

IN THE ELEVENTH JUDICIAL CIRCUIT COURT
IN MIAMI-DADE COUNTY, FLORIDA

MENTAL HEALTH DIVISION

CASE NO. 12-4978 MH 01

IN RE: HELEN R. STONE,

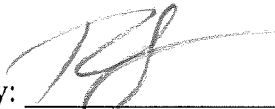
Alleged Incapacitated Person.

NOTICE OF FILING TRANSCRIPT EXCERPT FROM THE
HEARING HELD ON NOVEMBER 20, 2012

The Limited Guardian, Anthony Romano, Jr., hereby files the transcript excerpt from the hearing held on November 20, 2012.

Signed on December 17, 2012.

MARKOWITZ, RINGEL, TRUSTY + HARTOG P.A.
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Attorneys for Limited Guardian

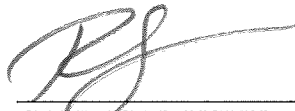
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Case No. 12-4978 MH 01
Helen R. Stone, an alleged incapacitated person
Notice of Filing Transcript Excerpt from the
Hearing Held on November 20, 2012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Notice of Filing Transcript Excerpt from the Hearing Held on November 20, 2012 was served on December 17, 2012 by email to **Lawrence Levy, Esquire**, Court Appointed Counsel for Helen R. Stone, at larry@lawrencelevypa.com; **Fred E. Glickman, Esquire**, Counsel for Barbara Stone, at feglickmanpa@kwglawoffices.com; **Mark F. Raymond, Esquire**, Counsel for Alan Stone, at mraymond@broadandcassel.com; **Amy Steele Donner, Esquire**, Counsel for Alan Stone, at adonner@broadandcassel.com; **Alan Stone, Esquire**, counsel for the co-guardians of Louise Stone, at esq1980@bellsouth.net; and **Deborah R. Waks, Esquire**, Counsel for Alan Stone, at deborahwaks@aol.com.



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1 IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

2 PROBATE DIVISION

3 CASE NO.: 2012-004978 MH 01

4
5 IN RE: HELEN STONE

6 /

7 Miami-Dade Courthouse

8 73 West Flagler Street

Miami, Florida

Tuesday, 12:16-12:37 p.m.

9 November 20, 2012

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12 HEARING EXCERPT

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18 This cause came on for hearing before the
19 HONORABLE LAWRENCE A. SCHWARTZ, pursuant to notice.
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1 APPEARANCES:

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17 BROAD AND CASSEL
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23 ALSO PRESENT:

24 BARBARA STONE
25 ANTHONY ROMANO
JUDGE GENDEN

1 * * * * *

2 THEREUPON:

3 THE COURT: Again, I'm going to ask you the
4 same question. What is the relevancy of what --
5 tell me, what is the relevancy of what Mr.
6 Romano did or did not do in contacting anybody
7 once I appointed him to be the emergency
8 temporary guardian to the capacity issue at
9 hand.

10 MR. GLICKMAN: Relevance is that Mr. Romano
11 will testify that Alan Stone has created
12 obstacles at every opportunity, and --

13 THE COURT: It's irrelevant to the capacity
14 issue.

15 MR. GLICKMAN: Well, if I just might
16 proffer my thought?

17 THE COURT: Sure.

18 MR. GLICKMAN: And if it is irrelevant,
19 then we're saving a lot of time. Therefore, it
20 would be appropriate to have no effect on her
21 social environment because otherwise Mr. Stone
22 will continue to be involved in a way that
23 frustrates the efforts to have a guardian, and
24 that I proffer would be Mr. Romano's testimony,
25 and that's where I'm going.

1 THE COURT: It's irrelevant. Have you any
2 other questions you want to ask Mr. Romano as it
3 relates to the capacity of Helen Stone?

4 MR. GLICKMAN: If that's irrelevant, I have
5 no other reason to ask further questions.

6 THE COURT: Okay. Anybody else have any
7 other witnesses that you think are --

8 MS. DONNER: As to the issue of capacity
9 only?

10 THE COURT: As to the issue of capacity
11 only.

12 MS. DONNER: No.

13 THE COURT: Anybody want to make any
14 arguments or discussion about a limited
15 guardianship on behalf of Mrs. Stone?

16 MS. DONNER: Judge, I would like to.

17 THE COURT: Go ahead.

18 MS. DONNER: Having heard from the three
19 doctors that you appointed to examine Helen
20 Stone, each of the doctors have come to the
21 conclusion, after speaking with her, that she
22 has some deficits. These deficits would require
23 someone assisting her in her -- some legal
24 activities.

25 For example, though I didn't ask them, none

1 of the doctors believe by reading their report
2 that she should be allowed to drive an
3 automobile, and, of course, we agree with that.
4 The doctors do not believe, at this point in
5 time, she should be able to enter into
6 contracts.

7 They do believe that Mrs. Stone has the
8 right to chose to see whom she chooses to see,
9 to live where she chooses to live, to travel
10 with assistance, and to be able to make some
11 determination of her own life. That she's not
12 going to be a person that needs to be locked
13 away and has to depend upon others to just
14 determine everything about her life.

15 THE COURT: Are you going to ask me to make
16 it a limited guardianship?

17 MS. DONNER: Yes, I am, sir.

18 THE COURT: Okay. What would you like to
19 say?

20 MR. GLICKMAN: There is no intent to have
21 her locked away and I don't think --

22 THE COURT: You're talking to me, you're
23 not talking to Ms. Donner.

24 MR. GLICKMAN: There is no intent to have
25 her locked away.

1 THE COURT: Do you believe there should be
2 something other than a limited guardianship.

3 MR. GLICKMAN: We would argue for plenary
4 for the reasons -- limited, I have no problem
5 with the right to vote. The only thing is the
6 social environment. That was my only point.
7 Other than that, I have no problems with the
8 limited. It's the social environment that I
9 think is -- which was my --

10 THE COURT: Your client is trying very hard
11 to tell you something. I'm not going to tell
12 her to be quiet, she's your client. But your
13 client is trying very hard to tell you
14 something. So if you need to talk to your
15 client for ten seconds, do it; otherwise, tell
16 your client she's hired you to be her lawyer.

17 MR. GLICKMAN: May I have a moment? She
18 seems to be desperately trying to communicate
19 something.

20 THE COURT: Sure.

21 (Brief interruption.)

22 MR. GLICKMAN: Just simply want to point
23 out -- and this is why I wanted to have Mr.
24 Romano on the stand -- that proffer the
25 testimony again that if she has control over her

1 social --

2 MS. DONNER: Objection, your Honor. It's
3 irrelevant to your determination of whether or
4 not a plenary limited guardian should be
5 appointed, and I object to the second time he's
6 trying to get in evidence that you already
7 prohibited me from getting into evidence.

8 THE COURT: Finish your argument without
9 telling me what Mr. Romano would testify to.
10 You don't think and it's obvious that Mr. Stone
11 should --

12 MR. GLICKMAN: I think we can move on, your
13 Honor.

14 THE COURT: Finished?

15 MR. GLICKMAN: It is afternoon.

16 THE COURT: Are you finished?

17 MR. GLICKMAN: Yes, sir.

18 MR. LEVY: Your Honor, very briefly.
19 Obviously the Court is aware we need to go with
20 the least restrictive form of guardianship. In
21 this particular case, I think the evidence is
22 overwhelming and uncontradicted that Ms. Stone
23 should, at the very least, keep the right to
24 vote, right to travel with accompaniment, right
25 to determine her residence, and the right to

1 determine aspects of her social life.

2 That being said, your Honor, we are under
3 the understanding that there will be a less
4 restrictive alternative argument made, but that
5 being said, if there is going to be an
6 adjudication, we ask it be in the least
7 restrictive form possible.

8 MS. DONNER: May I ask a question, point of
9 interest, Judge Schwartz?

10 THE COURT: Sure.

11 MS. DONNER: There are two avenues for
12 limited guardianship -- or let's not even say
13 limited guardianship, where a -- on the merits
14 where a ward has provided for her own less
15 restrictive means, i.e. power of attorney and
16 health care surrogate.

17 Under Florida Statute 744462, my clerk has
18 given that to me, she can have the person whom
19 she appointed in 1998 when she was a mere 70
20 years of age and a young person, I assume we all
21 agree, to make a decision for herself, which she
22 did. That would be another alternative to this
23 Court without determining that a limited
24 guardianship is required because you have not
25 had -- because you want to determine capacity

1 first.

2 We didn't get into those aspects of the
3 Florida Statutes that would permit her to be
4 without court intervention in living out the
5 rest of her life.

6 MR. GLICKMAN: May I respond?

7 THE COURT: You said you were asking a
8 question.

9 MS. DONNER: My question was --

10 THE COURT: You made a statement as opposed
11 to asking a question.

12 MR. GLICKMAN: I won't respond until she's
13 done.

14 MS. DONNER: I breathed, took a breath. My
15 question is would the Court entertain that?

16 THE COURT: Not at this time.

17 MS. DONNER: Okay.

18 MR. GLICKMAN: That would have been my
19 argument. I have a question also, your Honor.

20 THE COURT: Okay.

21 MR. GLICKMAN: If I may ask?

22 THE COURT: Yes.

23 MR. GLICKMAN: There's a lot that's left
24 open on this case. You have ruled that there be
25 no discovery until now. There's --

1 THE COURT: Well, we're going to get into
2 that in a second.

3 MR. GLICKMAN: Thank you, your Honor.

4 THE COURT: I have signed the order
5 determining a limited incapacity. I am going to
6 keep Mr. Romano on temporarily as the guardian
7 at this point over the limited guardianship. I
8 am going to tell Mr. Romano to resume his
9 responsibilities for gathering the financial
10 information that I stopped earlier, so that
11 paperwork and those documents can get into his
12 possession, and I am going to allow you to do
13 the discovery necessary so that when you come
14 back for your next hearing on the remaining
15 issues, which includes Mr. Stone's request to
16 become successor guardian, that you have full
17 information available to you so that you will
18 not be wasting Judge Genden's time or anybody
19 else's time.

20 I do appreciate the fact that you paid
21 attention to the words that I chose the last
22 time that you were here and respected the
23 decisions that I made and sort of worked with
24 each other in upholding things that I said. You
25 have papered, for lack of a better word, this

1 file with copies of documents and copies of
2 documents to the point that I have created my
3 own index, which is color coded to the
4 corresponding paper clips in the files so all of
5 the documents can be found easily. Please,
6 thank you for the originals in the court file
7 and one courtesy copy, but I don't need four
8 courtesy copies of the things that come in.

9 Judge Genden and I have discussed some of
10 the peculiarities of this case, which make it a
11 little different from the normal capacity cases
12 or normal mental health cases, and he is as
13 versed as I am now at this particular point, and
14 I will be leaving my paper clips in here, as
15 well as my index so he can get to all the
16 documents. What?

17 MR. GLICKMAN: Two other issues. You said
18 he can proceed with the financial. He was also
19 trying to proceed with the medical records too
20 and you didn't address that, your Honor.

21 THE COURT: He's got everything that he
22 needs is what he just indicated to me.

23 MR. GLICKMAN: Great.

24 THE COURT: Mr. Romano is the consummate
25 professional, which is why I had no hesitation

1 appointing him to be in the middle of this case,
2 at least at this particular point in time.

3 Is there anything else anybody -- yes, sir?

4 MR. SEGEAR: Yes, your Honor. I have a
5 motion in order to extend the letters of ETG.
6 The current letters of ETG expire on January 9,
7 and I know Judge Genden is beginning January 4.

8 THE COURT: I don't think we need to extend
9 the emergency temporary because what's going to
10 happen now is the guardianship is going to be
11 opened. There's --

12 MR. GLICKMAN: New case number?

13 THE COURT: Yes. There's a check for \$401
14 in the court file for Mr. Glickman, so he's
15 going to be paying that, bringing the order
16 down, and going to get new guardianship.

17 MR. SEGEAR: Perfect.

18 THE COURT: Now, unlike the mental health
19 files, the guardianship files, to the best of
20 your knowledge, are public record. They are not
21 private like mental health files. So those
22 things you have already filed in the mental
23 health file, if you're going to need them in the
24 guardianship case, you're going to need to
25 refile with the guardianship case number on

1 them.

2 MR. LEVY: Your Honor, may I bring a point?
3 Respectfully, just a point of order. If the
4 Court is appointing Mr. Romano as guardian, at
5 least, under these circumstances, how is the
6 Court going to reconcile the issue of less
7 restrictive alternative?

8 THE COURT: At the later point in time.

9 MR. LEVY: Okay.

10 THE COURT: If that's developed, that's
11 exactly what will happen. Anybody who is
12 appointed as the limited guardian would be
13 discharged at that point.

14 MR. LEVY: Perfect.

15 MR. GLICKMAN: Your Honor, when is the
16 extension until?

17 THE COURT: How long is it going to take
18 you to get all the things that you need, and how
19 long is it going to take Ms. Donner and
20 Mr. Glickman to do the discovery that you need
21 to do and to do the things that you both purport
22 to want to do, quite frankly.

23 MR. GLICKMAN: I'd say months.

24 MR. SEGEAR: We'd have to reserve the
25 subpoenas, and assuming we got cooperation, I

1 think we would have everything back 25, 30 days
2 at the latest from all the financial
3 institutions, if not sooner. Then it would just
4 be a matter of time for how many records we got
5 and how long it took for everybody to sift
6 through them and do whatever discovery they
7 want.

8 THE COURT: Mr. Romano, when you get the
9 records, please make copies of them available to
10 Ms. Donner, Mr. Glickman, and Mr. Levy. You do
11 not need a court order other than one uniform
12 order that your lawyers can prepare for you and
13 bring into me next week authorizing you to
14 release any of the records that you obtain, both
15 medical and financial, for Ms. Stone to all of
16 the parties that I've just named, the three
17 lawyers. Okay.

18 And is there anything else I need to do for
19 you, Mr. Romano, to give you that protection so
20 that you can do it so I don't have to have
21 people coming back asking for permission to get
22 things?

23 MR. ROMANO: Yes. Your Honor, aside from
24 the financial subpoenas, I mean, we do have
25 issues of any amendments to trust documents,

1 trust documents that we were not privy to at
2 this point.

3 And I think one other, I guess, commentary
4 from you would be that I would like cooperation
5 in the case. There has been some difficulty
6 with Mr. Stone's involvement with the attendance
7 and Ms. Stone in the apartment. I'm open to a
8 line of communication. There is none. But I
9 think that my role as emergency temporary
10 guardian needs to be respected.

11 THE COURT: You're no longer emergency
12 temporary guardian. You're now the limited
13 guardian of Ms. Stone, so let me introduce you
14 if you have not been formerly introduced to Ms.
15 Donner, Mr. Stone's lawyer.

16 I can guarantee you Mr. Stone is not going
17 to be an officious intermeddler now. He
18 understands or his lawyers will explain to him
19 what your responsibilities are, and that he is
20 going to have to cooperate with you. Okay. And
21 I don't think there's going to be in any issue
22 about that.

23 MR. ROMANO: Ms. Donner has been wonderful.
24 We've met, we've spoken on the phone, but up
25 until this point, I've had no communications

1 with Mr. Stone, but I've had some situations
2 arise at the apartment, and I'd like --

3 THE COURT: You're not going to have any
4 other issues with it.

5 MR. ROMANO: Wonderful. Great.

6 THE COURT: It's going to be a piece of
7 cake and a cakewalk for you.

8 MR. ROMANO: Thank you, your Honor.

9 THE COURT: Mr. Lehman?

10 MR. LEHMAN: I would only ask that the
11 financial records be kept confidential amongst
12 the parties and not used for any other purpose,
13 which is consistent with Florida law that
14 someone's financial records not be made public.

15 MS. DONNER: As a matter of fact, I'd like
16 to enter into a confidentiality agreement with
17 Mr. Glickman, Mr. Levy, and Mr. Segear
18 concerning that, as we do in most cases where
19 confidential documents are produced.

20 THE COURT: Don't have any problem with
21 that either.

22 MS. DONNER: There's one other thing.

23 THE COURT: Wait one second.

24 Mr. Romano --

25 MR. ROMANO: Yes.

1 THE COURT: -- or your lawyer, so I'm not
2 sure which one of you can answer this question.
3 If you subpoena the financial records in a
4 guardianship case and you file them, then they
5 basically become public record, unless there's a
6 sealing order. If you subpoena them under the
7 mental health case, they're not going to become
8 public record.

9 I've not had a situation where those types
10 of things have been subpoenaed under the mental
11 health cases because the mental health cases
12 usually close out kind of fast, but I think I'm
13 right in suggesting to you that you subpoena the
14 financial records with the mental health case
15 number on the subpoenas as opposed to the
16 guardianship number, so that if they get filed
17 with the Court, they can go into the mental
18 health case.

19 MR. GLICKMAN: Your Honor, we intend to do
20 discovery on financial records too, so I assume
21 I should likewise do it under the mental health
22 case number? Is that consistent with your --

23 THE COURT: Yes. It should all be
24 consistent to keep the financial aspects of it
25 private.

1 MR. LEHMAN: I was just going to say one
2 other thing: Since October of last year,
3 pursuant to rule 2.420, Florida Rules of
4 Judicial Administration, there is a procedure
5 for making the filing of any documents
6 containing financial information filed under
7 seal and no member of the Florida Bar is allowed
8 to file those documents without going through
9 that process. So I just point that out. That's
10 a further safeguard.

11 THE COURT: Right. So I'm doubly
12 protecting it by having it done the way the
13 rules require and putting it into the mental
14 health file, which won't allow -- and, please, I
15 don't know anything about the Stones other than
16 what's come in front of me in the last two
17 hearings. So I don't know whether ten million
18 people want to know about Mrs. Stone's finances
19 or nobody wants to know about Mrs. Stone's
20 finances, but by putting them into the mental
21 health file, it's not going to be accessible to
22 the Miami Herald, the Business News, the
23 Business Review or anybody else to say there's a
24 sealed file, let's seal it -- let's file a
25 petition to unseal it.

1 MR. LEHMAN: I do want to make one other
2 thing known to this Court that I feel I'm
3 ethically bound to do. That is, Barbara Stone
4 has been seeking these financial records now
5 since 2009. The dismissal with prejudice by
6 Judge Echarte and the dismissal previously by
7 Judge Thomas is up on appeal by the Third
8 District Court of Appeal scheduled for oral
9 argument on January 8, 2013, and by going around
10 by this Court's ruling saying that they get
11 financial documents, she's basically mooting the
12 whole case, because the whole thing that she
13 said that she was entitled to, based upon her
14 allegations of fraud and elder abuse, were the
15 financial records.

16 So I just think that's inappropriate --
17 excuse me. I think that's inappropriate when
18 she has an appeal pending after claims have been
19 dismissed with prejudice, after, you know,
20 hundreds of thousands of dollars have been spent
21 to be able to now be able to get these records.

22 So I would ask in any confidentiality
23 order, while Mr. Glickman may be able to use
24 them, I don't think that his client should be
25 able to see those records and his experts, of

1 course.

2 MR. GLICKMAN: I would think there's a lot
3 there, but I think there should be some input
4 from her appellate lawyer, which I am not. I
5 have never represented Barbara Stone in anything
6 for that case. He's trying in another case which
7 he has knowledge of and that I really don't.

8 THE COURT: Not a problem. Mr. Romano,
9 financial records don't get disclosed to anybody
10 but you until after the Third DCA renders its
11 rulings.

12 MS. DONNER: Thank you. Judge, I'm sorry,
13 there is one other thing because you have now
14 determined it's a limited guardianship. That
15 means that -- and I know Mr. Romano has had some
16 problems and he and I have spoken, we have no
17 problems at all.

18 MR. ROMANO: No.

19 MS. DONNER: But because it is now the
20 guardianship you have determined, that will
21 allow Alan Stone, her son, who didn't just see
22 her once a week, but saw her once a day, to be
23 able to visit with his mom, take her out.

24 THE COURT: Absolutely.

25 MS. DONNER: But not interfere with

1 Mr. Romano; however, he needs to give me, at
2 least, to me an indication of what --

3 THE COURT: You're using pronouns and we
4 can't tell from the pronoun whether you're
5 talking about Mr. Stone or Mr. Romano.

6 MS. DONNER: I would like Mr. Romano to --
7 if he's going to schedule doctor appointments
8 for Mrs. Helen Stone, that somebody be informed
9 so that Alan Stone doesn't come over to take his
10 mother out to lunch and interfere.

11 THE COURT: No problem. Mr. Romano is not
12 going to do anything to make anybody
13 uncomfortable or set up an issue. Whatever Mr.
14 Romano communicates to you in relation to
15 Mrs. Stone's activities, he'll communicate to
16 Mr. Glickman, as well.

17 MR. GLICKMAN: Your Honor, I have a
18 question because if this is --

19 THE COURT: Folks, this is going to end so
20 what's your question?

21 MR. GLICKMAN: Last one. It appears
22 there's oral argument in January, but I think
23 you ruled that, if I'm right, that I will get no
24 financial documentation on Alan Stone until the
25 DCA has ruled, which might be after we have the

1 hearing on his fitness to hold the power of
2 attorney.

3 THE COURT: You're not setting any hearings
4 until you can complete your discovery.

5 MR. GLICKMAN: Oh. Thank you, sir.

6 (The hearing concluded at 12:37 p.m.)
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REPORTER'S CERTIFICATE

I, THERESA RUST, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that this transcript, pages 1 through 22, is a true record of the proceedings before the Court.

I further certify that I am not a relative, employee, attorney, or counsel for any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 7th day of December, 2012.

THERESA RUST,
Court Reporter

| | | | |
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