Herring in this guardianship matter and Arthur's history of "lawyer shopping" for Mrs. Herring, Petitioner believes that any counsel not appointed by the Court who might enter an appearance on behalf of Mrs. Herring would be chosen by Arthur, whose interests, as outlined above, may be in conflict with the interests of Mrs. Herring.

63. Petitioner therefore requests that this Court appoint independent counsel to represent Mrs. Herring in connection with this Petition.

¹ Petitioner notes that Jill's date of birth and last four digits of her Social Security Number have been redacted.

WHEREFORE, Petitioner respectfully requests that this Honorable Court issue a Citation directed to Jane T. Herring, the alleged incapacitated person, to show cause why: (1) independent counsel should not be appointed to represent her in connection with the guardianship proceedings; (2) an independent medical evaluation should not be performed pursuant to 20 Pa. C.S. §5511(d); (3) she should not be adjudged a totally incapacitated person; (4) Jill Scott Herring should not be appointed Plenary Guardian of her PERSON; and (5) Jill Scott Herring should not be appointed Plenary Guardian of her ESTATE.

Dated: May 18, 2021

Respectfully submitted,



Margaret E. W. Sager (I.D. No. 43638)
Brittany J. Camp (I.D. No. 314160)
Heckscher, Teillon, Terrill & Sager, P.C.
1001 Conshohocken State Road, Suite 1-300
West Conshohocken, PA 19428
(610) 940-4171 - mewsager@htts.com
(610) 940-4197 - bcamp@htts.com

Attorneys for Petitioner