

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 9:15-cv-81298-KAM/Matthewman

JULIAN BIVINS, as Personal Representative of
the ancillary Estate of Oliver Wilson Bivins,

Plaintiff,

vs.

CURTIS CAHALLONER ROGERS, JR., as
former guardian, *et al*,

Defendants.

CLO DEFENDANTS' PROPOSED VOIR DIRE QUESTIONS

Defendants, Brian M. O'Connell, Ashley N. Crispin, and Ciklin Lubitz & O'Connell ("CLO Defendants"), by and through their undersigned counsel, in accordance with this Court's Order Setting Trial Date [DE 51] submit the following proposed *voir dire* questions.

1. Are you familiar with the following individuals or entities?
 - a. The Plaintiff's representative, Julian Bivins?
 - b. Oliver Wilson Bivins, who died in 2015?
 - c. Mr. Bivins' widow, Lorna Bivins?
 - d. The law firm in West Palm Beach, Ciklin, Lubitz & O'Connell?
 - e. Attorneys Brian O'Connell or Ashley Crispin Ackal who work at the Ciklin, Lubitz & O'Connell law firm?
 - f. Attorney Keith Stein, an attorney who works in New York?
 - g. The Beys, Stein, Mobargha and Berland, LLP law firm in New York?
 - h. The lawyers in the Courtroom: Rachel Studley, Brandon Hechtman, Jeffrey Blaker, Alexandra Schultz, or Ron Denman?
2. This case involves a guardianship. Are you familiar with Stephen Kelly or Curtis Rogers, professional guardians?
3. Have any of you ever been involved in a court proceeding where a person has been determined to be mentally disabled? If so, please tell us about that.

4. Have any of you or anyone you know ever been appointed the legal guardian of a mentally disabled or incapacitated person? If so, tell us about that.
5. This case involves claims that attorneys did not do their job properly. Have you or anyone close to you been represented by an attorney in which you felt dissatisfied about how the attorneys handled the lawsuit? If so, tell us about that.
6. Any of you have friends or family who are lawyers? Who? Who employs? What type of law? Does he/she ever discuss his/her job?
7. Anyone have experience with paying legal fees, either hourly or under a contingency agreement. If under a contingency agreement, did you have an understanding as to whether the attorney had the risk of loss if not successful in the lawsuit? What is your experience with that?
8. Does anyone have a belief that lawyers earn too much money?
9. Anyone have any negative or bad feelings about attorneys generally. If so, please tell us about that?
10. Do you, or does anyone close to you, have any knowledge, training, education or experience in the following areas:
 - a. Real Estate Sales,
 - b. Real Estate Brokerage,
 - c. Property Appraisal,
 - d. Mortgages,
 - e. Leases,
 - f. Building Maintenance.
11. Have you ever acted as a trustee of a trust or held a position where you owed a fiduciary duty? Tell us about that.
12. Have you ever been appointed as a Personal Representative of an Estate? Will that experience influence you one way or the other towards or against the Estate in this case?
13. Has anyone here served on a jury in a civil or criminal case? If so, tell us about that. Have you served as a foreperson?
14. Has anyone here ever been involved in a lawsuit as either a plaintiff or as a defendant? If so, please describe the lawsuit and whether you felt you were treated fairly.
15. This case involves a claim involving claims over property of the estate of a person who is now deceased. Have any of you been involved in any type of dispute over wills, trusts or property of a person who has died. If so, please tell us about that.

16. Do you have any feelings one way or the other about someone who already has a lot of money suing for more money?
17. In this case, you are going to be asked to award the Plaintiff money. Does anyone have any reservations in rendering a verdict in favor of the Defendants if the Plaintiff fails to prove that any Defendant was negligent?
18. Does anyone have any thoughts on whether any of the Defendants must have done something wrong just because they have been sued? If so, tell us about that.
19. In this case, the Plaintiff is claiming millions of dollars in damages. Does the fact that Plaintiff is claiming millions of dollars in damages impress upon you that the Plaintiff deserves millions of dollars?
20. Does the fact that the Plaintiff is claiming millions of dollars lead you to have any feelings whatsoever that he deserves at least some money?
21. Do you believe that, just because someone files a lawsuit, that person should recover something? Tell us about that.
22. In this case, the Defendants have contended that the claims being made by the Plaintiff are barred because the claims being made were previously settled. If the Defendants prove their case, do you believe this will be too harsh a result?
23. Is anyone familiar with the phrase "blood is thicker than water", meaning we justify choosing family bonds over anything else. Do you agree with that phrase? What are your thoughts?
24. Does anyone believe that a biological child should have greater rights under the law than an adopted child? Please tell us your thoughts.
25. Do you have any concerns that your emotions may influence you in considering the amount of money if any that should be awarded in this case?
26. Does anyone feel any concern that they would give the benefit of the doubt to an individual over an attorney? Please explain.
27. Do you have any outside commitments such as family or business which would prevent you from serving fairly and impartially as a juror in this case and devoting your full attention to the dispute between the parties in this case?
28. Is there anything about your background experience, training, and beliefs that might impact your ability to be a fair and impartial juror in this case?
29. Is there anything you prefer to discuss in private?

30. Is there anything we have not asked you that you think we should know?
31. Can you think of anything in your own life that reminds you of this case? What is it and how does it remind you?
32. You all know the statue of lady justice, right? What do you notice about her? The scales and that she is blindfolded, right? Why is she blindfolded? Justice is unbiased, no matter rich or poor, likable or unlikable. Do you believe justice should be blind?

Respectfully submitted,

/s/ Rachel Studley
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on counsel for the Plaintiff via email according to the below service list on June 30, 2017 and then a true and correct copy of the foregoing was filed with the Clerk of Court using the CM/ECF system on July 7, 2017, and the foregoing document is being served this day on all counsel or parties of record on the Service List below, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive Notices of Electronic Filing.

/s/ Rachel Studley
Rachel Studley, Esquire

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