

IN THE CIRCUIT COURT IN AND FOR
SEMINOLE COUNTY, FLORIDA

PROBATE DIVISION
FILE NO.: 2017GA001200

IN RE: GUARDIANSHIP OF

JAN GARWOOD

**MOTION FOR SANCTIONS AND MEMORANDUM
OF LAW IN SUPPORT THEREOF**

COMES NOW Petitioner, Denise Y. Willis (Willis), plenary guardian of the ward Jan Garwood, by and through her undersigned counsel, and files this Motion for Sanctions against Attorneys Vito M. Roppo (Roppo) and Jimmie D. Bailey III (Bailey), and the law firm of Colosseum Counsel, PLLC, (Colosseum) and would respectfully show the Court as follows:

1. Denise Y. Willis is the plenary guardian of the person and property of JAN GARWOOD (the Ward). Letters of successor guardianship were issued on August 15, 2018.

2. On or about November 13, 2019, the Ward apparently contacted Roppo of the Naples, Florida, law firm of Colosseum Counsel, PLLC, seeking legal representation. Despite knowing that the Ward was totally incapacitated and a ward of the State of Florida, Roppo arranged to have a medical doctor perform an evaluation/examination of the Ward without first obtaining the consent of the Ward's guardian. On or about January 14, 2020, Roppo, Bailey and Colosseum filed their Motion for Representation of Ward, Jan Garwood (Motion for Representation).

3. The Motion for Representation includes an exhibit consisting of a letter recounting a December 13, 2019, telephone examination of the Ward by Susan O. Cassidy (Cassidy), MD, JD, undertaken at the request of Roppo. Cassidy, an attorney, admits in the letter knowing "Ms. Garwood is currently a Ward of the State of Florida." Despite such knowledge, Cassidy proceeded with a medical examination of the Ward without the knowledge or consent of the Ward's guardian.

4. The letter's lack of credibility is obvious from the beginning when it begins by acknowledging Cassidy has no knowledge of the legal proceedings undertaken in this matter and has no knowledge of any of the prior examining committee reports, medical records or social records of the Ward.

5. In the sixth paragraph of said letter, Cassidy recounts the Ward's assertion that the Ward "...is not permitted to have a telephone..." The obvious fallacy of this contention is not noted by Cassidy despite Cassidy writing in the opening paragraph of her letter that "[m]y

conversation with Ms. Garwood was more than an hour in duration.” This fallacy also appears to be disregarded when Roppo relies on this same letter in support of his Motion for Representation when said Motion asserts in Paragraph 8 that the conversation with Cassidy was “over the phone” and in Paragraph 1 that Garwood “contacted” his office and “spoke with the firm’s managing partner.” To the best of Willis’ knowledge, the Ward was not in Naples, Florida, on or about November 13, 2019.

6. The filing of this Motion for Representation is resulting in the continued consumption of the Ward’s limited assets. The failure of the attorneys filing said Motion to sufficiently review and investigate this matter, and instead relying on the assertions of an elderly, totally incapacitated ward of the State, arranging for a medical examination of such a ward without guardian consent and presenting to the Court the clearly discreditable observations of their agent have significantly and materially contributed to said consumption of the Ward’s assets.

7. Florida law provides that a court shall award a reasonable attorney’s fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party’s attorney on any claim at any time during a civil proceeding or action in which the court finds that the losing party or the losing party’s attorney knew or should have known that a claim or defense when initially presented to the court was not supported by the material facts necessary to establish the claim. Section 57.105 (1) Fla. Stat. (2019).

9. Roppo, Bailey and Colosseum knew or should have known that this Motion for Representation was not supported by the material facts necessary to establish the claim asserted therein at the time it was filed and should be sanctioned pursuant to Florida Statute Section 57.105, and any other applicable law, in an amount sufficient to reimburse the assets of the Ward for the costs of having to respond to same.

WHEREFORE, Denise Y. Willis respectfully prays that an order be entered granting this Motion, sanctioning Roppo, Bailey, and Colosseum pursuant to Florida Statute Section 57.105, and any other applicable law, in an amount sufficient to reimburse the assets of the Ward for the costs of having to respond to said Motion for Representation and granting such other and further relief as the Court may deem appropriate.

Dated this 17th day of January, 2020.

/s/ James D. Kisio

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via email on Colosseum Counsel, PLLC, Vito M. Roppo, Esq. and Jimmie D. Bailey III, Esq. at jimmie@fightforme.com on this the 17th day of January, 2020.

/s/ James D. Kisio, Esquire

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