

J - Ms. Z. is currently represented by counsel - plz copy atty. Hayes and send this to Clerk's office for filing - THW-JR

IN THE CIRCUIT COURT OF THE
21ST JUDICIAL CIRCUIT IN AND FOR
COLLIER COUNTY, FLORIDA

21ST MORTGAGE CORPORATION

UNIFORM CASE NO. 112015 CA 11700000XX

PLAINTIFF

CLERKS CASE NUMBER: 1501170CA

VS.

MARY JEAN ZISKA

FILE IN COURT FILE

DEFENDANT

HUGH D. HAYES, CIRCUIT JUDGE

DEFENDANT MARY JEAN ZISKA OBJECTION TO FORECLOSURE SALE

Defendant Mary Jean Ziska pursuant to 45.301, Florida Statutes, hereby files this Objection to Foreclosure Sale, and as grounds therefore state as follows:

1. Defendant Mary Jean Ziska is the owner of the real property located at 5632 Whisperwood Blvd. unit #1601 Naples Florida 34110, as described as:

Unit 1601, Building 16, Phase 16, CYPRESS COVE AT PELICAN STRAND, a condominium, according to the declaration there of as recorded in Official Records Book 2394, Page2599, of the Public Records of Collier County, Florida, as amended.

2. A foreclosure sale was held on September 1st 2016, at 11:00am for the above described property. It was sold at the foreclosure auction for amount \$161,000.00 to 21st Mortgage Corporation (plaintiff).

3. Mary Jean Ziska, Defendant, objects to the sale. Marion Gregory as limited guardian has proved to be a negligent limited guardian. Her actions have harmed her ward's finances, credit and now her home ownership.

4. Liinda Yerger, as defendants lawyer has violated the rules of the Rules regulating the Florida Bar. On count I, the referee recommended that Linda Yerger, be found guilty of violating the following Rules Regulating the Florida Bar: rule 4-1.1 (a lawyer shall provide competent representation to his client); rule 4-1.3 (an attorney shall act with reasonable diligence in the representation of his client); rule 4-1.4(a) (a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information); rule 4-5.5 (a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction); rule 4-8.4(a) (a lawyer shall not violate or attempt to violate the Rules of Professional Conduct); rule 4-8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and

*9/14/16
copy to ms. Yerger*

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THE CLERK OF THE COURT
COLLIER COUNTY, FLORIDA

rule 4-8.4(d) (a lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice).

a.) As of the date of this document (9/12/2016) Mary Jean Ziska has never met Linda Yerger . The only contact (via phone) between parties, occurred during the bankruptcy initiated by Linda Yerger was a few phone calls from Mary Jean Ziska to her office and posts on her website requesting that she stop her actions. One email was received from Linda Yerger to Mary Jean Ziska consisting of an apology after the traumatic bankruptcy. Not one word of the foreclosure, or of her defense methods/ strategies or even any questions or reference to any part of the case ever to Mary Jean Ziska (defendant)

4. This case highlights the problems with limited guardianship and legal counsel hired by limited guardianship without any relationship allowed between counsel and ward. The Lack of communication, transparency in actions & documentation, along with the lack of accountability in actions that are not in the best interest of the ward have harmed Mary Jean Ziska's welfare. Marion Gregory's history of actions in connection to Linda Yerger's participation in the matter of the bankruptcy and the matter of the foreclosure have been devastating to the ward (Mary Jean Ziska).

a.) As Per the Fl. Statutes 744 concerning limited guardianship and legal representation:

744.1012 Legislative intent.--The Legislature finds that adjudicating a person totally incapacitated and in need of a guardian deprives such person of all her or his civil and legal rights and that such deprivation may be unnecessary. The Legislature further finds that it is desirable to make available the least restrictive form of guardianship to assist persons who are only partially incapable of caring for their needs. Recognizing that every individual has unique needs and differing abilities, the Legislature declares that it is the purpose of this act to promote the public welfare by establishing a system that permits incapacitated persons to participate as fully as possible in all decisions affecting them; that assists such persons in meeting the essential requirements for their physical health and safety, in protecting their rights, in managing their financial resources, and in developing or regaining their abilities to the maximum extent possible; and that accomplishes these objectives through providing, in each case, the form of assistance that least interferes with the legal capacity of a person to act in her or his own behalf. This act shall be liberally construed to accomplish this purpose.

a) Marion Gregory is a limited guardian of Mary Jean Ziska who is not incapacitated. The limited guardianship involves only two areas : defense of lawsuits and contract. Mary Jean Ziska had/has the right to be involved and notified of lawsuits and of court dates and of defense of such lawsuits and of any contracts that are being negotiated . Mary Jean Ziska was not notified of any lawsuit for the foreclosure of her property (5632 Whisperwood Blvd. Unit 1601 Naples Florida 34110.) Mary Jean Ziska received only notification of the sale of her property in the mail 3-4 days before a long labor day weekend where the auction of her property was set for September 1st 2016. Marion Gregory as limited guardian had numerous opportunities to relay the foreclosure and update of progress of defense:

a. Mary Jean Ziska could have been notified while at her father's home at Thanksgiving November 2016.

b. Mary Jean Ziska could have been notified when both she and Marion Gregory both visited with (Maura Ziska and family at 1500 North Ocean Blvd. Palm Beach Florida 34108) over the Christmas holiday December 2016.

c. Mary Jean Ziska could have been notified when both she and Marion Gregory visited with Maura Ziska and her family at 1500 North Ocean Blvd. Palm Beach Florida 34108 for Caroline Christu's 1st confirmation May 1st 2016.

d. Mary Jean Ziska could have been notified when taken out to lunch on her 50th birthday July 7th 2016 by Marion Gregory.

It is a violation of Mary Jean Ziska's rights to not be notified of any lawsuits. It is a violation of Mary Jean Ziska's rights to not be kept informed of the progress of the defense. It is a violation of Mary Jean Ziska's rights to not be allowed to have an opinion, speak with, or meet the lawyer involved in the defense of the foreclosure or even the bankruptcy (2014).

744.102 Definitions.—As used in this chapter, the term:

(1) Attorney: means an attorney who represents the ward. Such attorney shall represent the expressed wishes of the ward to the extent it is consistent with the rules regulating The Florida Bar.

(a) "Limited guardian" means a guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.

Mary Jean Ziska has a right to 744.3715 Petition for interim judicial review. Based on the negligence by Marion Gregory and Linda Yerger concerning the foreclosure and subsequent sale of the condominium (5632 Whisperwood Blvd. Unit 1601 Naples Florida 34110).

(1) At any time, any interested person, including the ward, may petition the court for review alleging that the guardian is not complying with the guardianship plan or is exceeding his or her authority under the guardianship plan and the guardian is not acting in the best interest of the ward. The petition for review must state the nature of the objection to the guardian's action or proposed action. Upon the filing of any such petition, the court shall review the petition and act upon it expeditiously.

5. History of negligent behavior by Marion Gregory: In 2014, Marion Gregory, Linda Yerger and Antoinella Scarpa filed for Chapter 13 bankruptcy using information of Mary Jean Ziska without her consent. In 2015, Marion Gregory opened a 5th 3rd bank account, changed the payee to herself and the new bank account and obtained \$1222.66 as a direct deposit stealing funds from Mary Jean Ziska, for Jan Feb. and March of 2015. This bank account was also opened without the consent or knowledge of Mary Jean Ziska. Marion Gregory, Linda Yerger were both involved in the foreclosure and subsequent sale of 5632 Whisperwood Blvd. Unit 1601 Naples Florida 34110. These subsequent actions have ruined credit, funds, and home ownership which were not in the best interest of Mary Jean Ziska. The continued inexcusable and harmful actions of the limited guardian(Marion Gregory) and lawyer(Linda

Yerger) and the devastating results that have harmed area of finances, credit and home ownership put into question the competency of the limited guardian and the actions taken for the defense of the foreclosure and subsequent sale of 5632 whisperwood blvd. Unit 1601 Naples fl. 34110.

Wherefore, defendant Mary Jean Ziska respectfully requests that this Honorable Court sustain this objection to foreclosure sale, vacates the auction and subsequent sale of the property (5632 Whisperwood Blvd. unit 1601 Naples Florida 34110)

The law recognizes that there will be situations where final judgments have been entered that would be wrong and unjust to leave as final judgements and recognizes that irregularities in the foreclosure process that make the sale void/ mistakes / fraud/ new evidence that bring to light this situation. Therefore with no other legal remedy to this situation, the title should remain in defendant's name (Mary Jean Ziska). The limited guardianship should be removed and proper representation with the best interest of Mary Jean Ziska should be enlisted allowing the repair of her credit , the return of her finances, and the restoration of her home ownership including proper investigation of the mortgage situation including fraud by David J Stern and his fraudulent practices within the mortgage industry.

Respectfully Submitted,

Mary Jean Ziska

5632 Whisperwood Blvd. Unit 1601

Naples Florida 34110

A handwritten signature in black ink that reads "Mary Jean Ziska". The signature is written in a cursive style with a large, stylized "Z" and "K".