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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

IN RE: GUARDIANSHIP OF: GUARDIANSHIP DIVISION  
OLIVER BIVINS, FILE NO: 502011GA000006XXXXSB  
Incapacitated.

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**MOTION FOR ORIGINAL TRIAL JUDGE TO RETAIN AND/OR HANDLE  
CASE**

STEPHEN M. KELLY, as Guardian of Oliver Bivins, Sr. ("Kelly"), and CURTIS ROGERS, as the Former Guardian of the Person and Property of Oliver Bivins, Sr., ("Rogers"), moves this Court, and the divisional judge, as applicable, and states as follows:

1. On or about January, 2011, the original trial judge, the Honorable Martin H. Colin, was assigned the above referenced case.

2. Since the inception of the case, numerous adversary proceedings have ensued between the various interested persons, including adversary proceedings filed by a disputed interested person against Kelly and Rogers.

3. Many of the adversary proceedings resulted in comprehensive settlement agreements, which were ultimately court-approved, in total or part (by Judge Colin), but not until substantial litigation was concluded determining whether the agreements were in the best interest of the Ward. Over the tenure of this case, four comprehensive agreements have been litigated before the Judge Colin.

4. The appropriateness of these agreements are, again, the subject of litigation that is pending before the Court (Judge Colin). (Docket Entries 1082, 1083 and 1130)

**EXHIBIT "1"**

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5. Furthermore, despite the Ward's death almost one year ago, litigation continues with the currently appointed personal representative of the Ward's probate estate regarding 1) Rogers and Kelly's Final Reports, including allegations of maladministration which Kelly and Rogers vehemently dispute, this includes the re-litigation of the contents of agreements described in paragraph 3 and 4 above (Docket Entries 1082, 1083, and 1130) and 2) administrative expenses of the guardianship, (Docket Entries 871, 888, 917, 890, 921, 1097, 1175, 920, 1096, 1151, 1176, 1019 plus objections filed on 2/3/16 with no docket entries as of this date). Both pending matters described above will require the Court to review the time spent on the completed matters described in paragraph 3 and 4 above

6. In an attempt to conclude the administration of the guardianship, Judge Colin, is at the near conclusion of an approximately three day trial, spanning three (3) months, regarding the payment of a New York attorney ("Mr. Stein") who rendered services to the Guardian in compliance with FSA 744.108 over a two (2) year period.

7. The objections lodged by one interested person to Mr. Stein's various petition(s) for attorneys fees and costs delayed trial of the matter for approximately one year and include allegations of duplication of services with other service providers whose 1) invoices are intertwined with those of Mr. Stein and 2) petitions are finally scheduled to have their attorney fee and cost petitions heard on March 14 and 15. Further, a one hour closing arguments are/were to be scheduled as soon as practical as it related to Mr. Stein.

8. Judge Colin also set for trial, on February 22 and 23, objections lodged by a disputed interested person on objections to both Rogers and Kelly's Final Reports

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pursuant to Florida Probate Rule 5.680. Judge Colin implemented pre-trial procedures given the complicated, and elongated, nature of this guardianship proceeding.

9. The instant case has an approximate total of 1210 docket entries, evidencing the substantial judicial time spent of rendering rulings in this case.

10. Judicial economy refers to efficiency in the operation of the courts and the judicial system. It is the efficient management of litigation so as to minimize duplication of effort. It also avoids wasting the judiciary's time and resources.

11. If Judge Colin does not retain the case, then the multitude of hearings held for months relating to the attorneys fees and costs petitions will be for naught. The new assigned judge will take time to get up to speed on the entire docket and become familiar with this matter, which spans 5 years of complex, continued and multifaceted litigation.

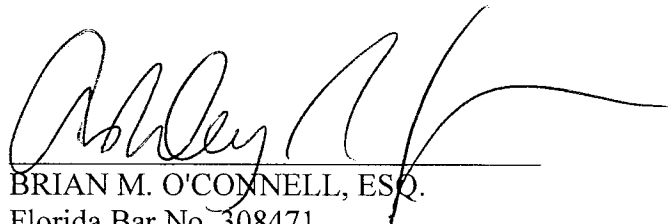
12. Furthermore, given what has been described above and the fact that Judge Colin has 1) presided over the matter and the items sought to be compensated for by the various service providers, 2) approved, or not, the actions sought to be taken by the guardians and 3) has taken evidence on intertwining petitions for attorneys fees and costs, it would clearly serve judicial economy that the original trial retain the case after his transfer out of the current division.

WHEREFORE, STEPHEN KELLY AND CURTIS ROGERS, in their fiduciary capacity, by and through their undersigned attorney, moves both the original trial judge, the Honorable Martin H. Colin, and the assigned divisional judge, if applicable to retain the instant case upon the original trial judge's transfer out of the instant case's currently assigned division.

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I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by e-mail service on the 3 day of February, 2016 to J. RONALD DENMAN, ESQ. Attorney for Julian Bivins, J. RONALD DENMAN, ESQ. At [rdenman@bleakleybavol.com](mailto:rdenman@bleakleybavol.com) [chebert@bleakleybavol.com](mailto:chebert@bleakleybavol.com) and [lsmiler@bleakleybavol.com](mailto:lsmiler@bleakleybavol.com) (15170 North Florida Avenue, Tampa, FL 33613); DONNA P. LEVINE, ESQ., Attorney for Oliver Bivins, II, [Levine.susaneck@gmail.com](mailto:Levine.susaneck@gmail.com) (3003 S. Congress Ave., Suite 1A, Palm Springs, FL 33461); RONDA D. GLUCK, ESQ., Co-Counsel for Curtis Rogers, [attorneys@bocaattorney.com](mailto:attorneys@bocaattorney.com) (980 N. Federal Highway, Suite 402, Boca Raton, FL 33432).



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