

IN THE SUPREME COURT OF MISSISSIPPI

ALETA SINDELAR SPEAKES

APPELLANT

VS.

CASE NO. 2010-CA-01556

SONDRA LANELL SPEAKES HUERTA

APPELLEE

**THE ESTATE OF LARRY SPEAKES AND SONDRA LANELL SPEAKES HUERTA'S
RESPONSE TO APPELLANT'S MOTION FOR REHEARING**

COMES NOW, Respondent, The Estate of Larry Speakes and Conservator Sondra Lanell Speakes Huerta (the "Estate"), and files this, their Response to Petitioner Aleta Sindelar Speakes' ("Sindelar") Motion for Rehearing.

On June 7, 2012, this Court dismissed Sindelar's appeal of two August 24, 2010 Orders. This Court dismissed the appeal based on a finding that there was no final judgment from which an appeal could be taken. Sindelar's appeal centers on whether the chancery court had jurisdiction, whether there was improper joinder and notice in the establishment of the conservatorship and whether a January 15, 2009 Consent Order agreed to by the parties was valid.

After a review of the two orders from which Sindelar appeals (Exhibit "A" and Exhibit "B" attached hereto, R. 1313-1316;1317-1321), The Estate of Larry Speakes would not disagree with the Court that these orders are not final, appealable judgments. This is true for three reasons. First, **all of the issues Sindelar attempts to appeal were fully and finally settled by the lower court in a January 15, 2009 Order.** Sindelar's time to appeal these issues was thirty (30) days from the entry of that final judgment, not years later.

Additionally, in the August 24, 2010 orders, the chancery court refused to make any new rulings or certify any "final judgments" related to issues previously ruled upon - including

jurisdiction and notice. Finally, not only do these August 24, 2010 orders not include the requisite language of Mississippi Rule of Civil Procedure 54(b) for certifying a final judgment, but at the time these orders were entered the Estate and Sindelar had pending claims against each other factually related to the issues Sindelar raises on appeal. As such, these August 2010 orders cannot be final, appealable judgments, making dismissal of the instant appeal appropriate.

I. Sindelar's Appeal was Correctly Dismissed when the Issues She Raises were Fully and Finally Settled by the Parties January 15, 2009.

Sindelar's appeal is based on an alleged lack of jurisdiction by the chancery court, improper joinder and notice in establishing the conservatorship and the validity of a January 15, 2009 Order. Specifically, Sindelar argues the following issues on appeal: (1) lack of jurisdiction (and the need for more time to make her argument at a hearing); (2) improper notice to Mr. Speakes and joinder of Scott Speakes in the petition to establish the conservatorship; (3) the validity of the will, trust, health care directive and power of attorney signed by Mr. Speakes after his Alzheimer's diagnosis and (4) her inheritance rights. [See Appellant's Brief]. All of these matters were fully and finally settled as of the entry of the **January 15, 2009 Consent Order**. (Exhibit "C" and Exhibit "D" attached hereto, R 128-129, 358-362). Sindelar's Notice of Appeal states that she is **only appealing** the orders entered by the lower court on **August 24, 2010**. (Exhibit "E" attached hereto, R 1359-1360).

The Estate would agree with this Court's decision that the August 24, 2010 orders from which Sindelar appeals are not final, appealable judgments. However, it is respectfully submitted that this Court's finding that the record "does not include a final, appealable judgment" is incorrect. The Estate would argue that a final appealable judgment can be found in the record and because Sindelar did not timely appeal that judgment, the issues she raises now on appeal are

time barred.

In a September 2008 Consent Order, Sindelar withdrew her jurisdictional challenge and the chancery court found it had jurisdiction. At that time, the only matter left “open” by the lower court was an accounting that was to be produced by Sindelar. (Exhibit “C”, R 128-129). Sindelar then submitted an accounting and on January 15, 2009, the parties agreed to the terms of a settlement relating to the accounting issues and all other outstanding issues. These issues included Sindelar forfeiting her right to inherit from the Estate and finding Mr. Speakes’ recently executed will, power of attorney, trust and health care directive void. (Exhibit “D”, R 358-362). On January 15, 2009, the parties entered a Consent Order reciting the terms of their agreement. *Id.*

In short, the terms of the settlement recited in the January 15, 2009 Consent Order left no matters pending before the lower court as of the date of entry of this order. *Id.* As such, the January 15, 2009 Order rendered the September 10, 2008 Order related to jurisdiction a final judgment, and Sindelar’s time to appeal jurisdiction as well as any other matter related to the January 15, 2009 Order ran thirty (30) days after the entry of that order. *Id.*

Mississippi Rule of Civil Procedure 54(a) states that a judgment is a final decree and an order from which an appeal lies. According to the comment to the rule, “[a] judgment is the final determination of an action and thus has the effect of terminating the litigation; it is ‘the act of the court.’” *Id.* Moreover, an agreed order is a judgment of the issuing court subject to the court’s enforcement powers. *Riley v. Wiggins*, 908 So. 2d 893 (¶15) (Miss. Ct. App. 2005)(emphasis added). **A consent decree will be given the same force and effect as judgments rendered after litigation.** *Guthrie v. Guthrie*, 233 Miss. 550, 102 So. 2d 381 (1958)(emphasis added).

Mississippi Rule of Civil Procedure 4 provides that a notice of appeal shall be filed with the trial court clerk within 30 days after the date of entry of the judgment or order appealed from. Mississippi Code Annotated §11-51-3 provides that “an appeal may be taken to the Supreme Court from any final judgment of a circuit or chancery court in a civil case . . . by any of the parties or legal representatives of such parties; and in no case shall such appeal be held to vacate the judgment or decree”.

Regarding when a chancery court decision may be considered a final judgment, ripe for appeal, Griffith’s Mississippi Chancery Practice §611’s illustrative cases of final judgments cites the following: “A judgment fully construing a will, if probated in solemn form, is final as between the parties even though the estate remains in probate for full administration.” *Connell v. Cazenueve*, 120 Miss. 567, 81 So. 793 (1919).

Griffith’s Mississippi Chancery Practice Sections §§ 609-611 also points out in detail what it takes for a chancery court decree to be final for appeal purposes:

A final decree is one which finally determines and settles the case on its complete merits - which neither omits nor reserves any of the material issues with respect to the merits - and leaves nothing remaining to be done, **except those merely formal, or ministerial or executive subsequent orders or decrees necessary to enforce the final decree.** The decree is final when it terminates the actual litigation between the parties and leaves nothing to be done except to enforce what has been determined. In other words, if a decree leave no matter of the actual merits undetermined which was material to a judicial determination on the merits of the case it is final. *Worthy v. Graham*, 246 Miss. 358, 362, 149 So. 2d 469, 471 (1963) (citing Griffith’s Mississippi Chancery Practice §§ 609-611)(emphasis supplied).

In sum, as of January 15, 2009, the parties - the Estate and Sindelar - had settled and finalized every matter they had before the lower court. While the Estate would still have ministerial or housekeeping matters, such as annual accountings, to produce to the lower court, this would not prevent the January 15, 2009 Order from being a final, appealable judgment.

Indeed, there is no question that as of January 15, 2009, the Estate and Sindelar had settled all matters and pending claims by and between them. There was no need for Mississippi Rule of 54(b) certification of this January 15, 2009 order as this Consent Order fully and finally settled the claims made by the parties. It was only well after this Consent Order was entered that the parties filed new claims against each other. As such, if Sindelar wanted to appeal the lower court's jurisdiction or any other matter finalized within the January 15, 2009 Order, the time to do that was within thirty (30) days of the entry of that judgment, not years later in the instant appeal. Mississippi Rule of Civil Procedure 4; *Blum v. Planters Bank & Trust*, 154 Miss. 800 (Miss. 1929).

This Court was correct in finding that there was no final, appealable judgment entered on August 24, 2010. However, Sindelar's appeal is also untimely because all issues involving jurisdiction, alleged improper notice, joinder and the contents of the January 15, 2009 Order were fully and finally adjudicated in the January 15, 2009 Consent Order agreed to by the parties. The Estate would respectfully submit that the instant appeal is untimely because Sindelar failed to appeal from this January 2009 Order and would ask this Court to find that the instant appeal is time barred.

II. The Instant Appeal was Correctly Dismissed Because on August 24, 2010, the Lower Court Refused to Enter any Order on Issues Already Decided - Including Jurisdiction and Notice.

This Court also correctly dismissed Sindelar's appeal because the August 24, 2010 from which she appeals contain no order or judgment related to jurisdiction, joinder and notice. In fact, the chancellor specifically declined to enter any new judgments related to the chancery court's jurisdiction finding as follows:

“Sindelar-Speakes next requests a ‘Final Judgment’ as to all outstanding issues presented to this Court. While this Court will enter a ‘Final Judgment’ as to any new issues presented by Ms. Sindelar-Speakes, this Court declines to enter a second judgment on matters it has already ruled upon. Specifically, this Court has already ruled upon the Sindelar-Speakes ‘Motion to Set Aside Conservatorship, Vacate Subsequent Court Orders and for Other Relief...’. (Ex. “B”, R 1319)(emphasis added).

The chancery court further found:

“This Court has previously ruled on Sindelar-Speakes’ ‘original’ Motion to Dismiss for Lack of Jurisdiction. This renewed Motion attempts to re-argue that very same ‘original’ Motion contesting this Court’s jurisdiction. This Court declines to enter a judgment previously entered by the court.” (Ex. “B”, R. 1319-1320)(emphasis added).

On August 24, 2010, the chancery court refused to enter any new order or judgment previously ruled upon - namely, the chancery court’s jurisdiction over the matter and any alleged improper notice. Of course, these are the very same issues which Sindelar attempts to raise on appeal. However, the chancellor refused to enter any new judgments related to jurisdiction and notice because those issues were fully and finally adjudicated before the parties and the chancery court years ago in the January 15, 2009 Consent Order.

III. This Court Correctly Dismissed the Appeal Because The Requirements of Rule 54(b) Were Not Met and There Were Factually Related Issues Pending Between the Parties.

This Court also correctly dismissed the instant appeal because at the time of the entry of the August 24, 2010 orders, there were, still pending, claims factually related to the appeal filed by the parties against each other. Specifically, one of the orders from which Sindelar appeals recites that a deposition of Ms. Sindelar is to be taken in connection with the Estate’s pending Motion for Repayment of Bank of America Funds and that Sindelar shall have ten (10) days to respond to a pending motion for sanctions. (See Ex. “A”, R. 1315).

These two pending motions referenced in the August 24, 2010 appealed order were factually related to the issues Sindelar raises on appeal as both motions contend Sindelar is bound by the terms of the September 10, 2008 and January 15, 2009 Consent Orders. (See Exhibit “F” Motion for Repayment of Funds, R 379-382 and Exhibit “G” Motion for Sanctions, R 1246-1254). These are the same two orders that Sindelar argues on appeal should be ignored due to the lower courts alleged lack of jurisdiction. As such, claims factually related to the issues Sindelar brings on appeal were pending at the time the August 24, 2010 orders were entered, foreclosing Sindelar’s ability to take an appeal from these same orders.

Our courts have found that there can be no final judgment entered when there are other factually related claims still pending between the parties at the time the order was entered. *Reeves Construction & Supply v. Corrigan*, 24 So. 3d 1077, 1083-1084 ¶¶ 14-19 (Miss. Ct. App. 2010); *Walters v. Walters*, 956 So. 2d 1050, 1053-1054 ¶¶ 9-12 (Miss. Ct. App. 2007)(*rejecting appeal of divorce judgment because unsettled property issues remained and no determination by the chancellor why no just reason to delay appeal until divorce became final*).

At the time the August 24, 2010 orders were entered, Sindelar and the Estate were still litigating claims factually related to the appeal - i.e. whether Sindelar was bound by previous orders she claimed were void due to a lack of jurisdiction and whether she owed the Estate money because of agreements she made in these Consent Orders. As such, the August 24, 2010 orders were not final, appealable judgments and this Court correctly dismissed Sindelar’s appeal.

Moreover, there was no finding in the record by the chancellor in the August 24, 2010 orders that there was no “just reason for delay” in approving a final appealable judgment. In fact, the chancellor declined to enter any new judgments related to the chancery court’s jurisdiction or any other matter previously ruled upon. Of course, these are the very same issues which Sindelar

attempts to raise on appeal.

For these reasons, the Estate would respectfully submit that Sindelar's Motion for Rehearing be denied. The Estate would ask this Court to find that not only were the August 24, 2010 orders not final, appealable judgments, but that Sindelar's appeal is time barred because all issues raised on appeal were fully and finally settled by the January 15, 2009 Consent Order and Sindelar failed to timely appeal that judgment.

This the 17th day of August, 2012.

Respectfully submitted,

JACKS, ADAMS & NORQUIST, P.A.
Attorneys for Respondent, Sondra Lanell Speakes Huerta

By: _____

JAMIE F. JACKS
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MS Bar N [REDACTED]

CERTIFICATE OF SERVICE

I, Jamie F. Jacks, attorney for Respondent, Sondra Lanell Speakes Huerta, do hereby certify that I have this day filed a true and correct copy of *The Estate of Larry Speakes and Sondra Lanell Speakes Huerta's Response to Appellant's Motion for Rehearing*, with the clerk of this Court, and have served a copy of same via United States Mail, postage prepaid, on the following persons at the addresses shown:

Terrill Kay Moffett, Esquire
Post Office Drawer 1707
Tupelo, Mississippi 38802-1707
Attorney for Defendant/Appellant

Jackson M. Andrews
3917 Napanee Road
Louisville, KY 40207
Attorney for Defendant/Appellant

The Honorable Catherine Farris-Carter
P.O. Box 789
Cleveland, MS 38732
Chancery Court Judge of Bolivar County, Mississippi

THIS the 17th day of August, 2012.



Jamie F. Jacks

IN THE CHANCERY COURT OF THE SECOND JUDICIAL DISTRICT
OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

VS.

CIVIL ACTION NO: 2008-0271

LARRY MELVIN SPEAKES

RESPONDENT

ORDER

CAME ON THIS CAUSE FOR HEARING on this the 22nd day of July, 2010, on **Aleta Sindelar Speakes'** *Motion for Visitation, Motion for Order Allowing Full Medical Evaluation by Richard Joseph O'Brien, M.D., Motion to Compel Visitation and Telephone Communication and Motion to Participate Via Telephone*, and the Court, having considered oral and documentary evidence, does hereby find as follows:

I.

As to **Aleta Speakes'** *Motion for Contempt, Motion for Visitation, and Motion to Compel Visitation and Telephone Communication*, the Court finds that there may be telephonic and personal visitation between **Aleta Speakes** and **Larry Speakes**. However, the Court declines to find that the conduct of **Sondra Huerta** is willful; and therefore, she is not found in contempt. The request of **Aleta Speakes** for visitation and telephone communication is reasonable, and she and her counsel should work with **Indywood Personal Care Home** to schedule physical and telephonic visitation in a manner consistent with the testimony of **Sondra Huerta** and **Dr. Steven Clark** given in open court on this date. The telephonic and personal visitation should be conducted at **Indywood** and in cooperation with the staff of **Indywood**.



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II.

As to **Aleta Speakes' Motion for Order Allowing Full Medical Evaluation by Richard Joseph O'Brien, M.D.**, the Court finds that Dr. Steven Clark testified in open court that it would be acceptable for the Ward to have a second medical evaluation, but the Court finds that the Ward should not travel to Maryland. It is therefore the Order of this Court that Aleta Sindelar Speakes may arrange for **Dr. Richard Joseph O'Brien** to come to Cleveland, Mississippi and conduct a medical evaluation of **Mr. Speakes**, but all expenses of this evaluation should be paid by **Aleta Speakes**. These expenses would include, but are not limited to the following: medical fees, professional fees, travel, lodging, meals, etc.

III.

Aleta Speakes' Motion to Participate via Telephone was withdrawn. **Jamie Jacks** attempted to call **Aleta Speakes** as an adverse witness in arguing her *Motion for Repayment of Bank of America Funds & Certificate of Deposit Funds and Motion for Contact Between Ms. Sindelar and Mr. Speakes to Cease*. The Court was unable to hear Aleta Speakes' testimony. It is therefore the Order of the Court that the parties should take a telephonic deposition regarding the issues in that Motion. The telephonic deposition should be limited to the issues raised in the Motion, and the deposition transcript should be marked as Exhibit 4 and entered into the record as Exhibit 4, and will be considered by this Court before ruling on **Sondra Huerta's Motion for Repayment of Bank of America Funds & Certificate of Deposit Funds and Motion for Contact Between Ms. Sindelar and Mr. Speakes to Cease**. **Sondra Huerta's** testimony regarding same may be taken and submitted as Exhibit 5.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. **Aleta Speakes** and her counsel shall work with **Indywood Personal Care Home** to schedule physical and telephonic visitation in a manner consistent with the testimony of **Sondra Huerta** and **Dr. Steven Clark** given in open court on the 22nd day of July, 2010. The telephonic and personal visitation shall be conducted at **Indywood** and in cooperation with the staff of **Indywood**.

2. **Dr. Richard Joseph O'Brien** may come to Cleveland, Mississippi and conduct a full medical evaluation of **Mr. Speakes**, but all expenses of this evaluation shall be paid by **Aleta Speakes**.

3. The parties shall take a telephonic deposition of **Aleta Speakes** regarding the issues in **Sondra Huerta's Motion for Repayment of Bank of America Funds & Certificate of Deposit Funds and Motion for Contact Between Ms. Sindelar and Mr. Speakes to Cease**. The telephonic deposition shall be limited to the issues raised in the Motion, and the deposition transcript shall be marked as Exhibit 4 and entered into the record as Exhibit 4, and shall be considered by this Court before ruling on the Motion. **Sondra Huerta's** testimony regarding same shall be taken, and the deposition transcript shall be marked as Exhibit 5 and entered into the record as Exhibit 5.

4. **Aleta Speakes** shall have ten (10) days from the entry of this Order to respond to Petitioner's *Motion for Rule 11 Sanctions*.

SO ORDERED, ADJUDGED AND DECREED on this the 24 day of ^{August} ~~July~~, 2010.

W. H. Willard
CHANCELLOR

*Approved as to form
and for entry only:*

T.K. MOFFETT (MSB: 3402)
Attorney for Aleta Sindelar Speakes

JAMIE F. JACKS (MSB: 101881)
Attorney for Sondra Huerta

IN THE CHANCERY COURT OF THE SECOND JUDICIAL
DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

CIVIL ACTION NO. 2008-0271

LARRY MELVIN SPEAKES

RESPONDENT

ORDER

THIS DAY cause came on to be heard the Motion for Contempt, Motion to Set Aside Order Approving Accounting, Motion to Recuse, Motion to Set Aside Order Dismissing Claims of Aleta Speakes, Motion for a Final Judgment, Motion to Compel Conservator to Add Parties to Insurance, Renewed Motion for Lack of Jurisdiction, Renewed Motion to Compel Accounting and Other Relief, and Renewed Motion to Appoint Guardian Ad Litem and this Court having heard oral argument and received briefs and evidence from the parties does hereby find as follows:

Motion for Contempt

This Court finds that the Conservator has acted in the best interest of the ward regarding the ward's visitation schedule with others and in her general care taking duties of the ward. As such, this Motion is denied. The parties have agreed to abide by the visitation schedule as set forth in a separate order of this Court. Further, inasmuch as this Motion for Contempt addressed any matters dealing with the original Motion for Contempt previously ruled on by this Court, on November 3, 2009, this Court declines to enter a second Order regarding same.



Motion to Set Aside Order Approving Accounting

This Court has previously ruled that Aleta Sindelar Speakes has no standing to contest any expenditure or accounting made in this Conservatorship as she forfeited her rights to any asset of the Estate in the January 15, 2009 Order. This January 15, 2009 Order was agreed to by the parties. As such, Sindelar-Speakes has no standing to contest any aspect of the presentation or contents of the Conservator's accounting filed in this Court. Moreover, the accounting in this Conservatorship was timely filed and this Court found all expenditures proper and in the best interest of the ward. Accordingly, this Motion is denied.

Motion to Recuse

This Court denies the Motion to Recuse and specifically finds that this Court had no relationship to the parties nor any interest in this litigation which would even remotely call for a recusal. Finally, the allegation that this Court's perception of Ms. Sindelar-Speakes was somehow tainted by the presentation of the Petition to Establish Conservatorship is without merit as this Court had all of the necessary parties and evidence before it to establish this Conservatorship and established the instant Conservatorship in the same manner as all like matters brought before this Court.

Motion to Set Aside Order Dismissing Claims of Aleta Speakes

This Court denies the Motion to Set Aside Order Dismissing Claims of Aleta Sindelar Speakes. In this Motion, Sindelar argues that she was not given ample time to respond to the "Motion to Strike" filed by Conservator Huerta. This argument is without merit. First, the "Motion to Strike" was a "Response and Motion to Strike" filed by Conservator Huerta in reaction to the multiple motions filed by Sindelar and noticed for hearing before this Court on

September 8, 2009. As such, all of the arguments made by Conservator Huerta in her "Response and Motion to Strike" were arguments in response to the allegations made by Sindelar. As such, because Sindelar noticed her multiple motions for the September 8, 2009 hearing, Sindelar should have been prepared for all arguments responding to those same matters so noticed. Further, this Court finds that any motion to vacate an order should be presented pursuant to Mississippi Rule of Civil Procedure 60(b). The instant Motion is not so presented, nor is there any justification under M.R.C.P. 60(b) for granting this Motion.

Motion for Final Judgment

Sindelar-Speakes next requests a "Final Judgment" as to all outstanding issues presented to this Court. While this Court will enter a "Final Judgment" as to any new issues presented by Ms. Sindelar-Speakes, this Court declines to enter a second judgment on matters it has already ruled upon. Specifically, this Court has already ruled upon the Sindelar-Speakes "Motion to Set Aside Conservatorship, Vacate Subsequent Court Orders and for Other Relief", Motion to Compel Accounting", "Motion for Contempt", "Motion to Appoint Guardian Ad Litem" and "Motion for Citation for Contempt" and no further rulings are needed.

Motion to Compel Conservator to Add Parties to Insurance

This Motion is denied. The Estate of Larry Speakes is without the current monthly income to afford the insurance requested, nor is this Court of the opinion that providing insurance for Sindelar-Speakes and the ward's step children serves the best interest of the ward.

Renewed Motion for Lack of Jurisdiction

This Court has previously ruled on Sindelar-Speakes' "original" Motion to Dismiss Conservatorship for Lack of Jurisdiction. This "renewed" Motion attempts to re-argue that very same "original" Motion contesting this Court's jurisdiction. This Court declines to enter a

judgment on a matter previously decided by this Court. (See Orders of September 10, 2008 and November 3, 2009). Moreover, Sindelar-Speakes has not presented this renewed Motion in the form of a Mississippi Rule of Civil Procedure 60(b) Motion to Set Aside Judgment, nor has Sindelar-Speakes presented any argument that this Motion should be granted pursuant to M.R.C.P. 60(b).

Renewed Motion to Compel Accounting

This Court has previously ruled on Sindelar-Speakes' "original" Motion to Compel Accounting. This "renewed" Motion attempts to re-argue that very same "original" Motion contesting the Conservator's presentation of an accounting to this Court. This Court declines to enter a judgment on a matter previously decided by this Court. (See Order of November 3, 2009). Moreover, Sindelar-Speakes has not presented this renewed Motion in the form of a Mississippi Rule of Civil Procedure 60(b) Motion to Set Aside Judgment, nor has Sindelar-Speakes presented any argument that this Motion should be granted pursuant to M.R.C.P. 60(b).

Renewed Motion to Appoint Guardian Ad Litem

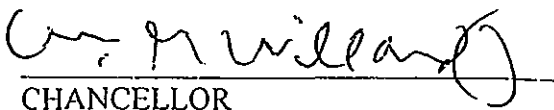
On November 3, 2009, this Court denied Sindelar-Speakes' original "Motion to Appoint Guardian Ad Litem" regarding all matters relating to Conservator Huerta posting a bond, allegations she breached her fiduciary duties and allegations she was "not acting in the best interest of the ward". On November 3, 2009, this Court found that Ms. Huerta had met all bond, accounting and fiduciary obligations and, in fact, had established the instant Conservatorship to care for her mentally ailing father who was not receiving the supervision and care he needed. As such, the Court did not require a Guardian Ad Litem be utilized in this Conservatorship, nor does the Court find any need for a Guardian Ad Litem to be appointed today. In fact, Dr. Steven Clark testified that Ms. Huerta has done an excellent job caring for her mentally ailing father and this

Court, after hearing the testimony of witnesses and reviewing documentary evidence, concurs with that opinion. *Mississippi Code Annotated* §9-5-89 states that it is within the discretion of the chancellor as to whether to appoint a Guardian Ad Litem in a conservatorship. This Court is of the opinion that because of the facts of the instant case, the appointment of a Guardian Ad Litem is not in the ward's best interest.

It is therefore ORDERED, ADJUDGED and DECREED that Ms. Sindelar Speakes' Motion for Contempt (to the extent not already ruled upon by this Court on November 3, 2009) is denied, Ms. Sindelar-Speakes' Motion to Set Aside Order Approving Accounting is denied, Ms. Sindelar Speakes' Motion to Recuse is denied, Ms. Sindelar Speakes' Motion to Set Aside Order Dismissing Claims of Aleta Speakes is denied, Ms. Sindelar Speakes' Motion for a Final Judgment is granted to the extent that this Court will enter a final judgment as to all matters not previously ruled on by this Court, Ms. Sindelar Speakes' Motion to Compel Conservator to Add Parties to Insurance is denied, Ms. Sindelar Speakes' Renewed Motion for Lack of Jurisdiction and Renewed Motion to Compel Accounting and Other Relief are denied by this Court on the basis that this Court has already denied these same Motions and Ms. Sindelar Speakes' Motion to Appoint Guardian Ad Litem (to the extent not already ruled upon by this Court on November 3, 2009) is denied.

ORDERED, ADJUDGED AND DECREED on this, the 24 day of

August, 2010.


CHANCELLOR

IN THE CHANCERY COURT OF THE SECOND JUDICIAL
DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

CIVIL ACTION NO. 2008-0271

LARRY MELVIN SPEAKES

RESPONDENT

ORDER

THIS DAY came on to be heard in this cause Movant Aleta Sindelar's Motion to Dismiss or Set Aside Conservatorship for Lack of Jurisdiction based on issues relating to the residency of the Ward Larry Melvin Speakes and for Other Grounds. After conferring, the parties agree and confess this Court's jurisdiction. Because of this agreement and confession, this Court finds that it had jurisdiction over this matter at the time the instant conservatorship was established and continues to retain jurisdiction in this cause. The parties further agree and the Court finds the above referenced motion and jurisdictional challenge are withdrawn.

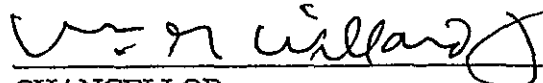
Further, the Court notes that the parties have conferred and agreed that Movant Aleta Sindelar shall submit to Conservatrix Speakes a detailed accounting of any and all actions, financial or otherwise, that Sindelar has taken pursuant to the Power of Attorney. Should the Conservatrix and Sindelar not be able to resolve any differences over the actions so taken, if any, that matter will be submitted to this Court for its review and final determination.

Finally, it is further noted that the parties have agreed to provide Ms. Sindelar with reasonable contact and visitation with the Ward Larry Melvin Speakes.

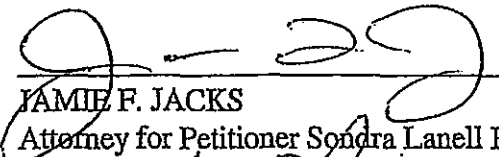


ORDERED, ADJUDGED AND DECREED on this, the 10 day of


Sept., 2008.


CHANCELLOR

Agreed to as to form and substance by:


JAMIE F. JACKS

Attorney for Petitioner Sondra Lanell Huerta Speakes


JEFFREY A. LEVINGSTON

Attorney for Movant Aleta Sindelar

IN THE CHANCERY COURT OF THE SECOND JUDICIAL
DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

CIVIL ACTION NO. 2008-0271

LARRY MELVIN SPEAKES

RESPONDENT

ORDER

THIS DAY Petitioner Sondra Lanell Speakes Huerta's Motion for Accounting and other relief came on for hearing along with Respondent Aleta Sindelar's Counterclaim for visitation rights. After deliberation, the parties have agreed to settle the claims which are the subject of the hearing and this Court hereby approves said settlement and orders as follows:

That in consideration of Petitioner Speakes relieving Ms. Sindelar of any obligation to repay the Estate of Larry Speakes the \$112,259.00 removed from Larry Speakes' Bank of America account from February 2008 through November 2008, the following actions shall occur:

1. Ms. Sindelar shall be removed as joint owner, signatory and/or beneficiary from any and all accounts she holds with Mr. Speakes and relinquishes all rights to take under any account held by Mr. Speakes, whether known or unknown at this time by Petitioner. These accounts would include, but are not limited to, checking accounts, investment accounts, savings accounts, all retirement accounts and plans (401k or otherwise), annuities and the like.
2. Ms. Sindelar shall be removed as joint owner from any and all certificates of deposit presently held by Mr. Speakes and Ms. Sindelar jointly or which are any



way payable to Ms. Sindelar. If Ms. Sindelar has cashed any certificate of deposit, purchased with Larry Speakes' funds, she shall reimburse those funds to the Estate of Larry Speakes.

3. Ms. Sindelar will, without delay, execute any and all documents required by any account holders, banks, retirement plans or other institutions to accomplish the removal of her name and the relinquishment of any of her interest in and to the fund and accounts referred to in this Order.
4. Ms. Sindelar shall pay the current balances owed on a Shell credit card (held in Larry Speakes' name) and a Macy's credit card (held in Larry Speakes' name). Ms. Sindelar shall also reimburse the Estate of Larry Speakes \$801.00 which she removed from Mr. Speakes' account to pay the Shell credit card bill in November 2008. Ms. Sindelar shall also return the actual credit cards to Conservatrix Huerta.
5. If there is found to be any withdrawal or expenditure (other than the \$112,259.00 mentioned above) made by Ms. Sindelar using Larry Speakes' funds, Ms. Sindelar shall perform an immediate, detailed accounting to this Court of that expenditure and how it benefitted Mr. Speakes. If the expenditure is not found to have benefitted Mr. Speakes, then Ms. Sindelar shall reimburse those funds to the Estate of Larry Speakes.
6. The parties will confer with Dr. Steven Clark, Mr. Speakes' current treating physician, regarding his recommendation for the method, duration and substance of communication which may occur between Ms. Sindelar and Mr. Speakes. The parties agree to accept Dr. Clark's recommendation. The parties agree that said

communication authorized by Dr. Clark shall be monitored. Dr. Clark's recommendations are that telephonic and physical visitation between Mr. Speakes and Ms. Sindelar is reasonable as long as the visitation does not upset or agitate the ward in any way.

7. The Court finds "reasonable" visitation to mean twice weekly phone calls, on Wednesday evenings at 7:30 p.m. (CST) and Sunday evenings at 5:00 p.m. (CST), with such calls not to exceed fifteen minutes in duration. Ms. Sindelar shall initiate these calls. The Court further finds "reasonable" physical visitation between Mr. Speakes and Ms. Sindelar to mean 8-10 visits per year in Cleveland, Mississippi, with Ms. Sindelar giving Ms. Huerta thirty (30) days written notice of her intention to visit Mr. Speakes. Additionally, should Mr. Speakes ever travel to the Washington D.C. area, Ms. Sindelar may request a visit with Mr. Speakes during his time in Washington D.C.. And, if such requested visit is convenient to Ms. Huerta and her family, the Court would instruct Ms. Huerta to be considerate of that request.
8. Beginning at 8:00 a.m.(EST) on Saturday, January 17, 2009, Ms. Sindelar shall immediately make available for return to Conservatrix Huerta or her agent, all of Mr. Speakes' personal property over which she has custody or control including, but not limited to, any clothing, household furniture and appliances, pictures, papers and art work as well as a guitar owned by Mr. Speakes and two Comcast DVR machines. This return of Mr. Speakes' property shall also include Mr. Speakes' vehicle (believed to be a 2004 Yukon). If title to said vehicle has been transferred to Ms. Sindelar, Ms. Sindelar shall transfer title to the vehicle to the

Estate of Larry Speakes. Ms. Sindelar shall, by 6:00 p.m. (EST) on Thursday, January 15, 2009, make known to Conservatrix Huerta or her agent, the location where all of the personal effects (including the vehicle) may be retrieved. Further, Ms. Sindelar shall accommodate Ms. Huerta or her agent in every way in facilitating the retrieval of these items as soon as arrangements can be made by Huerta. Further, this Court orders that all of Mr. Speakes' personal property referenced herein shall be transferred to Ms. Huerta or her agent, by 6:00 p.m. (EST) on Sunday, January 19, 2009.

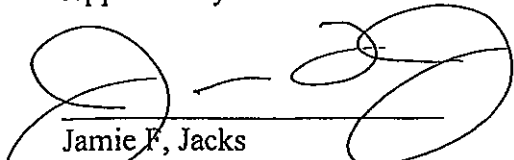
9. Ms. Sindelar has agreed to and does hereby waive and release forever, any claim for inheritance, widow's allowance or otherwise which she might have, under any state law, from the Estate of Larry Speakes upon his death. In other words, upon the death of Larry Speakes, Sindelar shall receive nothing from his Estate, and this is so Ordered by the Court.
10. The Power of Attorney, Advanced Medical Directive, Trust and funding instruments, and Last Will and Testament of Larry Speakes, all dated February 21, 2008, which are the subject of the instant motion filed by Huerta, are hereby cancelled, nullified and shall have no force and effect.


ORDERED, ADJUDGED AND DECREED on this, the 15 day of

Jan, 2009.

W. J. Villanueva
CHANCELLOR

Approved by:



Jamie F. Jacks
Attorney from Sondra Speakes Huerta

Jeffrey Levingston
Attorney for Aleta Sindelar

IN THE CHANCERY COURT OF THE SECOND JUDICIAL DISTRICT
OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

VS.

CIVIL ACTION NO: 2008-0271

LARRY MELVIN SPEAKES

RESPONDENT

NOTICE OF APPEAL

BY THIS NOTICE, Aleta Sindelar Speakes appeal to the Supreme Court of Mississippi against the Petitioner, Sondra Lanell Speakes Huerta, from the *Orders* entered in this cause on or about the 24th day of August, 2010.

RESPECTFULLY SUBMITTED, this the 22nd day of September, 2010.

ALETA SINDELAR SPEAKES

BY:


T.K. MOFFETT (MSB) 
Attorney for Aleta Sindelar Speakes

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BRENETT N. HAYNES, CHANCERY CLERK

BY  D.C.



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CERTIFICATE OF SERVICE

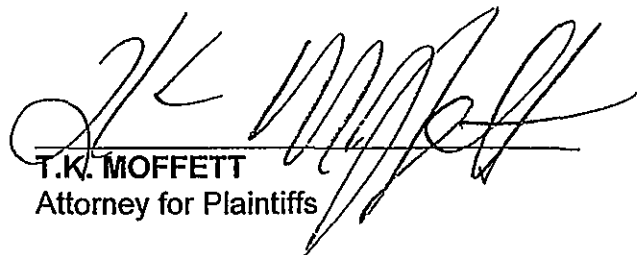
This is to certify that I, T.K. MOFFETT, have this day delivered a true and correct copy of the above and foregoing **NOTICE OF APPEAL** to the following individuals by placing a copy of same in United States Mail, postage prepaid, and mailing same to them at their usual mailing addresses as follows and at their usual facsimile number:

Honorable Jamie F. Jacks
Jacks, Adams & Norquist, PA
PO Box 1209
Cleveland, MS 38732

Honorable Jackson M. Andrews
Attorney at Law
530 Starks Building
Louisville, KY 40202

Mrs. Joyce M. Redmond
PO Box 22
Clarksdale, MS 38614

Dated, this the 22nd day of September, 2010.


T.K. MOFFETT
Attorney for Plaintiffs

PREPARED BY:

MOFFETT LAW FIRM, PLLC
401 NORTH MAIN STREET
AMORY, MS 38821
TELEPHONE: (662) 257-0809
FACSIMILE: (662) 257-9988

IN THE CHANCERY COURT OF THE SECOND JUDICIAL
DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES

SONDRA LANELL SPEAKES HUERTA

PETITIONER

CIVIL ACTION NO. 2008 - 0271

LARRY MELVIN SPEAKES

RESPONDENT

MOTION FOR REPAYMENT OF BANK OF AMERICA FUNDS AND CERTIFICATE
OF DEPOSIT FUNDS BY ALETA SINDELAR, MOTION FOR CONTACT BETWEEN
MS. SINDELAR AND MR. SPEAKES TO CEASE

COMES NOW Sondra Lanell Speakes Huerta, and files this Motion and for grounds
thereof shows:

1. On August 11, 2008, Sondra Lanell Speakes Huerta was granted letters of conservatorship over the person and property of her father Larry Melvin Speakes. (See attached Exhibit "A" Letters of Conservatorship).
2. Speakes' wife Aleta Sindelar has confessed the jurisdiction of this Court over her person and this matter. (See attached Exhibit "B" Order of Aleta Sindelar's Motion to Dismiss or Set Aside Conservatorship for Lack of Jurisdiction dated September 10, 2008).
3. By agreement of the parties (Ms. Sindelar and the Estate of Larry Speakes) and by Order of this Court, after a previous hearing on a motion for accounting and other matters, a settlement was reached and the Order reflecting such settlement was entered and ordered by the Court as follows:

"If Ms. Sindelar has cashed any certificate of deposit, purchased with Larry Speakes' funds, she shall reimburse those funds to the Estate of Larry Speakes". (See Order of Motion for



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Accounting dated January 15, 2009 attached as Exhibit "C" at paragraph 2).

Further, regarding contact with Mr. Speakes, the parties agreed and the Court found:

"Dr. Clark's recommendations are that telephonic and physical visitation between Mr. Speakes and Ms. Sindelar is reasonable as long as the visitation does not upset or agitate the ward in any way". (*Id.* at paragraph 6).

4. Regarding the certificates of deposit held by Mr. Speakes and purchased with Mr. Speakes' funds, the Estate of Larry Speakes has now obtained copies of statements from Mr. Speakes' United States Postal Service Federal Credit Union fund. This account held and continues to hold certificates of deposit purchased with Mr. Speakes' funds. (See USPSFCU statements attached as Exhibit "D"). The statements show Ms. Sindelar was added to this account in December 2007 and immediately began cashing certificates of deposit and transferring the proceeds out of the account. Specifically, the transfers made by Ms. Sindelar began on January 15, 2008 and are as follows:

January 15, 2008	Withdrawal of \$2,000.00 (plus 5.00 fee)
April 4, 2008	Withdrawal of \$4,000.00
April 17, 2008	\$8,181.23 is transferred to checking and \$7,000.00 of that transfer is withdrawn by the next statement.
July 30, 2008	\$12,000.00 is transferred to checking and is withdrawn on August 11, 2008

These withdrawals made by Ms. Sindelar total \$25,000.00 and are highlighted in the attached exhibit for the Court's convenience and review.

Because the plain language of the Order states that Ms. Sindelar shall reimburse the Estate of Larry Speakes for all monies obtained by her cashing Mr. Speakes' certificates of

deposit, she should be ordered to immediately remit to the Estate of Larry Speakes the \$25,000.00 taken by her from the above referenced account.

Moreover, on January 2, 2009, Ms. Sindelar transferred \$455.00 from Mr. Speakes' Bank of America account. (See January 2009 statement from Bank of America attached as Exhibit "E "). This transfer occurred after Mr. Speakes had been under a conservatorship for approximately five months and could not have been for Mr. Speakes' benefit. As such, Ms. Sindelar should be ordered to immediately repay to the Estate of Larry Speakes the \$455.00 wrongfully taken from his Bank of America account.

5. Additionally, since the above referenced Order was entered there have been multiple telephonic contacts between Mr. Speakes and Ms. Sindelar. Following these telephone conversations, Dr. Clark has both spoken with Mr. Speakes' care givers and has examined Mr. Speakes and states:

"After visiting with Mr. Speakes and his current caretakers it is clear that some of the content in his telephone visits is causing disturbance in his activities of daily living...Something in the content of the conversation repeatedly causes the patient unrest and a relative disturbance of the patient's and caretaker's activities". (See correspondence from Dr. Steven Clark attached as Exhibit "F").

Because the parties agreed that they would abide by Dr. Clark's recommendation regarding visitation and Dr. Clark stated that the visitation could not "disrupt the ward in any way", the conversations between Ms. Sindelar and Mr. Speakes should no longer occur. Dr. Clark has now stated that the conversations between Ms. Sindelar and Mr. Speakes are causing a disturbance to Mr. Speakes. As such, per this Court's Order and the parties' agreement, the conversations between Mr. Speakes and Ms. Sindelar should cease.


WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that this Court order Ms. Sindelar to remit to the Estate of Larry Speakes, the \$25,000.00 Ms. Sindelar

withdrew from Mr. Speakes' certificate of deposit account. Ms. Sindelar should also be ordered to repay to the Estate the \$455.00 she removed from Mr. Speakes's Bank of America account in January of this year. Moreover, because Dr. Clark has found the conversations between Ms. Sindelar and Ms. Speakes are disruptive to Mr. Speakes, this Court should order these conversations cease.

Respectfully submitted on this the 9th day of March, 2009.

JACKS, ADAMS & NORQUIST, P. A.
Attorneys for Sondra Lanell Speakes Huerta

By: 

JAMIE FERGUSON JACKS
Post Office Box 1209
Cleveland, Mississippi 38732
Telephone: 662/843-6171
Miss. Bar No. 

CERTIFICATE OF SERVICE

I, JAMIE FERGUSON JACKS, attorney for Sondra Lanell Speakes Huerta, do hereby certify that I have this date mailed, postage prepaid, a true and correct copy of the above and of the foregoing Motion for Repayment of Certificate of Deposit Funds by Aleta Sindelar; Motion for Contact Between Ms. Sindelar and Mr. Speakes to Cease to:

Jeffrey A. Levingston
P.O. Box 1327
Cleveland, MS 38732

So certified on this the 9th day of March, 2009.


JAMIE FERGUSON JACKS

IN THE CHANCERY COURT OF THE SECOND JUDICIAL
DISTRICT OF BOLIVAR COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
FOR THE PERSON AND ESTATE OF
LARRY MELVIN SPEAKES
SONDRA LANELL SPEAKES HUERTA

PETITIONER

CIVIL ACTION NO. 2008 - 0271

LARRY MELVIN SPEAKES

RESPONDENT

MOTION FOR CITATION OF CONTEMPT AND RULE 11 SANCTIONS

COMES NOW Sondra Lanell Speakes Huerta, and for cause of this Petition, would show unto the Court the following facts, to-wit:

1. Petitioner has been appointed the Conservator of the Person and Estate of Larry Speakes and Mr. Speakes has been in the care of Petitioner since July 1, 2008.
2. After the conservatorship was established, Aleta Sindelar Speakes ("Sindelar") moved to set the conservatorship aside arguing this Court lacked jurisdiction. After a hearing on the matter, Sindelar agreed by way of a signed Consent Order that she would not pursue the jurisdictional challenge "based on issues relating to residency". (See Order dated September 10, 2008 attached as Exhibit "A"). This Consent Order was agreed to as to both "form" and "substance". *Id.* In a separate, subsequent Consent Order, signed and agreed to by the parties, Sindelar also agreed that she would forfeit her claim to any of the assets of the Estate of Larry Speakes and would declare her Power of Attorney void, in return for the Estate forgiving more than \$112,000.00 in funds Sindelar wrongfully withdrew from Mr. Speakes' accounts. (See January 15, 2009 Order attached as Exhibit "B").
3. Since the establishment of the conservatorship, Speakes' children have provided twenty-four hour care for their mentally ailing father. In the meantime, Sindelar has only maintained Larry



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BY *Elena Shelton* D.C.

Speakes' Estate of funds and resources, by failing to abide by the agreements she signed with the Estate and which were entered before this Court. As such, Sindelar should be cited for civil contempt and charged for all of the damages and attorney fees arising out of that contempt.

4. Specifically, almost a year after agreeing to withdraw her jurisdictional challenge and after Sindelar agreed that she had no claim to any Estate asset, Sindelar filed a flurry of motions, after hiring a new attorney, alleging this Court's lack of jurisdiction over this Conservatorship. The following motions are without merit and Sindelar should be taxed with the Estate's costs in responding to same: Regarding the issues related to the accounting and jurisdiction, Ms. Sindelar should have to pay all costs and fees associated with responding to Ms. Sindelar's Motion to Set Aside Conservatorship (filed 7/9/09), Motion to Compel Accounting (filed 8/24/09), Motion to Remove Conservator (filed 8/24/09), Amended Motion to Remove Conservator (filed 8/25/09), Motion to Appoint Guardian Ad Litem (filed 8/27/09) and Amended Motion to Set Aside Conservatorship (filed 8/31/09). Additionally, Ms. Sindelar should be required to repay the Estate all costs associated with the appeal of the meritless jurisdictional challenge raised by Ms. Sindelar and brought before the Mississippi Supreme Court. These motions all presented arguments which were without merit, frivolous and were only intended to harass Conservator Huerta and delay justice in this cause. Ms. Sindelar agreed to this Court's jurisdiction and then attempted to avoid that agreement. Such behavior should not be condoned by this Court. As such, Ms. Sindelar should repay the Estate of Larry Speakes \$24,225.00 which are the attorney fees and costs associated with responding to the above referenced, frivolous motions. Finally, this Court should order Ms. Sindelar to pay all costs and legal expenses related to defending the third round of motions filed by Ms. Sindelar in July 2010 which touched on any matter

previously ruled upon by this Court and/or agreed to by way of Consent Order by Ms. Sindelar. Those matters are as follows: Renewed Motion for Lack of Jurisdiction, Renewed Motion to Compel Accounting and Renewed Motion to Appoint Guardian ad Litem. The attorney fees for responding to the last series of motions and appearing before this Court in a hearing on these matters totals \$3,840.00.

5. Moreover, Ms. Sindelar's behavior has also caused the sale of Mr. Speakes' Virginia condominium to fail on not once, but two occasions, costing the Estate thousands of dollars in mortgage, condo and attorney fees. Ms. Sindelar caused this damage, by raising a jurisdictional challenge she agreed to concede and by contacting the buyers directly and telling them this Conservatorship was a "fraud". As such, Sindelar should be held in contempt and should be liable to the Estate for the lost sales of the condominium and all of the mortgage and condo fees incurred by the Estate because of the lost sales.

6. Mr. Speakes owns a condominium in Virginia which is not producing any income for the Estate. The condominium mortgage and fees are \$2,189.00 per month. Mr. Speakes lives in Cleveland, Mississippi, and is not in need of the condominium. The condominium is and always has been in Mr. Speakes' name only.

7. On July 29, 2009, Conservator Huerta first petitioned this Court to sell the condominium. The condominium was listed with a licensed real estate broker at a price of \$425,000.00. The sales price was \$420,000.00 and the taxed value of the condominium was \$411,800.00. (See Contract attached as Exhibit "C" and tax document attached as Exhibit "D").

8. Sindelar objected to the sale of the condominium, even though the sales price was more than the tax value and the realtor handling the sale stated that this was an excellent price scenario

in the current market. (See Realtors Gayle Damelin and Eva Damelin's affidavits attached as Exhibit "E"). Over Sindelar's objection, this Court found the sale of the condominium was in the ward's best interest and ordered the property be sold. (See Order approving sale attached as Exhibit "F").

9. Despite this Court's ruling on the sale, Ms. Sindelar's agreement to the Court's jurisdiction and her agreement that she had no claim to any asset of the Estate, Sindelar and/or her attorney engaged in the following behavior related to the sale of the condominium:

- (a) she continued pursuing her "new" jurisdictional challenges; and
- (b) her attorney contacted the buyers directly to "warn" them that this Court had no jurisdiction (admitted by attorney Jackson Andrews in front of this Court on July 22, 2010).

10. Sindelar's desire and efforts to stop the sale of the condominium worked as, once the title insurance company learned of the ongoing jurisdictional challenge alleged by Ms. Sindelar, it refused to write title insurance on the property and the first set of buyers backed out of the sale.

11. On September 8, 2009, this Court heard Sindelar's second round of jurisdictional arguments and entered an Order denying all claims, finding that this Court has and has always had jurisdiction over this Conservatorship. (See November 3, 2009 Order attached as Exhibit "G"). In a November 3, 2009 Order, this Court found that the Consent Decrees that Sindelar agreed to in September 2008 and January 2009 were binding contracts and she could not avoid the contracts by saying she simply did not agree to their terms.

12. Sindelar then took an Interlocutory Appeal on the matters ruled on to the Mississippi Supreme Court, which summarily denied her appeal and her motion for rehearing.

13. Following the Mississippi Supreme Court ruling, the Estate of Larry Speakes once again attempted to place the ward's Virginia condominium on the market and, once again, the Estate received this Court's approval for selling same. The sales price for the second sale was \$420,000.00 (with the payment of \$10,000.00 in closing costs). Again, because the sales price was nearly that of the taxed value and because the sale was in the ward's best interest, this Court approved the sale. (See Order approving second sale attached as Exhibit "H").

14. Following this Court's order approving this second sale, Sindelar and her attorneys began, once more, to try and stop the sale of the condominium by, once more, engaging in the following behavior:

(a) Sindelar's attorney Jack Andrews contacted the buyers directly and told them this Conservatorship was fraudulently obtained and that the Mississippi Supreme Court still had yet to rule on the jurisdictional issues. He also stated that Ms. Sindelar had a power of attorney over Mr. Speakes even though the January 15, 2009 Consent Order specifically states that any Power of Attorney held by Sindelar in favor of Mr. Speakes is null and void. (See January 15, 2009 Order attached as Exhibit "I" and letter from attorney Jack Andrews attached as Exhibit "J").

(b) Sindelar then began re-filing motions (now for the third time) related to this Court's alleged lack of jurisdiction. On July 22, 2010, this Court ruled from the bench that all of the renewed jurisdictional challenges have no merit.

15. Once again, Sindelar's efforts to stop the second sale of the condominium were successful as, once again, the title insurance company would not write title insurance because of Sindelar's ongoing jurisdictional challenges and the second buyers cancelled the contract. The

title insurance company would have accepted a "joinder" in the sale by Ms. Sindelar, but that Ms. Sindelar has refused to give.

16. Sindelar is in contempt of this Court by time and again failing to abide by the Consent Orders she signed where she specifically agreed to this Court's jurisdiction and she specifically agreed that she had no interest in any asset of the Estate. The regurgitated jurisdictional challenges are harmful enough to the Estate's resources, but Sindelar's behavior has now caused something more - a stalemate in the sale of the largest drain on the Estate's assets, the Virginia condominium.

17. A citation for civil contempt is proper when the contemnor has willfully and deliberately ignored the order of the court. *Showers v. Norwood*, 914 So. 2d 758 (Miss. Ct. App. 2005). Fines in civil contempt are payable to the party injured by noncompliance with the court's order, and are ordinarily related to, and should not exceed, the injured party's proved losses and litigation expenses, including counsel fees. *Morris v. Walden*, 856 So. 2d 705 (Miss. Ct. App. 2003). Moreover, Rule 11 sanctions are appropriate when a party files a motion which, in the opinion of the court, is frivolous or is filed for the purpose of harassment or delay. *Mississippi Rule of Civil Procedure* 11(b). If the court makes a finding of sanctionable behavior under Rule 11, the court may grant to the opposing party reasonable expenses incurred by the party and their attorneys, including attorney fees. *Id.*

18. In this case, Ms. Sindelar has willfully and deliberately disobeyed the Consent Orders agreed to by the parties and entered by this Court. As such, she should be cited for contempt and is liable to the Estate for the damages and losses arising out of her behavior. Specifically, she has purposefully engaged in drafting motion after motion designed to attack this Court's jurisdiction

when she agreed to this Court's jurisdiction and she has continuously attempted to attack the Estate's accounting when she specifically agreed that she had no interest in any asset of the Estate. These challenges were without merit and amount to contempt. Likewise, the filings are sanctionable under Rule 11 of the Mississippi Rules of Civil Procedure as the challenges were frivolous and are only designed to harass and delay justice in this cause. Because of her contempt and conduct sanctionable under Rule 11, Sindelar should be taxed with paying all costs incurred by the Estate of Larry Speakes in defending those challenges which, on July 1, 2010, totaled \$24,225.00. Additionally, the Estate incurred and continues to incur significant expense in responding to the motions noticed and heard on July 22, 2010. Those motions included challenges (for the third time) to this Court's jurisdiction and the Estate's accounting.

19. Finally, the above referenced behavior has also caused the Estate to be paralyzed in the sale of the ward's Virginia condominium. But for Ms. Sindelar's renewed jurisdictional challenges and personal contact with the buyers, the condominium would be sold. Sindelar has cost the Estate \$26,268.00 in mortgage and condominium fees since September of 2008 plus court fees and other costs.

WHEREFORE, PREMISES CONSIDERED, Petitioner requests the Court find Ms. Sindelar in civil contempt for willfully and deliberately disobeying the Consent Decrees signed in this matter on September 10, 2008 and January 15, 2009. Further, Petitioner requests that as a result of the behavior of Ms. Sindelar, she should be assessed with attorney fees, costs, the mortgage payments/fees on the condominium since the first sale was cancelled as well as any other relief the court deems appropriate to punish Sindelar for her contemptible conduct. Sindelar should also be ordered by this Court to sign a Joinder and Waiver of any claim to any future sale

of the ward's condominium. In filing this Motion, Petitioner adopts and incorporates by reference all arguments related to Rule 11 sanctions filed with this Court in Petitioner's Response dated July 22, 2010. Petitioner prays for general relief.

RESPECTFULLY SUBMITTED on this the 13th day of August, 2010

SANDY SPEAKES HUERTA

By: Sandy Speakes Huerta

Represented by:

Jamie F. Jacks,

Attorney for Sondra Lanell Speakes Huerta

Post Office Box 1209

Cleveland, MS 38732

Telephone: 662-843-6171

Miss. Bar No. 101881

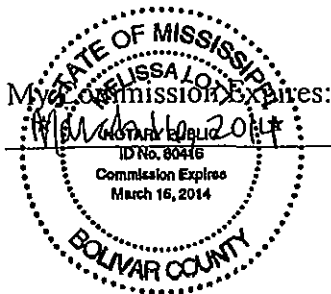
STATE OF MISSISSIPPI
COUNTY OF BOLIVAR

Personally appeared before me, the undersigned authority in and for the aforesaid State and County, SANDY SPEAKES HUERTA, who after being by me first duly sworn on oath states that the facts and matters set out in the above and foregoing Motion for Citation of Contempt and Rule 11 Sanctions are true and correct as therein stated.

BY: Sandy Speakes Huerta
SANDY SPEAKES HUERTA

SWORN TO AND SUBSCRIBED before me, this the 13th day of August, 2010.

Melissa Holt
NOTARY PUBLIC



CERTIFICATE

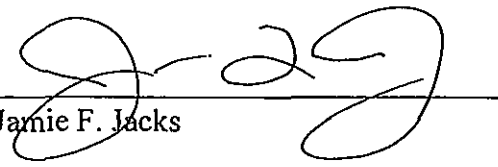
I, Jamie F. Jacks, attorney for Petitioner Sondra Lanell Speakes Huerta, do hereby certify that I have this date mailed, postage prepaid, a true and correct copy of the above and foregoing *Motion for Citation of Contempt and Rule 11 Sanctions* to the following:

Terrill Kay Moffett
P.O. Drawer 1707
Tupelo, MS 38802-1707

George S. Whitten, Jr.
P. O. Box 4773
Jackson, MS 39296

Jackson M. Andrews
530 Starks Bldg.
Louisville, KY 40202

THIS the 13th day of August, 2010.



Jamie F. Jacks