



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF THE GUARDIANSHIP OF KATHLEEN THERESA ROBERTS

B E T W E E N:

CAITLIN [REDACTED]

Applicant

-and-

KATHLEEN [REDACTED], PAULA [REDACTED] and
THE OFFICE OF THE PUBLIC GUARDIAN & TRUSTEE

Respondents

NOTICE OF APPLICATION

APPLICATION UNDER s. 3, 22, 25, 45, 55, 57, 58, 59, and 79 of the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30.

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location: the courthouse at 330 University Avenue, Toronto, Ontario, on a date to be set by the Registrar.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: July 27, 2023

Issued by:

Local registrar
Superior Court of Justice
330 University Ave., 7th Floor
Toronto, Ontario M5G 1R7

TO: KATHLEEN [REDACTED]
[REDACTED]

AND TO: PAULA [REDACTED]
[REDACTED]

AND TO: **OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE**
Ministry of the Attorney General
595 Bay Street, Suite 800
Toronto ON M5G 2M6
Email: PGT-Legal-Documents@ontario.ca

APPLICATION FOR DIRECTIONS

1. **The Applicant makes application for:**
2. An Order, if necessary, that the Public Guardian and Trustee arrange for legal representation for Kathleen [REDACTED] (“**Kathleen**”) pursuant to s. 3 of the *Substitute Decisions Act*, 1992, S.O. 1992, c.30 (the “**SDA**”);
3. An Order giving directions pursuant to Sections 39 and 68 and the SDA with respect to the within Application.
4. An Order, if necessary, that Kathleen submit to an assessment by a person qualified to assess her capacity to manage her property and make decisions for her personal care, pursuant to s. 79 of the SDA;
5. A declaration that Kathleen is incapable of managing her property and that, as a result, it is necessary for decisions to be made on her behalf by such person(s) who are designated to do so;
6. A declaration that Kathleen is incapable of personal care and specifically in respect of her own health care, nutrition, shelter, clothing, hygiene and safety, and that, as a result, it is necessary for decisions to be made on her behalf by a person who is authorized to do so;
7. An Order that the Applicant may make any decision to which the *Health Care Consent Act, 1996* applies on behalf of Kathleen;

8. A declaration that Kathleen's Continuing Power of Attorney for Property management and for Personal Care made June 24, 2022 is a valid and subsisting grant;
9. An Order compelling Paula [REDACTED] ("**Paula**") to deliver up the original, or copies thereof, of any instrument purporting to be a Power of Attorney, Continuing Power of Attorney, or Will made by Kathleen any time after June 24, 2022;
10. A declaration that Kathleen is incapable of making and revoking any Power of Attorney for Property management and/or Personal Care, and in particular that any for Property management and/or Personal Care that may have been made after June 24, 2022 is invalid;
11. An Order, if necessary, appointing the Applicant to be the Guardian for Property and Personal Care of Kathleen;
12. An Order, if necessary, approving the Applicant's Management Plan for Kathleen and that she shall act in accordance with the Management Plan, with such amendments to the Management Plan from time to time which the Public Guardian & Trustee approves of or this Court allows;
13. An Order, if necessary, approving the Applicant's Guardianship Plan for Kathleen and that she shall act in accordance with the Guardianship Plan, with such amendments to the Guardianship Plan from time to time which the Public Guardian & Trustee approves of or this Court allows;
14. A declaration that Kathleen's Last Will and Testament made June 24, 2022 is valid;

15. An Order compelling Paula to account for her dealings with Kathleen's property, including all property in which Kathleen has a legal or beneficial interest, during the three years prior to the issuance of the within Application at her own expense;

16. An Order that the requirement for the Applicant to obtain a security bond is waived;

17. An Order that the applicants' costs of this proceeding shall be paid from the property of Kathleen on a full indemnity basis;

18. An Order abridging the time prescribed by the *Rules of Civil Procedure* for service of the within Application, for substitute service and/or validating or dispensing with service on any respondent to this Application, if requested and if deemed appropriate by this Honourable Court; and,

19. Such further and other relief as counsel may request and this Honourable Court may deem just.

20. The grounds for the application are:

21. Kathleen [REDACTED] ("Kathleen"), is 95 years old. Her husband, Edward [REDACTED] died in 2020.

22. Kathleen has one child, Paula [REDACTED] ("Paula").

23. The Applicant, Caitlin [REDACTED] ("Caitlin"), is Paula's daughter and Kathleen's granddaughter.

24. Ryan [REDACTED] (“**Ryan**”) is Kathleen’s grandson, Paula’s son, and Caitlin’s brother. Ryan suffers from intellectual disabilities, including anxiety and depression, and is currently receiving Ontario Disability Support Program benefits.

Kathleen’s Incapacity

25. Kathleen suffers from dementia.

26. Caitlin is Kathleen’s primary caregiver, aided by personal support workers.

27. Kathleen is incapable of making decisions for herself in respect of the management of her property or for her personal care.

28. Caitlin is the sole Attorney for Property management and Attorney for Personal Care of Kathleen, pursuant to a Continuing Power of Attorney for Property and Power of Attorney for Personal Care made by Kathleen on or about June 24, 2022.

29. Kathleen made a Last Will and Testament on June 24, 2022 appointing Caitlin to be Kathleen’s Estate Trustee.

30. Kathleen lives with Caitlin and her family at [REDACTED], Toronto, Ontario, [REDACTED] (“**Property**”), which is jointly owned by Kathleen and Caitlin.

31. Ryan has traditionally received support from Kathleen, which Caitlin has continued to provide. On or about August 12, 2023, Kathleen and Caitlin took out a \$600,000.00 mortgage on the Property, and used the proceeds to purchase a home for Ryan to live in.

Paula Roberts

32. Paula is emotionally unstable, and is prone to tantrums and outbursts. She does not maintain regular employment. She does not have a sense for the value of money.

33. Paula has coerced and unduly influenced Kathleen into providing her with property for at least the past three years.

34. Paula has misappropriated property from Kathleen, including by withdrawing funds on deposit in joint bank accounts which belong beneficially to Kathleen, without authorization or consent of either Kathleen or Caitlin.

35. Paula has coerced and unduly influenced Kathleen into providing Paula with Kathleen's credit cards which Paula has used without authorization.

36. Kathleen has been coerced by Paula into transferring or otherwise providing property legally or beneficially owned by Kathleen to Paula when Kathleen lacked the capacity to do so.

37. Paula has attempted, coerced, and unduly influenced Kathleen to make new Powers of Attorney and/or Wills in her favour when Kathleen lacked the capacity to do so.

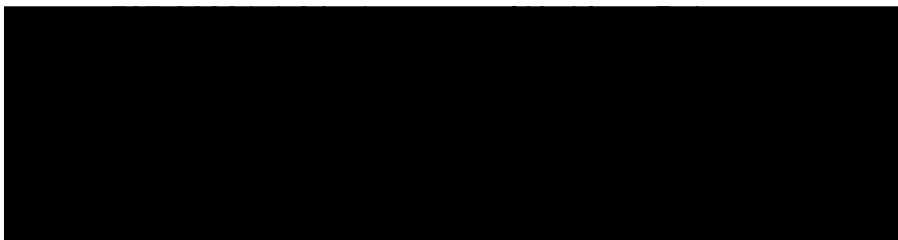
Paula's Unauthorized Transfer Requests

38. Paula's attempts to transfer Kathleen's assets to her possession have been assisted by [REDACTED], a financial planner/advisor employed at [REDACTED] [REDACTED] in Vaughan, Ontario ([REDACTED]). Paula has also

attempted to enlist the assistance of M [REDACTED], a lawyer employed at [REDACTED] Law Office in Vaughan, Ontario (“**Cautillo**”).

39. [REDACTED] was originally engaged by Kathleen to purchase insurance. [REDACTED] was retained by Kathleen to help her with estate planning.

40. On September 2, 2021, Paula, with the assistance of [REDACTED] attempted to transfer the contents of three of Kathleen’s bank accounts at RBC to her own possession (the “**Transfer Requests**”). These accounts are:



41. Each of these Transfer Requests were submitted by [REDACTED], and claim they are in the name of Kathleen [REDACTED]s. They each bear an electronic signature purporting to be that of Kathleen [REDACTED]. They each list [REDACTED] and Kathleen [REDACTED] as recipients of the funds to be transferred. Kathleen did not submit these transfer requests. She did not want her money to be transferred out of RBC at any point.

42. On September 27, 2021, RBC notified Kathleen of these Transfer Requests, and on September 30, 2021, Kathleen sent RBC a letter containing instructions to cancel the aforesaid transfers. She signed this letter with her handwritten signature.

43. Kathleen raised this attempted transfer with [REDACTED], including [REDACTED]’s participation therein. [REDACTED] dismissed my Grandmother’s concerns.

44. Paula's Attempts to Have Title to the Property Transferred to Her

45. Paula has repeatedly attempted to coerce or manipulate Kathleen into transferring the Property to her.

46. Kathleen is sentimentally attached to the Property. To ensure it stayed in the family, in or about May 2021, Kathleen decided to transfer the Property to Caitlin, in trust.

47. Paula was aware that Kathleen's wishes were to transfer the Property to me in trust. She vehemently opposed this, as she wanted the Property to be sold. However, Paula was unaware that Kathleen had made concrete plans to transfer the Property.

48. On October 28, 2021, the Property was transferred to Caitlin by the lawyer [REDACTED]
[REDACTED]

49. In November 2021, Paula discovered that the transfer had occurred. She once again threw a tantrum at this, and demanded the transfer be reversed.

50. On or about December 13, 2021, Kathleen had [REDACTED] transfer half of the property back to her ownership. Kathleen and Caitlin now co-own the Property as joint tenants with a right of survivorship. Paula continues to claim that the Property is either hers, or that she is rightfully entitled to it.

Paula's Use of Kathleen's Credit Cards

51. Paula has repeatedly taken out credit cards in either her name or Kathleen's name, the costs of which are paid from Kathleen's assets.

52. In early 2022, Paula was somehow added as a secondary card holder to Kathleen's credit cards. Kathleen canceled that card.

53. In June 2022, Caitlin discovered another card had been issued in Paula's name that drew from Kathleen's assets. Kathleen canceled that credit card, as well.

54. On June 17, 2023, during a visit to the Property, Paula lost one of Kathleen's credit cards that she had been using. She stayed overnight trying to find it, without success.

55. During her visits to the Property, Paula has attempted to coerce Kathleen into applying for credit cards in my Kathleen's name that Paula can use personally.

56. On June 19, 2023, during one of these visits, Paula came to the Property while Caitlin was absent, and ordered a new credit card. She directed this credit card be made available for pickup at a bank branch, instead of being mailed to the Property, in an attempt to conceal this new credit card from Caitlin and Kathleen.

Paula's Depletion of Kathleen's Assets

57. Since September 2021, Paula has been depleting Kathleen's assets through various means.

58. Paula has been emptying money from the bank accounts she held jointly with my Kathleen without authorization. For example, between June 26 and 27, 2023, Caitlin discovered that a total of \$9,206.82 had been transferred out of Kathleen's account at CIBC through telephone and internet transfers. Paula has claimed that these were government transfers to her.

59. Beginning in May 2023, during her visits to Kathleen, Paula has repeatedly called banks at which Kathleen has accounts. During these calls, Paula coerced or unduly influenced Kathleen to give verbal authorization to transfer money from her accounts to Paula's accounts.

60. Caitlin has repeatedly confronted Paula about her conduct. Every time Caitlin does so, Paula becomes angry, verbally abusive, and accuses Caitlin of imprisoning Kathleen.

Paula's Attempts to Change Kathleen's Wills

61. Kathleen made a Will in 2017 Will which placed Paula's bequests in trust, the proceeds of which were to be periodically released to Paula for her use. Kathleen and her husband did this because they wanted to ensure that Paula would be provided for in the long term, and did not trust Paula to responsibly manage large sums of money.

62. Paula was extremely upset with this arrangement. She did not want her bequests placed in trust. She repeatedly accused her parents of trying to control her "from the grave."

63. Following her father's death, Paula pressured Kathleen into changing her Will.

64. In response to this pressure, Kathleen executed her 2021 Will, which distributed Paula's bequests to her directly, without placing them in trust.

65. On December 25, 2021, Paula and Caitlin signed an agreement in an attempt to end the ongoing fighting over Kathleen's Wills.

66. In May 2023, Caitlin discovered that Paula had been taking Kathleen to see Paula's lawyer, [REDACTED]

67. During their visits to [REDACTED], Paula has been instructing the lawyer to prepare a new Will that would leave the Property to Paula.

68. On June 8, 2023, [REDACTED] received a letter from [REDACTED] regarding the transfer of the Property in 2021. In this letter, [REDACTED] claims to have been "consulted" by Kathleen, and demands that Anwar produce his file for [REDACTED].

69. On or about July 8, 2023, while Caitlin was helping Kathleen get out of Paula's car following one of their excursions, she discovered a handwritten document in the trunk while removing Kathleen's wheelchair therefrom. This document appeared to be a holographic Will signed by Kathleen on June 5, 2023. This document purported to revoke all previous wills, and named Paula as executor and estate trustee of Kathleen's estate. It further purported to bequeath all real and personal property belonging to Kathleen, including the Property, to Paula, in her capacity as executor and estate trustee.

70. Caitlin has repeatedly objected to Paula's conduct. When she does so, it usually provokes a tantrum from Paula.

Paula's Defamatory Conduct

71. Paula has repeatedly spoken ill of Caitlin to Kathleen and other members of the family. She claims to them that Caitlin is keeping Kathleen as a prisoner, and arbitrarily denying Paula the right to visit her mother.

72. During their excursions, Paula has attempted to coerce Kathleen into thinking Caitlin is imprisoning her, and does not have her best interests at heart. Kathleen returns from these excursions in a foul mood towards Caitlin, and during periods of lucidity, has told Caitlin what Paula has said.

73. While Paula originally made her accusatory statements mainly to Kathleen, she has recently contacted other friends and family members of Caitlin, including her husband's parents, Ryan, and Paula's cousin to speak ill of Caitlin to them. She has also spoken ill of Caitlin to my Kathleen's personal support worker.

Trespass Notice

74. Caitlin has repeatedly invited Paula to cooperate with her in setting a schedule for her visits with Kathleen. She has refused.

75. Due to Paula's conduct, her manipulation of Kathleen, and abusive treatment of Caitlin, Caitlin has barred Paula from further visiting the Property.

76. On July 17, 2023, Caitlin served Paula, through counsel, with a Trespass Notice, directing her to cease attending at the Property.

77. Paula's manipulation of Kathleen, and abuse of Caitlin, have caused Caitlin enormous emotional and psychological harm. Paula has refused to heed Caitlin's pleas that she cease her behaviour, and seems intent on continuing to harass Kathleen until she gets what she wants. Caitlin pleads that the intervention of the Court is required to stop Paula's further attempts at exploiting Kathleen.

78. Caitlin has brought this Application to settle any doubts respecting Kathleen's mental capacity to make decisions in respect of the management of her property and for personal care. In addition, Caitlin asks the Court's assistance in compelling Paula to account for the funds that she has misappropriated from Kathleen, and to learn what other purported testamentary instruments made by Kathleen are in Paula's possession or under her control so that the validity of these instruments can be determined and to allow Caitlin to manage Kathleen's property in accordance with the law.

79. The following documentary evidence will be used at the hearing of the application:

80. The Affidavit of of Caitlin [REDACTED], affirmed July 26, 2023; and

81. Such further and other evidence as counsel may advise and this Honourable Court may allow.

July 27, 2023

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CAITLIN [REDACTED]
Applicant

-and-

KATHLEEN [REDACTED] et al.
Respondents

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Toronto

NOTICE OF APPLICATION

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