

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

ROBERT SLOSBERG,

Plaintiff,

v.

SUZANNE GILLER and LYNNE AMY
SEIDNER,

Defendants.

CIVIL ACTION FILE
NO. 2013CV232022

AMENDED PRE-TRIAL ORDER

Pursuant to Uniform Superior Court Rule 7.2, the following constitutes a Pre-Trial Order entered in the above-styled case after conference with counsel for the parties:

1.

The name, address and phone number of the attorneys who will conduct the trial are as follows:

For Defendants: Tyler Dixon, Esq.
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Janet Litt, Esq.
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For Plaintiff: F. Skip Sugarman, Esq.
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154 Krog Street – Suite 190
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Tel: (404) 495-4811
(skip@sugarman-law.com)

Matthew G. Hawk, Esq.
Sugarman Law LLP
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Tel: (404) 495-4811
(matt@sugarman-law.com)

2.

The estimated time required for trial is:

Plaintiff: Two weeks. (10 trial days)

Defendants: Two and a half to 3 weeks.

3.

The following motions are currently pending for consideration by the court:

- (a) Motions taken under advisement during the pre-trial conference;
- (b) Plaintiff's motion to quash or for protective order regarding Defendants'

Notice to Produce and request for supplemental discovery responses. Defendants may file a motion to compel. Defendants believe said motion(s) may be resolved at trial; and

- (c) Motions during trial such as motions for judgment as a matter of law and judgment notwithstanding verdict.

4.

If applicable, the jury will be qualified as to relationship with the following:

- (a) F. Skip Sugarman, Esq.; Marisa U. Sugarman, Esq., Matthew G. Hawk, Esq., Shara G. Sanders, Esq., Robert Slosberg, Tracie Slosberg, Suzanne Giller, and Lynn Amy Seidner, David Kenneth Slosberg, deceased, Brian Giller, and First National Bank & Trust Company.

5.

(a) All discovery has been completed, unless otherwise noted, and the Court will not consider any further motions to compel discovery except for good cause shown. The parties, however, shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial.

See Paragraph 3 above regarding Plaintiff's motion to quash or for protective order regarding Defendants' Notice to Produce and request for supplemental discovery responses, and Defendants' reservation of a motion to compel with respect to the Notice to Produce and request for supplemental discovery responses.

Plaintiff and Defendants reserve the right to take the depositions of any witnesses for the preservation of evidence for use at trial or as necessary to identify and authenticate any documents and things and any witnesses identified by Plaintiff or Defendants for the first time in this Pre-trial Order.

(b) Unless otherwise noted, the names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or non-joinder of any parties. FNBT is not a party for purposes of the trial, but is a party for limited purposes as provided by previous orders of the Court (not to be determined at trial.)

6.

The following is the Plaintiff's brief and succinct outline of the case and contentions:

This case is generally about the validity of various estate-planning documents that David Slosberg executed toward the end of his life. Plaintiff Robert Slosberg contends that Defendants systematically isolated and controlled David Slosberg in the

last months of his life and ultimately used their control of him, coupled with his diminished capacity, to force him to implement changes to his longstanding estate plan, effectively disinheriting Plaintiff. More important than anything relating to David Slosberg's estate and financial affairs, Plaintiff also contends that Defendants maliciously and purposefully isolated David Slosberg from Plaintiff and Plaintiff's family and actively prevented Plaintiff's efforts to provide loving and caring support to his father in his final months.

7.

The following is the Defendants' brief and succinct outline of the case and contentions:

See Attached Schedule 6 – Defendants' Outline of Case. Defendants dispute any contentions in Plaintiff's outline of his case that are inconsistent with Defendants' Schedule 6 or Defendants' statement of the issues for determination.

8.

The issues for determination are as follows:

For Plaintiff:

- Whether the documents at issue in this case (including the 2013 and 2014 Powers of Attorney, 2013 Trust, 2014 Trust, and beneficiary designations for the IRA Account and Agency Account) were the product of undue influence.
- Whether Defendants interfered with Plaintiff's gift expectancy.
- The monetary damages, and other relief, to be awarded to Plaintiff based on Plaintiff's claims, including the imposition of a constructive trust on disputed assets.
- The amount of punitive damages to be awarded Plaintiff.
- The amount of attorneys' fees to be award Plaintiff.

For Defendants:

- Whether Decedent lacked contractual capacity when executing the death beneficiary designation for the IRA Account.
- Whether Decedent lacked contractual capacity when executing the death beneficiary designation for the Agency Account.
- Whether Decedent lacked contractual capacity when executing Trust #2.
- Whether Decedent executed the death beneficiary designation for the IRA Account not voluntarily, but as the result of such undue influence by Defendants that Decedent's intent and wishes in doing so were not his own, but were supplanted by the intent and wishes of Defendants by reason of the intentional exertion of undue influence by Defendants.
- Whether Decedent executed the death beneficiary designation for the Agency Account not voluntarily, but as the result of such undue influence by Defendants that Decedent's intent and wishes in doing so were not his own, but were supplanted by the intent and wishes of Defendants by reason of the intentional exertion of undue influence by Defendants.
- Whether Decedent executed the death beneficiary designation for Trust #2 not voluntarily, but as the result of such undue influence by Defendants that Decedent's intent and wishes in doing so were not his own, but were supplanted by the intent and wishes of Defendants by reason of the intentional exertion of undue influence by Defendants.

- Whether Plaintiff tortiously interfered with Defendants' contract and property rights to the IRA Account by interfering with or preventing FNBT's performance.
- Whether Plaintiff tortiously interfered with Defendant Seidner's employment, employment opportunity, property rights, or business relationship with Eldercare Companions.
- Whether Plaintiff acted in bad faith, was guilty of intentionally tortious conduct, was stubbornly litigious, or otherwise caused Defendants (Plaintiffs in counterclaim) unnecessary trouble and expense, thereby authorizing them to recover from Plaintiff (Defendant in counterclaim) their expenses of litigation, including attorney's fees, for having to prosecute their counterclaim.
- (a) Whether Plaintiff (Defendant in counterclaim) acted with malice, a conscious disregard for the consequences of his actions, or a conscious disregard for the rights of other such as to warrant the imposition of punitive damages; and (b) if so, did Plaintiff act with a specific intent to harm Defendants or either of them.
- The amount of damages to be awarded for each of Defendants' counterclaims in which they prevail.

9.

The following facts are stipulated: The parties stipulate that the documents listed on the attached Joint Exhibit List are admissible; but stipulate also that the weight, relevance or materiality of said documents, or any of them, are not to be affected or influenced by the fact that they are listed or labeled as joint exhibits, and further

stipulate that no party is obligated to tender into evidence any of said joint exhibits, it being the sole intent of this stipulation regarding joint exhibits that said exhibits are stipulated to be admissible should either or both parties tender same, and that their designation as joint exhibits is not to affect or influence the weight, relevance, or materiality of same; and the parties request that the Court give a jury instruction to that effect, both in its opening instructions prior to opening statements, and also in its closing jury charge after all evidence and closing statements have been concluded.

10.

The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff or Defendants. Unless noted, the parties have stipulated as to the authenticity of the documents listed and the exhibits listed may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial.

(a) By Plaintiff: See attached Exhibit A. See also the Joint Exhibits.

(b) By Defendants: See the attached Schedule 10(b) for documents Defendants may tender at trial (other than those documents that may be tendered for purposes of impeachment or rebuttal). See also the Joint Exhibits.

11.

Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions are as follows:

- Slosberg v. Giller, 341 Ga. App. 581 (2017)
- Brown v. Frachiseur, 247 Ga. 463 (1981)
- Burt Dev. Co. v. Lee Cty. Tax Assessors, 240 Ga. App. 451 (1999)
- Rubin v. Cello Corp., 235 Ga. App. 250, 250 (1998)

- Tidwell v. Critz, 248 Ga. 201, 206 (1981)
- Bailey v. Edmundson, 280 Ga. 528, 530 (2006)
- Skelton v. Skelton, 251 Ga. 631, 634 (1983)
- Fowler v. Fowler, 197 Ga. 53, 54 (1943)
- Cook v. Huff, 274 Ga. 186, 187 (2001)
- Mathis v. Hammond, 268 Ga. 158 (1997)
- Knox v. Knox, 213 Ga. 677, 679-80 (1957)
- Hubbard v. Rutherford, 148 Ga. 238 (1918)
- Davison v. Hines, 291 Ga. 434, 438 (2012)
- McDaniel v. McDaniel, 288 Ga. 711, 714 (2011)
- Dyer v. Souther, 272 Ga. 263, 265 (2000)
- Bean v. Wilson, 283 Ga. 511 (2008)
- Dorsey v. Kennedy, 284 Ga. 464 (2008)
- Lewis v. Van Anda, 282 Ga. 763 (2007)
- Lillard v. Owens, 281 Ga. 619 (2007)
- Jones v. Sperau, 275 Ga. 213 (2002)
- Coggin v. Fitts, 268 Ga. 112 (1997)
- Bryan v. Norton, 245 Ga. 347 (1980)
- Harper v. Harper, 229 Ga. 583, 584 (1972)
- Arnold v. Freeman, 181 Ga. 654, 659 (1935)
- White v. Regions Bank, 275 Ga. 38 (2002)
- Brown v. Bryant, 220 Ga. 80, 81 (1964)
- Service Merchandise, Inc. v. Jackson, 221 Ga. App. 897, 898 (1996)

- Smith v. Tenet Health Sys. Spalding, Inc., 327 Ga. App. 878, 879 (2014)
- Lingo v. Kirby, 142 Ga. App. 278 (1977)
- Rome v. Polyidus Partners, LP, 322 Ga. App. 175 (2013)
- Peach Blossom Dev. Co., Inc. v. Lowe Electric Supply Co., 300 Ga. App. 268, 270 (2009)
- Walter R. Thomas Assoc., Inc. v. Media Dynamite, Inc., 284 Ga. App. 413 (2007)
- Dover v. Mathis, 249 Ga. App. 753 (2001)
- Scott v. Owens-Illinois, Inc., 173 Ga. App. 19 (1984)
- HOH Co. v. Ethridge, 168 Ga. App. 20 (1983)
- Bradley v. Winn Dixie Stores, Inc., 314 Ga. App. 556, n.1 (2012)
- Gomez v. Chao, 239 Ga. App. 474, 474 (1999)
- Atlanta Nat'l League Baseball Club, Inc. v. F.F., 328 Ga. App. 217, 220 (2014)
- Sentry Ins. v. Majeed, 194 Ga. App. 276, 276 (1990)

12.

Special authorities relied upon by Defendants relating to peculiar evidentiary or other legal questions are as follows: Defendants anticipate submitting a trial brief at or prior to trial.

13.

If applicable, requests and exceptions to charge.

All requests to charge shall be numbered consecutively on separate sheets of paper and submitted to the court in duplicate by counsel for all parties at the

commencement of trial, unless otherwise provided by pre-trial order; provided, however, that additional requests may be submitted to cover unanticipated points that arise thereafter.

Note: Defendants ask whether pattern charges need to be separately submitted or just referenced.

14.

The testimony of the following persons may be introduced by depositions:

(a) For Plaintiff: Richard Babush, Steve Merlin, Oumou Kane

Plaintiff reserves the right to offer deposition testimony for any witness for whom Defendants present testimony at trial.

(b) For Defendants: Stephen Merlin, Dr. Gary Figiel, Dr. Craig Johnson, Myron “Mike” Slosberg, Janet Cohn Slosberg, David Pollan, John Meier, Shadaya Martin, Jennifer Reefe, Gayle Horton, Marvin Botnick, Roger Sullivan, Jo-Ann Taylor, Lisa Landsee, Angela Greer, and Yvette Pierce, one or more FNBT 30(b)(6) representatives, Chantea Jones, Dan Wachtel.

15.

The following are lists of witnesses the

(a) Plaintiff will have present at trial: See attached Exhibit B

(b) Plaintiff may have present at trial: See attached Exhibit B

(c) Defendants will have present at trial: Lynn Amy Seidner or Suzanne Giller

(d) Defendants may have present at trial: Suzanne Giller, Brian Giller, Robert Slosberg, Stephen Merlin, Dr. Gary Figiel, Dr. Craig Johnson, Myron “Mike” Slosberg, Tracie Slosberg, Janet Cohn Slosberg, David Pollan, John Meier, Shadaya Martin,

Jennifer Reefe, Yvette Pierce; Marvin Botnick; Carolyn Wasser, Angela Greer, Judy Tribble; Meghan Seidner, Nicole Seidner, Roger Sullivan, Jo-Ann Taylor, Gayle Horton, Lisa Landsee (FNBT designee), additional FNBT designee who may be deposed in the future, Dan Wachtel, Bank of America designee, Wells Fargo Bank designee, Fidelity Investments designee, Chantea Jones, Janet Litt and/or Tyler Dixon (on issue of attorneys fees only), any person named above whose testimony may be tendered via deposition, and any person(s) listed by Plaintiff.

Opposing counsel may rely on representation by the designated party that he *will* have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his testimony by other means.

16.

If applicable, the forms of all possible verdicts to be considered by the jury are as follows: Plaintiff submits that the parties will submit their proposed verdict forms prior to the charge conference.

Defendants submit that a general verdict form would not be appropriate for this case, and that special interrogatories should be submitted to the jury; and will submit proposed verdict and interrogatory form at the time directed by the Court.

17.

- (a) The possibilities of settling the case are: very low.
- (b) The parties want the case reported. If they do, both parties will arrange for the reporter.
- (c) The cost of take-down will be shared.
- (d) Other matters:

(i) Defendants submit that the Court, not the jury, should determine, based on the jury's verdict, the manner in which the monies held in the Court's registry should be disbursed, the amounts and payees of such disbursements, and the manner in which such disbursements are to be applied to the jury verdict. Plaintiff disagrees with this submission.

(ii) Defendants also request some direction regarding FNBT's dismissal from or continued involvement in the case. It is Defendants' current understanding that said issues will be addressed separately from the jury trial, and the FNBT will not be participating in the trial, except to the extent its designee's testimony (including the exhibits identified by said designee) is tendered via deposition.

(iii) Certain records have been filed or submitted for filing under seal. Some, or perhaps all, of those records may be tendered as evidence at trial. The parties require some direction from the Court on how to handle such documents.

(iv) Defendants request guidance or direction from the Court regarding the presentation of evidence of attorneys' fees, such as whether attorneys may state the evidence as officers of the Court or be sworn as other witnesses, etc.

Respectfully submitted this 31st day of May, 2019.

/s/ Tyler Dixon
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Attorneys for Defendants

It is hereby ordered that the foregoing, including the attachments thereto, constitutes the PRE-TRIAL ORDER in the above case and supersedes the pleadings which may not be further amended except by order of the court to prevent manifest injustice.



JUDGE, FULTON COUNTY
SUPERIOR COURT

June 6, 2019

Exhibit A – Plaintiff's Exhibit List

Exhibit #	Description	Source
1.	E-mail from Robert Slosberg to Tracie Slosberg, Amy Seidner and Suzy Jacobs dated 10/27/11 forwarding 10/26/11 e-mail from Stephen Merlin	
2.	E-mail chain between Robert Slosberg and Suzy Jacobs dated 10/28/11	
3.	E-mail chain between Stephen Merlin and Robert Slosberg dated 10/31/11	
4.	E-mail chain between Robert Slosberg, Madina Scott and Stephen Merlin dated 10/31/11	
5.	E-mail from Amy Seidner to Robert and Tracie Slosberg dated 11/16/11	
6.	Acceptance of Appointment signed by Robert K. Slosberg dated 12/9/11	
7.	E-mail from Amy Seidner to Tracie Slosberg, Robert Slosberg and Suzy Jacobs dated 12/9/11	
8.	E-mail from Amy Seidner to Tracie Slosberg, Robert Slosberg, Suzy Jacobs and Brian Giller dated 12/21/11	
9.	E-mail chain between Robert Slosberg, Suzy Jacobs and Amy Seidner dated 12/24/11	
10.	2012-2014 Fidelity Bank canceled checks	
11.	E-mail from Amy Seidner to Robert Slosberg dated 1/3/12	
12.	E-mail from Suzy Jacobs to Amy Seidner, Robert Slosberg, and Tracie Slosberg dated 1/13/12	
13.	E-mail chain between Amy Seidner and Robert Slosberg dated 1/18/12	
14.	E-mail from Robert Slosberg to Amy Seidner, Suzy Jacobs and Tracie Slosberg dated 1/20/12	
15.	E-mail from Roger Sullivan to Robert Slosberg dated 1/24/12	Sullivan 38
16.	E-mail chain between Amy Seidner and Robert Slosberg dated 1/24/12	
17.	E-mail chain between Robert Slosberg and Suzy Jacobs dated 1/30/12	
18.	e-mail chain between Suzy Jacobs and Tracie Slosberg dated 1/31/12	
19.	E-mail chain between Robert Slosberg, Amy Seidner, and Suzy Jacobs dated 2/5/12	
20.	Fixed Income Proposal dated 2/17/12	Sullivan 40

Exhibit #	Description	Source
21.	E-mail from Suzy Jacobs to Kevin Toloni, Tracie Slosberg, Robert Slosberg and Amy Seidner dated 2/14/12	
22.	E-mail from Suzy Jacobs to Tracie Slosberg, Robert Slosberg and Amy Seidner dated 2/15/12	
23.	E-mail from Roger Sullivan to Robert Slosberg dated 2/24/12	Sullivan 39
24.	E-mail from Robert Slosberg to Amy Seidner and Suzy Jacobs dated 2/26/12	
25.	E-mail chain between Tracie Slosberg, Amy Seidner, Suzy Jacobs and Robert Slosberg dated 2/29/12	
26.	E-mail chain between Tracie Slosberg and Suzy Jacobs dated 3/17/12	
27.	E-mail chain between Suzy Jacobs and Tracie Slosberg dated 3/20/12	
28.	E-mail chain between Amy Seidner, Tracie Slosberg, Suzy Jacobs and Robert Slosberg dated 4/3/12	
29.	E-mail from Amy Seidner to Tracie Slosberg and Robert Slosberg dated 4/16/12	
30.	E-mail from Roger Sullivan to David Slosberg and Robert Slosberg dated 6/4/12	Sullivan 41
31.	E-mail from Suzy Jacobs to Amy Seidner, Robert Slosberg and Tracie Slosberg dated 6/9/12	
32.	E-mail from Suzy Jacobs to Amy Seidner, Robert Slosberg and Tracie Slosberg dated 6/19/12	
33.	Letter from Suzy Jacobs to Monumental Life Insurance Company dated 6/15/12	
34.	E-mail chain between Amy Seidner, Suzy Jacobs and Robert Slosberg dated 6/17/12	
35.	E-mail chain between Robert Slosberg and Amy Seidner dated 6/27/12	
36.	E-mail chain between David Slosberg and Robert Slosberg dated 7/10/12 – 7/11/12	
37.	E-mail from Amy Seidner to Robert Slosberg dated 7/24/12	
38.	Memo from Cohen, Pollock, Merlin & Small, P.C. to David Slosberg dated 7/27/12	Merlin 10A
39.	Text from Robert Slosberg to Amy Seidner dated 7/27/12	
40.	E-mail from Suzy Jacobs to Robert Slosberg dated 7/27/12	
41.	David Slosberg Talking Points	
42.	E-mail from Suzy Jacobs to Robert Slosberg dated 7/28/12	

Exhibit #	Description	Source
43.	E-mail from Robert Slosberg to Suzy Jacobs, Brian Giller, and Amy Seidner dated 7/28/12	Seidner 42
44.	E-mail chain between Stephen Merlin and Robert Slosberg dated 7/30/12	Merlin 32
45.	E-mail from Amy Seidner to Stephen Merlin and Robert Slosberg dated 8/3/12	Merlin 34
46.	E-mail from Stephen Merlin to Robert Slosberg, and Amy Seidner dated 8/31/12	Pollan 31
47.	E-mail chain between Robert Slosberg and Amy Seidner dated 9/14/12	Seidner 79
48.	E-mail chain between Suzy Jacobs and Robert Slosberg dated 10/5/12	
49.	Letter from Stephen Merlin to David Slosberg dated 11/14/12	Babush 6
50.	E-mail from Stephen Merlin to Robert Slosberg and Adam Gaslowitz dated 11/27/12 with handwritten notes	
51.	E-mail from Suzy Giller to Steve Merlin dated 11/30/12	Giller 62
52.	E-mail from Roger Sullivan to David Slosberg and Robert Slosberg dated 12/12/12	RS000154
53.	Treatment note from Bernstein & McCasland, M.D., P.C. dated 12/12/12	
54.	2013 CVS Prescriptions	CVS 00020-00037
55.	Text exchange between Tracie Slosberg and Caregiver dated 1/5/13 - 1/7/13	
56.	Text exchange between Robert Slosberg and Suzy Jacobs dated 1/5/13	
57.	E-mail chain between Robert Slosberg and Roger Sullivan dated 1/18/13	
58.	Wait List Reservation Agreement for Huntcliff Summit Senior Independent Living by Sunrise Senior Living dated 1/23/13	Seidner 38
59.	E-mail chain between Amy Seidner and Gayle Horton dated 2/2/13 with attachments	Horton 7
60.	E-mail chain between Roger Sullivan, Amy Seidner and Suzy Jacobs dated 2/5/13	Sullivan 3
61.	E-mail from Roger Sullivan to David Slosberg, Robert Slosberg, Suzy Jacobs and Amy Seidner dated 2/5/13	Sullivan 4
62.	Brightstar Nurse Assessments dated 2/8/13	Brightstar 0015-0016
63.	Last Will and Testament of David K. Slosberg dated 2/14/13	Landsee 66

Exhibit #	Description	Source
64.	E-mail chain between Robert Slosberg, Adam Gaslowitz, Stephen Merlin, Amy Seidner, and Suzy Jacobs dated 2/14/13	
65.	E-mail chain between Robert Slosberg and Amy Seidner dated 2/20/13	
66.	Psychiatric Progress Note from Southeastern Geriatric Healthcare Group dated 2/22/13	SE GERIATRIC 00070-00071
67.	Check from Amy Seidner to Huntcliff Summit dated 2/23/13	Horton 10?
68.	E-mail chain between Robert Slosberg and Amy Seidner dated 2/25/13	
69.	E-mail from Suzy Jacobs to David Pollan dated 2/27/13	
70.	E-mail from Gayle Horton to David Pollan dated 2/28/13	Horton 10
71.	Text exchange between Tracie Slosberg and Shelia Stewart dated 1/27/13 – 3/4/13	
72.	E-mail from Stephen Merlin to David Pollan, Adam Gaslowitz and Richard Babush dated 3/4/13	Babush 12
73.	Notes from David Slosberg dated 3/5/13	00205647
74.	E-mail chain between Stephen Merlin and Robert Slosberg dated 3/5/13	Merlin 19
75.	Invoices from The Pollan Law Firm dated 3/6/13 to 6/4/14	Pollan 16
76.	E-mail from Suzy Jacobs to Amy Seidner dated 3/7/13	
77.	E-mail from Robert Slosberg to Adam Gaslowitz and Stephen Merlin dated 3/10/13	
78.	Text exchange between Tracie Slosberg and Oumou Kane dated 3/11/13 – 3/12/13	
79.	911 report dated 3/13/13	
80.	Photographs dated 3/13/13	00205526
81.	Medical records from 3/13/13 incident	
82.	E-mail from Robert Slosberg to David Slosberg dated 3/13/13 forwarding 3/13/13 e-mail from Kevin Tolnai	
83.	Psychiatric Progress Note from Southeastern Geriatric Healthcare Group dated 3/18/13	SE GERIATRIC 0068-0069
84.	Documents evidencing Dr. Figiel's changed 3/19/13 notes	00233773
85.	E-mail from Suzy Jacobs to Stephen Merlin and Amy Seidner dated 3/19/13	
86.	E-mail chain between Stephen Merlin and Suzy Jacobs dated 3/20/13	Merlin 21

Exhibit #	Description	Source
87.	E-mail from Stephen Merlin to Suzy Jacobs, Amy Seidner, Robert Slosberg and David Pollan dated 3/24/13	Merlin 23
88.	E-mail chain between Suzy Jacobs, Stephen Merlin, Amy Seidner, David Slosberg, David Pollan, and Robert Slosberg dated 3/24/13	Pollan 33
89.	E-mail from Amy Seidner to Suzy Giller dated March 24, 2013	Seidner 45
90.	Client Intake Form from ElderCare Companions dated 3/24/13	Giller 37
91.	HIPAA Information and Consent Form dated 3/25/13	Abrams 3
92.	Invoices from The Pollan Law Firm dated 3/28/13 to 6/4/14	Giller 11
93.	David K. Slosberg Asset Protection Trust dated 3/28/13	Pollan 2
94.	Client's Rights and Responsibilities form from ElderCare Companions, Inc. dated 3/29/13	Abrams 4
95.	Client intake form from ElderCare Companions, Inc. dated 4/1/13	Abrams 1
96.	Client Services Agreement from ElderCare Companions, Inc. dated 4/6/13	Abrams 2
97.	E-mail from David Pollan to Suzy Jacobs, Amy Seidner and Jo-Ann Taylor dated 4/6/13 with attachment	FNBT 16
98.	E-mail from Jo-Ann Taylor to Michelle Koufman and David Pollan dated 4/8/13	Pollan 14
99.	Nursing Assessment Form from ElderCare Companions, Inc. dated 4/8/13	Abrams 8
100.	E-mail from David Slosberg to Robert Slosberg, David Pollan, Amy Seidner and Suzy Jacobs dated 4/9/13	Giller 56
101.	E-mail chain between Michelle Koufman, Jo-Ann Taylor and David Pollan dated 4/9/13 with attachment	Taylor 19
102.	E-mail from Hillary Abrams to David Pollan, Suzy Jacobs and Amy Seidner dated 4/15/13	Abrams 17
103.	Order Dismissing Conservatorship Petition (no attachment) dated 5/1/13	
104.	Affidavit of Richard K. Babush dated 5/7/13	Babush 13
105.	E-mail chain between Robert Slosberg and Mike Slosberg dated 5/11/13	M. Slosberg 1
106.	E-mail chain between Joe Vitetta, Jo-Ann Taylor and Amy Seidner dated 5/14/13	
107.	Emergency Petition for Temporary Injunction dated 5/14/13	
108.	E-mail from Suzy Jacobs to Jo-Ann Taylor and David Pollan dated 5/21/13	Taylor 90

Exhibit #	Description	Source
109.	E-mail from David Pollan to Hillary Abrams dated 5/31/13	Abrams 19
110.	E-mail chain between Gregory Jacobs, David Pollan and Scott King dated 6/10/13	
111.	Letter from Gregory Jacobs to David Pollan dated 6/7/13	
112.	Plan of Care from ElderCare Companions, Inc. dated 6/15/13	Abrams 9
113.	Therapy Progress Notes dated 6/18/13	
114.	Letter from Jennifer Reefer to David Slosberg dated 6/21/13	Pollan 1
115.	Treatment notes from Wellstreet Urgent Care dated 7/11/13	WELLSTREET 00002-00003
116.	Medical records from Emory St. Joseph's Hospital dated 7/13	
117.	David K. Slosberg Georgia Advance Directive for Health Care dated 7/1/13	Pollan 9
118.	ElderCare Companions, Inc.'s RN/LPN Progress notes dated 7/3/13	
119.	Treatment notes from 7/6/13 visit to Tri County Hospital – Williston	
120.	Transfer Record from Tri County Hospital to Regional General Hospital dated 7/6/13	
121.	Checks from Suzanne Giller to Brian Giller dated 7/25/13 & 12/3/13	Giller 9
122.	E-mail chain between David Pollan, Scott King, and Gregory Jacobs dated 7/26/13	Pollan 36
123.	E-mail from Scott King to Robert Slosberg, Tracie Slosberg, and Gregory Jacobs dated 8/16/13	
124.	Letter from Keith Barnett to Wade H. Watson III dated 9/3/13	Sullivan 10
125.	Police Report dated 9/10/13	
126.	Photograph with Michal Slosberg dated 10/2013	Giller 36
127.	Fax from Lee Olsen to Jacobs & King dated 10/3/13	Abrams 16
128.	E-mail chain between Frank Strickland, Amy Seidner, John Meier, David Pollan, Belinda Harrison and Dana Thompson dated 10/23/13	
129.	Treatment note from Wellstreet Urgent Care dated 10/27/13	WELLSTREET 00005-00006
130.	E-mail chain between Ken Shapiro, Robert Babush and Gregory Jacobs dated October 28, 2013	
131.	Dismissal of Assault Charges dated 10/29/13	
132.	Last Will and Testament of David K. Slosberg dated 10/31/13	Pollan 8

Exhibit #	Description	Source
133.	Dr. Craig Johnson's tests and medical records dated 10/31/13-11/4/13	Johnson 3
134.	E-mail chain between Jo-Ann Taylor, John Meier, Lisa Landsee and David Pollan dated 11/8/13	Pollan 15
135.	E-mail from Jo-Ann Taylor to Debra Aisenbrey and Lisa Landsee dated 11/22/13	FNBT 31
136.	Final Order Granting David Slosberg's Motion to Dismiss dated 12/9/13	
137.	Mindful Transitions, LLC Physician/Provider Coordination of Care Form dated 12/30/13	
138.	Letter from Scott King to Wade Watson dated 1/06/14	
139.	David K. Slosberg Asset Protection Trust II dated 1/17/14	Pollan 3
140.	E-mail chain between David Pollan, Amy Seidner, Suzy Jacobs, Jo-Ann Taylor and John Meier dated 1/17/14	Pollan 17
141.	Letter to Lee Olson from Gregory Jacobs dated 1/20/14	
142.	E-mail from Amy Seidner to Suzy Giller dated 1/29/14	Giller 45
143.	First National Bank and Trust Company Wealth Management Agency Agreement dated 3/14/14	FNBT 4
144.	Progress Notes dated 3/18/14	
145.	Note for 1690 NE 104 Street dated 4/1/14	Giller 8
146.	Checks from Suzanne Giller to Brian Giller dated 4/23/14 and 6/27/14	Giller 10
147.	Client's Emergency Contact Information Form from ElderCare Companions, Inc. dated 6/1/14	Abrams 6
148.	E-mail chain between Suzy Jacobs, Amy Seidner, Hillary Abrams, and Joe Vitetta dated 6/19/14	Abrams 12
149.	E-mail chain between David Pollan, Janet Litt, Hillary Abrams, John Meier, Elizabeth Snarey, Jennifer Reefe, Robert Slosberg, Gregory Jacobs, Scott King, and Kirsty Derrigo dated 6/19/14	
150.	E-mail from David Pollan to Janet Litt dated 6/19/14	Pollan 19
151.	E-mail from David Pollan to Janet Litt dated 6/19/14 with attachment	Pollan 21
152.	E-mail from David Pollan to Janet Litt dated 6/19/14 forwarding e-mail chain between Suzy Jacobs, Stephen Merlin, Amy Seidner, Jennifer Reefe, and Janet Litt dated 3/20/13	Pollan 25
153.	Nursing Assessment Form from ElderCare Companions, Inc. dated 6/27/14	Abrams 10
154.	September 2014 Fidelity Bank statement	
155.	First National Bank and Trust Company account statement – David Slosberg Agency: 9/1/14 – 3/20/15	FNBT 2

Exhibit #	Description	Source
156.	First National Bank and Trust Company account statement – David K. Slosberg IRA: 9/1/14 – 3/20/15	FNBT 1
157.	First National Bank and Trust Company account statement – David Slosberg Asset Protection Trust II: 9/1/14 – 3/20/15	FNBT 3
158.	Doctor’s Radiology Group of Gainesville notes dated 01/05/15	
159.	Affidavit of Richard K. Babush dated 2/26/15	Babush 14
160.	Plaintiff Robert Slosberg’s Supplemental Responses to Defendant’s Request for Production of Documents dated 11/13/15	
161.	Plaintiff Robert Slosberg’s Supplemental Responses to Defendants’ Suzanne Giller and Amy Seidner’s First Continuing Interrogatories to Plaintiff dated 12/11/15	
162.	Affidavit of Richard K. Babush dated 12/16/15	Babush 15
163.	Order Appointing Temporary Receiver dated 3/18/16	
164.	David Slosberg’s Assessment and Care Plan from ElderCare Companions, Inc.	Davis 5
165.	Instrumental Activities of Daily Living from ElderCare Companions, Inc.	Abrams 7
166.	CV of David M. Davis, M.D., D.L.F.A.P.A., F.A.B.P.N.	RS002271- RS002294
167.	Documents and medical records reviewed by David M. Davis, M.D.	
168.	Service bills from Dave M. Davis, M.D., P.C.	RS002299- RS02303, RS002338- 002342, RS002343- RS002355
169.	Handwritten Notes from Dr. Davis	Davis A
170.	Handwritten list of David Slosberg’s Medical Illnesses	Davis B
171.	Handwritten Medical Timeline for David Slosberg	Davis C
172.	Handwritten Legal Timeline for David Slosberg	Davis D
173.	Handwritten Undue Influence notes	Davis E
174.	First National Bank and Trust Company presentations	
175.	E-mail from Amy Seidner to Robert Slosberg and Suzy Jacobs	
176.	Memo regarding giving all three children equal rights and responsibilities	
177.	Handwritten notes from Roger Sullivan	Sullivan 22 & 32
178.	Fidelity Check No. 2030	
179.	Fidelity Bank checks to Amy Seidner	

Exhibit #	Description	Source
180.	Records from ElderCare Companions, Inc. reflecting missing nursing assignments	
181.	Handwritten notes from David Slosberg	
182.	City List Article	
183.	Care Log for Family	
184.	TMK Invoices	TMK 0004-0072
185.	Bloom Sugarman/Sugarman Law Invoices	
186.	Caldwell & Watson Invoices	
187.	Meire Invoices	
188.	Caldwell & Watson Invoices	
189.	Voicemail dated 2/15/13	235310
190.	Voicemail dated 3/6/13 (Pollan to Merlin)	
191.	Recorded conversation dated 3/10/13	205552
192.	Recorded conversation dated 3/10/13	205554
193.	Recorded conversation dated 3/10/13	215214
194.	911 recording dated 3/13/13	205080
195.	911 follow-up call dated 3/13/13	
196.	Recorded phone conversation dated 3/15/13	235313
197.	Recovered conversation dated 3/17/13	205556
198.	Recorded phone conversation dated 5/7/13	235315
199.	Recorded conversation dated 5/13/13	215216
200.	Recorded phone conversation dated 5/23/13	205557
201.	Recorded conversation dated 5/24/13	205558
202.	Recorded phone conversation dated 5/28/13	205560
203.	Recorded conversation dated 6/2/13	235318
204.	Recorded conversation dated 6/7/13	205562
205.	911 recording dated 6/9/13	
206.	Recorded phone conversation dated 8/6/13	205563
207.	Recorded phone conversation dated 8/6/13	235326
208.	Recovered conversation dated 8/16/13	235333
209.	Recorded conversation dated 8/16/13	235331
210.	Recorded conversation dated 8/16/13	235330
211.	Recorded conversation dated 8/19/13	205564
212.	Recorded conversation dated 8/19/13	205565
213.	Recorded conversation dated 8/19/13	205566
214.	Recorded phone conversation dated 9/10/13	205569
215.	Recorded phone conversation dated 9/10/13	233319
216.	911 recording dated 9/10/13	205520
217.	911 recording dated 9/10/13	205527
218.	Recorded phone conversation dated 9/14/13	215223
219.	Recorded phone conversation dated 10/4/13	205570
220.	Recorded conversation dated 10/9/13	205531

Exhibit #	Description	Source
221.	Recorded phone conversation dated 10/14/13	205535
222.	Recorded conversation dated 10/21/13	235343
223.	Recorded conversation dated 10/21/13	235342
224.	Recorded phone conversation dated 10/24/13	235345
225.	Recorded phone conversation dated 10/24/13	235344
226.	Recorded phone conversation dated 10/25/13	235346
227.	Recorded phone conversation dated 11/4/13	235350
228.	Recorded conversation dated 12/2/13	235351
229.	Recorded phone conversation dated 12/2/13	205537
230.	Recorded phone conversation dated 1/28/14	235352
231.	Recorded phone conversation dated 2/11/14	235302
232.	Recorded phone conversation dated 2/12/14	235303
233.	Recorded phone conversation dated 2/12/14	235304
234.	Recorded phone conversation dated 2/13/14	235305
235.	Recorded phone conversation dated 2/13/14	235309
236.	Recorded phone conversation dated 2/13/14	235306
237.	Recorded phone conversation dated 2/27/14	235311
238.	Recorded phone conversation dated 6/4/14	235319
239.	Recorded phone conversation dated 6/5/14	235320
240.	Recorded phone conversation dated 6/24/14	215228
241.	Recording dated 8/28/14	215229
242.	All exhibits to depositions taken in this case or any related case.	
243.	Any exhibits identified by Defendants.	

Exhibit B – Plaintiff's Witness List

Will Call:

- Robert Slosberg
- Tracie Slosberg

May Call:

- Susan Giller
- Brian Giller
- Amy Seidner
- Steve Merlin
- David Pollan
- Oumou Kane
- Hillary Abrams
- Richard Babush
- Dave Davis
- Gayle Horton
- Lisa Landsee
- Roger Sullivan
- Jo-Ann Taylor
- Ariel Zion
- Nicholle Seidner
- Joe Vitetta
- Lee Olson

- Carolyn Wasser
- Chantea Jones
- Scott King
- Greg Jacobs
- F. Skip Sugarman (on the issue of fees only)

JOINT EXHIBIT LIST

1. Myrna Slosberg's 2005 Revocable Trust, including 1st Amendment
2. Myrna Slosberg's General POA (if located)
3. Myrna Slosberg's Healthcare POA
4. David Slosberg's 2005 Revocable Trust, including 1st Amendment
5. David Slosberg's 2005 General POA
6. David Slosberg's 2005 Healthcare POA
7. Letter to Slosberg Children 9-1-05
8. David Slosberg's 2005 Will
9. David Slosberg's POA 12-9-11
10. Revocation of David Slosberg's 2005 Trust (2-14-13)
11. David Slosberg's Will 2-14-13
12. David Slosberg Authorization for Financial Transparency 2-14-13 (Merlin 24)
13. David Slosberg's 2013 Healthcare POA
14. David Slosberg's 2-28-13 revocation of David's 2011 POA (item 9 above)
15. David Slosberg's POA 2-28-13
16. Trust #1 (unfunded)
17. David Slosberg's revocation of Bobby's healthcare POA (signed by David 7-1-13)
18. David Slosberg's GA Advance Directive signed 7-1-13
19. Codicil to David Slosberg's Will 7-23-13
20. David Slosberg's Will 10-31-13
21. Trust #2 (1-17-14)
22. David Slosberg's POA signed 1-17-14 (FNBT Exh 61)
23. Wealth Mgmt Agreement – Agency Agreement – (FNBT) (Landsee Exh 4)
24. FNBT/IRA Agreement, 4-30-13 (Landsee Exh 5)
25. IRA beneficiary designation (Landsee Exh 9)

26. New Account Form (Landsee Exh 10)
27. E-mail chain between Robert Slosberg, Amy Seidner, and Suzy Jacobs dated 2/9/12 (Seidner 70)
28. E-mail from Amy Seidner to Stephen Merlin dated 7/23/12 with attachment (Pollan 26)
29. E-mail from Stephen Merlin to Robert Slosberg and Amy Seidner dated 8/3/12 (Pollan 27)
30. E-mail chain between Suzy Jacobs, Robert Slosberg, Stephen Merlin and Amy Seidner dated 9/10/12
31. E-mail from Stephen Merlin to Richard Babush and Roger Sullivan dated 11/1/12 (Sullivan 15)
32. E-mail chain between Stephen Merlin, Roger Sullivan, Richard Babush and Linda Hamill dated 11/14/12 (Babush 7) and attached letter (Babush 6)
33. E-mail chain between Robert Slosberg, Adam Galowitz, Stephen Merlin, Roger Sullivan and Richard Babush dated 11/26/12 (Babush 8)
34. E-mail from Stephen Merlin to Robert Slosberg and Adam Gaslowitz dated 11/27/12 (Botnick 5)
35. E-mail chain between Amy Seidner, Suzy Jacobs, Robert Slosberg and Stephen Merlin dated 11/28/12 (Merlin 42)
36. E-mail from Suzy Jacobs to Stephen Merlin, Amy Seidner and Robert Slosberg dated 11/30/12 (Giller 62)
37. E-mail chain between Marvin Botnick, Stephen Merlin, Suzy Jacobs, Amy Seidner, Robert Slosberg, Richard Babush, and Linda Hamill dated 12/10/12 (Botnick 4)
38. E-mail from Madina Scott to Robert Slosberg, Suzy Jacobs, Amy Siedner, Stephen Merlin and Richard Babush dated 1/9/13 (Babush 10) with attached drafts (Merlin 000034 – 000073)

39. E-mail from Amy Seidner to Tracie Slosberg, Robert Slosberg and Suzy Jacobs dated 1/14/13
40. E-mail from Suzy Jacobs to Stephen Merlin, Adam Gaslowitz, Amy Seidner and Robert Slosberg dated 1/15/13 (Merlin 27)
41. E-mail chain between Stephen Merlin, Suzy Jacobs, Amy Seidner and Richard Babush dated from 1/15/13 to 1/28/13
42. E-mail from Gayle Horton to Robert Slosberg, Amy Seidner and Suzy Jacobs dated 2/5/13 with attachment (Horton 8)
43. E-mail from Stephen Merlin to Roger Sullivan, and Richard Babush dated 2/14/13 (Merlin 26)
44. E-mail chain between Stephen Merlin, Amy Seidner, and Suzy Jacobs dated 2/14/13 (Merlin 31)
45. E-mail from Suzy Jacobs to Amy Seidner and Robert Slosberg dated 2/22/13 (Seidner 66)
46. E-mail from Gayle Horton to David Pollan dated 2/28/13
47. E-mail chain between Stephen Merlin and Robert Slosberg dated 3/5/13 (Merlin 20)
48. E-mail from David Pollan to Stephen Merlin, Gayle Horton, Jo-Ann Taylor and Elizabeth Snarey dated 3/5/13 with attachments (Horton 11)
49. E-mail from Amy Seidner to Suzy Jacobs dated 3/10/13 (Giller 45)
50. E-mail chain between Adam Gaslowitz and Stephen Merlin dated 3/10/13 (Slosberg 119)
51. Police report dated 3/13/13
52. E-mail chain between Stephen Merlin, Suzy Jacobs and Amy Seidner dated 3/20/13 (Merlin 21)
53. E-mail chain between Suzy Jacobs and Jo-Ann Taylor dated 4/2/13 (Taylor 27)
54. E-mail chain between Robert Slosberg and David Slosberg dated 4/4/13 (Seidner 105)
55. Request for Transfer to IRA dated 4/29/13 (FNBT 6)

56. First National Bank and Trust Company Agency/IRA Agreement dated 4/30/13 (FNBT 5)
57. E-mail from David Slosberg to Robert Slosberg and Tracie Slosberg dated 6/7/13 (Seidner 102)
58. Letter from Scott King to Hilary Abrams dated 8/16/13
59. Letter from Wade Watson to David Slosberg dated 8/21/13 (M. Slosberg 15)
60. E-mail from Jo-Ann Taylor to Suzy Jacobs dated 10/4/13 with attachment (Taylor 6)
61. E-mail from Jo-Ann Taylor to David Pollan dated 10/22/13 with attachments (part of Taylor 27)
62. E-mail from Aric Burch to Patricia Frisch, Fran Sorenson and Lisa Landsee dated 12/5/14 (FNBT 54)
63. E-mail chain between Tyler Dixon, Jo-Ann Taylor, Lisa Landsee, and Aric Burch dated 12/10/14 (FNBT 55)
64. Beneficiary form from First National Bank and Trust Company dated 2/3/14 (FNBT 8)
65. Petition for Appointment of a Guardian and/or Conservator dated 4/5/13
66. Court of Appeals Order Affirming Probate Court
67. Complaint in Financial Suit
68. Order Joining Decedent in Financial Suit
69. Order Denying Plaintiff's Motion to Disqualify Decedent's Attorney
70. Order Dismissing Financial Suit
71. Police Report dated 06/09/13
72. Police Report dated 09/10/13
73. Consent 12-Month Family Violence Protective Order dated 4/8/13 – Suzanne Giller (Giller 64)
74. Consent 12-Month Family Violence Protective Order dated 4/8/13 – Brian Giller
75. Consent 12-Month Family Violence Protective Order dated 4/8/13 – Amy Seidner

76. Petition to Modify and Enforce TPO dated 08/07/13 – Amy Seidner
77. Petition to Modify and Enforce TPO dated 08/07/13 – Brian Giller
78. Petition to Modify and Enforce TPO dated 08/07/13 – Suzanne Giller
79. Final Order dated 10/28/13 (on Motion to Modify and Enforce Temporary Protective Order)
80. Bank of America Account Statements for Account Ending in 5129
81. Wells Fargo Bank Statement for PMA Account Ending in 4026 – January 2013
82. Wells Fargo Bank Statement for PMA Account Ending in 4026 – February 2013
83. Wells Fargo Bank Statement for PMA Account Ending in 4026 – March 2013
84. Wells Fargo Bank Statement for PMA Account Ending in 4026 – April 2013
85. Wells Fargo Bank Statement for PMA Account Ending in 4026 – May 2013
86. Wells Fargo Bank Statement for PMA Account Ending in 4026 – June 2013
87. Wells Fargo Bank Statement for PMA Account Ending in 4026 – July 2013
88. Wells Fargo Bank Statement for PMA Account Ending in 4026 – August 2013
89. Wells Fargo Bank Statement for PMA Account Ending in 4026 – September 2013
90. Wells Fargo Bank Statement for PMA Account Ending in 4026 – October 2013
91. Wells Fargo Bank Statement for PMA Account Ending in 4026 – November 2013
92. Wells Fargo Bank Statement for PMA Account Ending in 4026 – December 2013
93. Wells Fargo Bank Statement for PMA Account Ending in 4026 – January 2014
94. Wells Fargo Bank Statement for PMA Account Ending in 4026 – February 2014
95. Wells Fargo Bank Statement for PMA Account Ending in 4026 – March 2014
96. Wells Fargo Bank Statement for PMA Account Ending in 4026 – April 2014
97. Wells Fargo Bank Statement for PMA Account Ending in 4026 – May 2014
98. 12/17/15 Acknowledgment and Agreement Regarding the Myrna Slosberg Living Trust and 10/5/16 Supplement thereto

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

ROBERT SLOSBERG,

Plaintiff,

v.

SUZANNE GILLER and LYNNE AMY
SEIDNER,

Defendants.

CIVIL ACTION FILE
NO. 2013CV232022

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel and any interested party in the above-styled matter with a true and correct copy of **Amended Proposed Pre-Trial Order** via statutory electronic mail, in accordance with O.C.G.A. § 9-11-5(b), at the following addresses:

Respectfully submitted this 31st day of May, 2019.

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Defendants' and Plaintiffs-in-Counterclaim's Outline of Case
(Schedule 6 to Pre-Trial Order)

I. Factual Background.

David Kenneth Slosberg ("Decedent" or "Father") died on August 31, 2014. The Defendants are the Decedent's daughters, and Plaintiff is the Decedent's son. In 2005, the Decedent and his wife, Myrna Slosberg (who predeceased the Decedent) executed revocable trusts and also executed powers of attorney. Later that same year they each amended those revocable trusts. The amendments did not alter the revocable nature of the trusts. The trusts were reciprocal in nature, evidencing a common estate plan, leaving the trust assets to the surviving spouse, and then to their children and grandchildren. Myrna Slosberg died in 2007.

The 2005 power of attorney named Plaintiff as the attorney-in-fact, with the daughters being successor or alternate attorneys-in-fact. The reason for this order of priority was that the Plaintiff was the only child then living in the State of Georgia. Both of the Defendants resided out of state at that time. In the Fall of 2011, the Father (Decedent) had major surgery, and signed another power of attorney while he was in the hospital. The 3 siblings agreed that the new power of attorney was to be a joint power of attorney naming all 3 children, but without the knowledge of Defendants, the new power of attorney named only Plaintiff, and he has taken the position that said power of attorney amended (rather than replaced) the previous 2005 power of attorney. In conjunction with said 2011 power of attorney, the Plaintiff signed an acceptance confirming certain obligations he assumed as agent under the power of attorney.

Father was released from the hospital to a transitional care facility in late 2011, and was later, after additional surgery, released from the transitional care facility in the spring of 2012 to return to his home. Up until that time, the siblings cooperated well together with respect to the

care of their Father. However, the Plaintiff then used his power of attorney to have the Father's mail delivered to Plaintiff's address, including all of Father's financial records. When Father demanded that the mail be delivered back to his home (after Father returned to his home from the transitional care facility), Plaintiff initially refused, and directed the financial institution holding Father's assets to issue only electronic statements sent only to Plaintiff. Once Father was given electronic access, Plaintiff even changed the password without notifying Father, thereby preventing Father's ready access to his own financial records. In the summer of 2012 this created strife in the family, as the Plaintiff acted as though the power of attorney gave him control over his Father, and he treated his Father as if the Father had no say in how his Father's affairs were to be handled. Disputes arose, as the sisters sided with the Father's right of self-advocacy.

Father met with his then attorney, Steve Merlin, and they agreed on a proposed solution, which was sent to all 3 siblings. Father, through Merlin, stated that he wanted either (i) a power of attorney making all 3 children his attorneys-in-fact, but requiring unanimity, or (ii) a power of attorney making both Plaintiff and one of his sisters attorneys-in-fact. Both of the sisters promptly agreed to either option, and indicated they would let Plaintiff select which of the 2 sisters would act as the co-agent with Plaintiff if that option was selected. Plaintiff rejected both options, insisting that only he remain the sole attorney-in-fact, and indicated he would only conform to his Father's wishes if he felt his Father's wishes conformed to what Plaintiff believed his mother (who had died some 5 years earlier) would want.

A meeting of various friends and advisors of Father, the 3 siblings, and Plaintiff's attorney (the sisters had no attorney at the meeting) took place in late 2012, and it was agreed, after argument from Plaintiff, that there would be transparency and cooperation among the

siblings regarding Father's finances and care. While Plaintiff reluctantly agreed in that meeting (after being very angry and disruptive), he subsequently declined to comply, and there was no transparency of financial information until Father's advisors (Merlin and Babush) informed Roger Sullivan (Father's financial advisor), in accordance with the agreement reached at the meeting, to include the sisters in his company's distribution of the Father's financial statements each month. In order to formally confirm this was his desire and intent, on or about February 14, 2013, Father signed a statement directing such transparency; signed a revocation of his 2005 revocable trust; and signed a new Will - - all of which were prepared by Father's then attorney Steve Merlin, and were executed in Merlin's office under his supervision. Merlin testified that Father was competent and knew what he was doing. Nevertheless, there was a delay in getting information, and Plaintiff continued to browbeat his Father and refused to cooperate.

Also in a meeting in late 2012, Father's attorney (Merlin) and Plaintiff's then attorney (Adam Gaslowitz) agreed that the siblings and Father should consult with a professional care manager, and recommended Gayle Horton. The Father and all 3 siblings interviewed Ms. Horton, and agreed to hire her.

When Plaintiff did not agree with some of Horton's recommendations, he unilaterally fired her in February, 2013 without consulting or informing his Father. When Father learned of this, he immediately rehired her. Horton also recommended that Father consult with an elder care attorney, and recommended David Pollan ("Pollan").

As a result of that recommendation, and Plaintiff's unilateral actions without regard to Father's wishes, the Father met with Pollan, and requested that Pollan revoke the financial power of attorney then held by Plaintiff, and replace it with one naming his daughters. However, Pollan told him to give further consideration to the change before making any final decision. Father

gave it further thought, and on the next day requested that Pollan prepare the documentation. When Plaintiff learned of this, he sent a harsh email to his Father berating him, and claiming that his Father had forever fractured the family by changing his power of attorney.

On March 13, 2013, Horton met with Father, Merlin and Pollan at Father's residence. All present agreed that the Father was of sound mind and disposing memory, that Father knew what he wanted in terms of where to live, and that Father was capable of remaining in his home, but would do better with 24- hour live-in caretakers to assist with chores, meals, cleaning, etc., with each caretaker living in the home, day and night for 3 or 4 nights each week, alternating with another caretaker for the remaining days and nights. This method provided more continuity than the system of 12 hour shifts previously in place. This change, which Father requested, required a change in providers, because the previous provider could not offer live-in care.

That evening, Plaintiff physically assaulted his Father, one of his sisters and his brother-in-law. Battery charges were brought, which Plaintiff ultimately resolved through a plea bargain utilizing first offender treatment, so the criminal charges were dismissed once Plaintiff complied with the terms of the plea bargain (which included participation in anger management classes). That episode was very hurtful to the Father. It hurt him for the rest of his life that his son never apologized for the assault.

In April 2013, despite the fact that his then attorney advised against it (expressing the opinion it would probably kill Father), Plaintiff and his wife filed a petition in Fulton Probate Court seeking the appointment of a guardian and conservator for his Father, falsely alleging diminished capacity and undue influence by the Defendants. The effect of a conservatorship/guardianship would have been to eliminate Father's control over his own finances, assets, healthcare and other personal decisions, which would have been very cruel and

humiliating for Father. Plaintiff's new attorney wrote a threatening letter to Father's attorney (Pollan) demanding that Pollan not file a response on Father's behalf, seeking to isolate Father from his attorney, and to deny Father any defense to Plaintiff's petition for conservatorship/guardianship. Nevertheless, notwithstanding Plaintiff's improper threats, a response was filed on Decedent's behalf. The Probate Court dismissed Plaintiff's petition for lack of probable cause. Plaintiff appealed, and the Court of Appeals affirmed the Probate Court's decision in favor of Father.

Merely days after the Probate Court dismissed Plaintiff's guardianship/conservatorship petition, Plaintiff filed suit against the financial institutions that held his Father's money and investments in the case of Robert Slosberg v. Fidelity Investments Institutional Services Company, et al, Fulton County Superior Court, Case # 2013-CV-231311 (the "Financial Suit"). In that suit, Plaintiff made the same allegations he makes in this case, claiming that his Father lacked the requisite mental capacity, and was being unduly influenced by his daughters, and sought to have the Father enjoined from accessing, using or disposing of his own money and assets. The Court ultimately dismissed that suit. Plaintiff also moved to have Pollan disqualified from representing the Father. That motion was denied.

Plaintiff did not initially join his Father in the Financial Suit, so his Father initially lacked standing to contest the matter until he was able to join as a party. When Decedent finally was joined as a party, he moved to dismiss that complaint; the complaint was dismissed. That was a final judgment entered in December, 2013 and no appeal was taken. However, the Decedent had no access to his own money for many months because of the Financial Suit.

In March, 2013 Decedent attempted to establish and fund a trust (Trust #1) naming all the children as equal beneficiaries, but his attempt to fund that trust failed because the funds were

still frozen as a result of the Financial Suit. After the Financial Suit was dismissed, Decedent was finally able to access his own funds. He established and funded the IRA Account naming his daughters as the death beneficiaries of said account; the Agency Account naming all 3 children as death beneficiaries (with each Defendant to get 40% and Plaintiff to get 20%); and on January 17, 2014, Decedent established Trust #2, excluding Plaintiff except for a \$25,000 bequest, but added that if Plaintiff contested the Trust, he would forfeit everything under the trust. Trust #2, the IRA Account, and the Agency Account were all funded by Decedent.

Days after filing the Financial Suit, Plaintiff filed this suit against his sisters and Decedent's attorney, David Pollan. Later, Plaintiff dismissed Pollan as a defendant in this case without prejudice. The sisters filed a motion for summary judgment in this suit, which was granted as to all of Plaintiff's claims. Plaintiff appealed only that part of the judgment that denied his claim of undue influence, and the Court of Appeals reversed the Superior Court, holding that while there was sufficient evidence to authorize the finding that no undue influence existed, there was a question of fact to be determined by a trier of fact, so that case has been remanded to Fulton Superior Court to be tried on Plaintiff's claim of undue influence regarding the IRA Account, the Agency Account, and Trust #2; and for the trial of Defendants' counterclaims. All other claims in Plaintiff's original complaint were adjudicated against Plaintiff by final binding judgment of this Court.

As a result of the altercation on March 13, 2013, in addition to the criminal charge lodged against Plaintiff, 3 consent 12-month protective orders were issued, preventing Plaintiff from coming about either of his sisters or his brother-in-law. Those consent orders, which were signed by Plaintiff, included an admission by Plaintiff that there was a factual basis for the orders. At the request of the sisters, said orders also included visitation rights pursuant to which

Plaintiff could visit with his Father (in the absence of the sisters) so long as the Father agreed to such visits. Later, Plaintiff filed 3 petitions in Fulton Superior Court (one against each sister, and one against his brother-in-law), alleging that they were violating said consent orders by isolating the Plaintiff from his Father, the Decedent, by refusing to allow the Father to visit or speak with Plaintiff or his family, and also again alleging undue influence by the sisters. Those petitions were consolidated for hearing, and after a hearing, all 3 petitions were denied on October 28, 2013, from which denial no appeal has been taken.

The Defendants, Defendant Giller's husband, Decedent's caregivers, Decedent's closest friends who visited with him regularly throughout the pertinent period of time, and Decedent's adult granddaughters who also saw him regularly during the pertinent period of time confirm that the Defendants did not interfere with Plaintiff's ability to visit with his Father or to speak with his Father; confirm that his Father frequently requested not to speak or visit with Plaintiff (it being the Father's desire, not that of anyone else); and confirm that the Defendants did not unduly influence Decedent. Relatives who spoke with Decedent during this period confirm these facts also. Janet Slosberg, who spoke via phone with Decedent weekly during this period of time, testified that the Decedent told her that while he would like to see his grandson Michael (Plaintiff's son), he did not want him to visit because "he came with baggage," referring to Plaintiff.

Jo-Ann Taylor, the bank representative with whom Decedent dealt, confirmed his mental capacity and good cognitive function, and the voluntariness of his signatures on bank documents.

Decedent was distressed, hurt and humiliated by Plaintiff's attempt to have him declared incompetent in the guardianship/conservatorship petition, and by his suits against Decedent's

financial institutions, the family and even one of Decedent's attorneys. He often communicated that he was hurt and upset by this.

In July 2013, because of Plaintiff's actions against the Decedent and the family, Decedent executed a codicil to his Will (the "July Codicil"). The codicil divided his estate equally among his 3 children, EXCEPT, that he specifically provided that all litigation expenses and attorney's fees incurred by him, his daughters and his attorney as a result of his son's lawsuits were to be paid or reimbursed from his son's share of the estate. That explanation was stated as follows:

WHEREAS, as of the date of the execution of this Codicil to Will, my son, ROBERT SLOSBERG has taken hostile and hurtful action against me through efforts that include to have me adjudicated incapacitated by filing a Petition for Appointment of Adult Guardian and Adult Conservator in the Fulton County Probate Court, which was subsequently dismissed by the Court. Further, and subsequent to the Order of dismissal, my son has continued legal action against me through an action filed in the Superior Court of Fulton County against the financial institutions that hold my monies and property, thereby denying me access to my monies and property, causing me embarrassment, inconvenience, and financial harm, as well as an action initiated against my daughters, SUZANNE GILLER and LYNN AMY SEIDNER and my attorney and counselor, David Paul Pollan. These hostile actions taken by my son directly against me and through my daughters and my attorney have resulted in my review and reconsideration of my testamentary intent that I expressed in my Will executed on the 14th day of February, 2013 as such relates to my son's interest in my estate. As of the date of this Codicil to my Will, it remains my intent that my children, including ROBERT SLOSBERG receive an equal allocation from my estate. However, notwithstanding my expressed testamentary intent contained therein, after considerable reflection and introspection, it is my express intent that my son, Robert and/or his descendants suffer a consequence of his action through a reduction in his net inheritance with deductions therefrom for all attorneys' fees, costs, and expenses that were made necessary by my son's actions and incurred by me, my daughters, and my son-in-law, BRIAN GILLER. I empower my Executor and/or Trustee designated hereunder to have the exclusive and non-reviewable

authority to ascertain the amounts to charge against my son's and/or his descendants' net inheritance. Further, shall my son or his legal representative challenge my direction contained herein in any way, either directly or indirectly, then my son and/or his descendants shall forfeit entirely any interest in my estate and shall stand divested of any inheritance whatsoever from me or from my estate. I direct that any reduction in whole and/or divestment in full of my son's interest in my estate be allocated amongst my daughters and/or their respective descendants equally.

Experienced eldercare attorneys who represented Decedent during this period of time (David Pollan and John Meier) confirmed that he had the requisite mental capacity, was alert and had good cognitive functions, and observed no indication that he was being unduly influenced, or that the Defendants ever even attempted to unduly influence Decedent.

The Decedent was seen by a Geriatric Psychiatrist approximately twice per month for several months prior to the execution of the death beneficiary designations, about 6 months prior to the signing of the July Codicil, about 8 months before a new will was signed on October 31, 2013, about 11 months before Trust #2 was executed, and about 7 months after Trust #2 was executed. He testified that throughout this period the Decedent was very alert and had good cognitive functions, and gave no indication of being unduly influenced by anyone. To the contrary, he confirmed that the Decedent was very strong willed, and did not think it likely that he could be unduly influenced by his daughters even if they had tried. Family, friends and Decedent's attorneys confirm that Decedent was very strong willed and not easily influenced. This Geriatric Psychiatrist saw the Decedent a few days before the October 2013 Will was executed, and saw him on the day following the execution of said Will, and confirmed his cognitive function and volition on that date. He saw Decedent the morning of January 17, 2014 shortly before Decedent executed Trust #2 on that date, and confirmed Decedent's cognitive

function and volition on those dates. He also testified that Decedent often told him that he was hurt and upset by his son's actions against the family and by his son's failure to apologize for his actions.

In August 2013, Decedent sued his son, the Plaintiff herein, for breach of fiduciary duty while Plaintiff held Decedent's power of attorney, because Plaintiff had used said power of attorney to pay \$16,000 to Plaintiff's attorney without Decedent's knowledge or consent. That case, David Slosberg v. Robert Slosberg, Case #:2013CV235300, Fulton Superior Court, has been stayed pending an appointment in Probate Court of representative of Decedent's estate.

On October 4, 2013, Decedent had his attorney tell Plaintiff's attorney that if Plaintiff did not dismiss his lawsuits against the family, Decedent would disinherit him. Plaintiff refused to dismiss the lawsuits, so Decedent asked Mr. Pollan to draw a new Will that disinherited his son. Pollan declined to do so at that time, urging Decedent to give it much further thought before he made a final decision (which was Pollan's practice). After several subsequent communications, Decedent remained adamant that he wanted to disinherit his son, so a new Will was drafted, reviewed, and subsequently executed on October 31, 2013 (3 days after the Fulton Superior Court had dismissed the 3 petitions Plaintiff had filed against his sisters and brother-in-law). That Will, like Trust #2, disinherited Plaintiff except for a \$25,000 bequest, but added that Plaintiff would forfeit that bequest if he contested the Will.

In addition, because of the unfounded allegations made by Plaintiff, before the subject Will was executed on October 31, 2013, Decedent retained an independent and well-respected Neuropsychiatrist to examine and test Decedent before signing the Will. Dr. Craig Johnson examined and tested Decedent for 2 hours on October 31, 2013 immediately prior to Decedent's meeting with his attorney to go over the new Will once again and execute same. That

psychiatrist, Dr. Craig Johnson, confirmed Decedent's comprehension and cognitive abilities, and opined that Decedent fully understood what he wanted to do; that he understood the effects of his decisions, and that he was acting of his own free will. All present at the Will signing confirmed that Father/Decedent was of sound mind and disposing memory, and that he signed the Will voluntarily. A self-proving affidavit was executed Father in conjunction with the execution of the Will, which was supervised by Father's eldercare attorney, David Pollan.

Neither of the sisters had any involvement in the planning, preparation or execution of said Will, the death beneficiary designations, or Trust #2.; they were never present when said documents were discussed; were not even in the building on the days when the Will or Trust #2 were executed; and did not know either was going to be executed. They did not know of any estate planning changes made by the Will until long after it and Trust #2 had been executed.

The said October 31, 2013 Will set forth a statement similar to the one in the July Codicil giving the rationale for disinheriting his son, which states as follows:

As of the date of the execution of this Will, my son, ROBERT SLOSBERG has taken hostile and hurtful action against me through efforts that include to have me adjudicated incapacitated by filing a Petition for Appointment of Adult Guardian and Adult Conservator in the Fulton County Probate Court, which was subsequently dismissed by the Court. Further, and subsequent to the Order of dismissal, my son has continued legal action against me through an action filed in the Superior Court of Fulton County against the financial institutions that hold my monies and property, thereby denying me access to my monies and property, causing me embarrassment, inconvenience, and financial harm, as well as an action initiated against my daughters, SUZANNE GILLER and LYNN AMY SEIDNER and my attorney and counselor, DAVID PAUL POLLAN. These hostile actions taken by my son directly against me and through my daughters and my attorney have resulted in my review and reconsideration of my testamentary intent that I expressed in my Will executed on the 14th day of February, 2013, and subsequently, a Codicil my attorney prepared for me at my express direction that was executed on the 23rd day of July, 2013. Since that time and continuing, my son's actions against me and my daughters

continue unabated. As a result, I have considered carefully that it is no longer my intent that my children receive an equal allocation from my estate. It is now, after considerable reflection and introspection, my express intent that my son, Robert and/or his descendants suffer the consequence of his actions against me by provision for him only for a nominal sum as I set forth herein.

When Mr. Pollan read this out loud at the Will signing, the Father/Decedent proclaimed "That says it!"

In late 2013 or early 2014, consistent with the plan initially conceived by Decedent's former lawyer Merlin, and Plaintiff's former lawyer Gaslowitz (which resulted in the revocation of the 2005 revocable trust), Decedent asked Pollan to prepare an irrevocable trust to replace the unfunded irrevocable trust he had signed in March 2013. Decedent stated that he wanted the irrevocable trust to set forth the same estate planning concept and goals set forth in his last will and testament executed on October 31, 2013. Pollan prepared such a trust, reviewed it on more than one occasion with Decedent and, once all of Decedent's questions were resolved and changes effected, that irrevocable trust was executed on January 17, 2014 (Trust #2). Earlier that day, the Geriatric Psychiatrist had had a session with Decedent and confirmed that he was mentally competent and not acting under any undue influence. The Defendants had no involvement in the planning, preparation or execution of said trust. The only knowledge they had about the trust was that Decedent had indicated he was going to execute a trust that would be consistent with his October 31, 2013 Will. At that time, the Defendants still did not know the terms of said Will, so they did not know what the terms of said trust would be either. In that trust, the Decedent again recited his reasons for disinheriting his son, as follows:

I am widowed. I have three children: SUZANNE GILLER., LYNN AMY SEIDNER, and ROBERT KENNETH SLOSBERG. As of the date of the execution of this Trust, my son, ROBERT KENNETH SLOSBERG

and his wife have continued to take hostile and hurtful action against me through efforts that include seeking to have me adjudicated incapacitated by filing a Petition for Appointment of Adult Guardian and Adult Conservator in the Fulton County Probate Court, which was subsequently dismissed by the Court and the dismissal affirmed on appeal. Further, and subsequent to the Order of dismissal, my son has continued legal action against me, my daughters, and my attorney through an action filed in the Superior Court of Fulton County against the financial institutions that hold my monies and property, thereby denying me access to my monies and property, causing me embarrassment, inconvenience, and financial harm, as well as an action initiated against my daughters, SUZANNE GILLER and LYNN AMY SEIDNER and my attorney and counselor, DAVID PAUL POLLAN. These hostile actions taken by my son directly against me and against my daughters and my attorney have resulted in my review and reconsideration of my testamentary intent that I expressed in my Will executed on the 14th day of February, 2013, and subsequently, a Codicil my attorney prepared for me at my express direction that was executed on the 23rd day of July, 2013. Further, on October 31st, 2013, I executed a new Will that expressly revoked all previous testamentary Wills and codicils made previously by me. Since that time and continuing, my son's actions against me and my daughters continue unabated. It is now, after considerable reflection and introspection, my express intent that my son, Robert and/or his descendants suffer the consequence of his actions against me by provision for him only upon my passing for a nominal sum as I set forth herein. It is not my intent that my son benefit from the nominal bequest included in my Will and in addition, the nominal amount set forth hereunder. Instead, my intent is only that my son receive only the sum specified hereunder. If the amount specified is not available for distribution to him from my Executor through my probate estate, then my Trustee shall distribute the sum from the remainder Trust Estate.

The Decedent's changes were not sudden or unexpected. He changed his mind gradually over a long period of time, and each time that change was the result of Plaintiff's persistent attacks on the family and disruption of Decedent's financial and other affairs.

In the July 2013 Codicil he set forth the rationale, and initially just reduced his son's share by the cost of the litigation that had been caused by the son's actions. When the son still continued his assaults on the family, the Decedent warned the son (through counsel) that if he did not dismiss his lawsuits, the Decedent would disinherit him. The son still did not dismiss the

lawsuits, so the Decedent executed the Will which disinherited Plaintiff except for \$25,000 (which Plaintiff forfeited by contesting the Will). More than 2 ½ months later, when executing the irrevocable trust in January 2014 (Trust #2), the Decedent reiterated his rationale, which has been consistent throughout, reciting the same rationale in the body of Trust #2 that he had recited in the October Will, and prior to that in the July Codicil. That rationale, as expressly stated in the January 17, 2014 Trust #2 provides as follows:

Article Two
Family Information and My Testamentary Intent

I am widowed. I have three children: SUZANNE GILLER, LYNNE AMY SEIDNER, and ROBERT KENNETH SLOSBERG. As of the date of the execution of this Trust, my son, ROBERT KENNETH SLOSBERG and his wife have continued to take hostile and hurtful action against me through efforts that include seeking to have me adjudicated incapacitated by filing a Petition for Appointment of Adult Guardian and Adult Conservator in the Fulton County Probate Court, which was subsequently dismissed by the Court and the dismissal affirmed on appeal. Further, and subsequent to the Order of dismissal, my son has continued legal action against me, my daughters, and my attorney through an action filed in the Superior Court of Fulton County against the financial institutions that hold my monies and property, thereby denying me access to my monies and property, causing me embarrassment, inconvenience, and financial harm as well as an action initiated against my daughters, SUZANNE GILLER and LYNN AMY SEIDNER and my attorney and counselor, DAVID PAUL POLLAN. These hostile actions taken by my son directly against me and against my daughters and my attorney have resulted in my review and reconsideration of my testamentary intent that I expressed in my Will executed on the 14th day of February, 2013, and subsequently, a Codicil my attorney prepared for me at my express direction that was executed on the 23rd day of July, 2013. Further on October 31st, 2013, I executed a new Will that expressly revoked all previous testamentary Wills and codicils made previously by me. Since that time and continuing, my son's actions against me and my daughters continue unabated. It is now, after considerable reflection and introspection, my express intent that my son, Robert and/or his

descendants suffer the consequence of his actions against me by provision for him only upon my passing for a nominal sum as I set forth herein. It is not my intent that my son benefit from the nominal bequest included in my Will and in addition, the nominal amount set forth hereunder. Instead, my intent is only that my son receive only the sum specified hereunder. If the amount specified is not available for distribution to him from my Executor through my probate estate, then my Trustee shall distribute the sum from the remainder Trust Estate.

This is consistent with the death beneficiary designations Father made to the IRA Account and the Agency Account in the spring or summer of 2013. This gradual progression is also corroborated by the fact that when he revoked his son's financial power of attorney, he expressly declined to revoke the son's healthcare power of attorney, but simply made all 3 of his children his agents under a new healthcare power of attorney. He later revoked the son's healthcare power of attorney when the son persisted with his abusive actions against Decedent and his daughters.

The *in terrorem* clause in Trust #2 provides as follows:

Section 5.02 Distribution of National Bequest for Robert Kenneth Slosberg
And Non-Contestability Provision for my Children

If the Executor of my Last Will and Testament is unable to make the distribution of the nominal bequest for my son, ROBERT KENNETH SLOSBERG, from my estate, my Trustee shall distribute the sum of TWENTY FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00) to my son, ROBERT KENNETH SLOSBERG if he survives me and if not, then to his descendant(s). Notwithstanding, should my son; ROBERT KENNETH SLOSBERG, or his legal representative, or either of my daughters, or their legal representatives contest or initiate legal proceedings to contest the validity of this Trust or my Last Will and Testament executed by me and dated October 31st, 2013, or any provision from being carried out in accordance with its terms as I expressed (whether or not in good faith and with probable cause), then all the benefits provided herein for my son and/or for my daughters are revoked and annulled. Such benefits, if not a part of the residue of my estate, shall go over to and become a part of the remainder

of my Trust Estate. If such contesting beneficiary is a beneficiary under any Article of this Trust or my Will that disposes of the residue of my estate, such contesting beneficiary, and his or her descendants, shall cease to be a member of the class of beneficiaries to whom distributions are required or permitted to be made under such Article and, upon the final division and distribution of the property passing under such Article or any trust created hereunder, the share to which such contesting beneficiary and his or her descendants would otherwise have been entitled shall go over and be distributed, per stirpes, to the other beneficiaries of my residual estate other than such contesting beneficiary and such beneficiary's descendants. If all of the persons who are beneficiaries of the residue of my estate join in such a contest or proceeding, such residue shall go over and be distributed to a qualified charitable organization or organizations that my Trustee shall select, that honors my wife and myself and the interests and concerns that we shared during our marriage.

There is no material evidence to suggest that Decedent lacked the requisite mental capacity, and there is no material evidence to suggest any undue influence on Decedent at the hands of his daughters (the Defendants herein) or anyone else. The only evidence of attempted undue influence is the evidence of Plaintiff's actions against his Father; but, consistent with the testimony of witnesses, the Father was strong willed enough to resist Plaintiff's attempts to unduly influence him.

Plaintiff falsely alleged claims of fraud, conversion, and malicious prosecutions, all of which were dismissed as a matter of law based on undisputed facts construed most strongly in favor of Plaintiff. Those portions of this Court's judgment were not appealed, so those are final adjudications against Plaintiff.

The Defendants were not involved with the planning, preparation, or execution of any of Decedent's trusts, wills, codicils, or beneficiary designations. They never imposed their will, nor sought to impose their will on their Father. There is no basis for Plaintiff's claims, and they

should be denied. Furthermore, the Defendants never interfered with any inheritance or gift expectancy the Plaintiff claims to have expected.

II. Defenses:

Defendants deny they unduly influenced Decedent; deny that anyone unduly influenced Decedent (though Plaintiff attempted to do so); deny they breached any duties; deny any interference with gift or inheritance expectancy; deny that Plaintiff is entitled to any relief whatsoever; and deny all material allegations made by Plaintiff.

Separate Defenses:

1. Plaintiff is barred from relief by the provisions (the *in terrorem* clause) in Trust #2 that any party who contests either document forfeits any and all rights. Defendants reserve all exceptions to this Court's order denying Defendants' motion to dismiss Plaintiff's claims regarding Trust #2, gift expectancy, and constructive trust.
2. Plaintiff's claim is barred, in whole or in part, by *res judicata*, collateral estoppel by judgment, or both.
3. Plaintiff is barred because any alleged loss or damage was the direct result of his own breaches or wrongdoing.
4. Defendants are entitled to declaratory relief, declaring the rights of parties consistent with the relief sought by Defendants as set forth herein.

III. Defendants' Counterclaims:

The Defendants assert the following counterclaims.

A. Defendants' Claims Against Plaintiff for Tortious Interference With IRA Account

1. The Father entered into a written agreement with FNBT for a retirement account, which the parties have referred to as the "IRA Account." The Father (Decedent) made the Defendants

parties to the IRA Account by naming the Defendants as the only beneficiaries of said account upon the Decedent's death. Plaintiff was not a party to the IRA Account.

2. As the sole and direct result of Plaintiff's threats against FNBT, FNBT has refused to perform in accordance with the express written provisions of the IRA Account, thereby causing the Defendants substantial damage.

3. The threats by Plaintiff constitute tortious interference with Defendants' contract rights under the IRA Account. But for said tortious interference by the Plaintiff, the Defendants would have each received one half of the IRA Account through a rollover IRA within 30 days of Decedent's death; and Defendants are each entitled to judgment against the Plaintiff for their respective 50% share of all monies remaining in the IRA Account, plus their respective 50% share of all monies paid by FNBT into this Court's registry as required minimum distributions ("RMDs"); and are entitled to judgment against Plaintiff for the difference between the IRA Account balance at time of trial (or as of the most recent statement prior to trial) and the face value said IRA Account would have had at time of trial had the previously held securities in said account not been liquidated; and Defendants are also entitled to judgment against Plaintiff for all sums paid from the IRA Account for fees, attorneys fees or expenses since Decedent's death, plus interest thereon at the legal rate of 7% per annum through the date of judgment.

B. Defendant Seidner's Tortious Interference Claim.

1. In 2013, the Decedent hired a caregiving company known as Eldercare Companions to provide live-in caregiver services for him at his home. During this period of time Eldercare Companions offered the Defendant Seidner a job.

2. The Defendant Seidner and Eldercare Companions agreed to a base compensation of \$2,000 per month, with the possibility that Defendant Seidner could earn additional monies

through commissions based on sales and marketing efforts. Plaintiff caused his attorney to send correspondence to Eldercare Companions making false allegations and threatening to sue the company and its principal. As a result, ElderCare Companions decided not to pursue the hiring of Seidner. Such conduct constitutes tortious interference with Seidner's employment, business, business relationship and property rights.

3. But for Plaintiff's tortious interference, Seidner would have been employed by Eldercare Companions, and would have received at least \$2,000 per month. Defendant Seidner is entitled to recover for her lost income at the rate \$2,000 per month from the month in which said employment would otherwise have commenced through the date of judgment, plus interest thereon at the legal rate of 7% per annum.

C. Expenses of Litigation and Attorneys Fees.

1. The Plaintiff (Defendant in counterclaim) has acted in bad faith, has committed intentionally tortious conduct, has acted with malice, has been stubbornly litigious, and has caused the Defendants (Plaintiffs in counterclaim) unnecessary trouble and expense. As a result, Defendants (Plaintiffs in counterclaim) are entitled to recover their expenses of litigation, including a reasonable sum as attorneys fees, for having to prosecute their counterclaims.

D. Punitive Damages.

1. The Plaintiff (Defendant in counterclaim) has acted with malice, a conscious disregard for the consequences of his actions, a conscious disregard for the rights of others, and a specific intent to harm the Defendants (Plaintiffs in counterclaim). As a result, each Defendant (Plaintiff in counterclaim) is entitled to an award of punitive damages in such amount or amounts as is sufficient to deter such wrongful conduct in the future.

E. Declaratory Relief.

1. Defendants are entitled to declaratory judgment declaring that Trust #2, the IRA Account and the Agency Account are valid and bind agreements enforceable in every respect according to their terms and conditions. Defendants are entitled to judgment against the Plaintiff in accordance with such declaratory relief.

F. Defendant take exception to this Court's dismissal of Counts I, II and V of Defendants' Post Appeal Counterclaim, and reserve all rights with respect thereto.

Defendants are also entitled to have all costs cast against the Plaintiff, and demand that all issues triable by jury be tried before a jury of 12.

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

Robert Slosberg)

Plaintiff,)

v.)

Civil Action File No. 2013-CV-232022

Suzanne Giller, Lynne Amy Seidner,)
and First National Bank & Trust Company)

Defendants.)

DEFENDANTS' SCHEDULE 10(b) TO PTO

Defendants' Exhibits

FNBT Documents

Exhibit	DOCUMENT
1	Request to Transfer IRA (Landsee Exh 6)
2	FNBT ltr to David Slosberg, 12-20-13 re RMD (Landsee Exh 34)
3	Landsee ltr to David Slosberg with enclosure (Landsee Exh 19)
4	FNBT customer ID worksheet (Landsee Exh 62)
5	Landsee email to O'Sullivan, 4-30-158 (App 5 to 1 st Seidner Aff)
6	FNBT Acct Statements for All 3 Accounts (2014)
7	FNBT Acct Statements for All 3 Accounts (2015)
8	FNBT Acct Statements for All 3 Accounts (2016)
9	FNBT Acct Statements for All 3 Accounts (2017)
10	FNBT Acct Statements for All 3 Accounts (2018)
11	Agency/IRA Agreement (Landsee Exh 5)
12	Email Exchange, Taylor & Landsee (Landsee Exh 7)
13	IRA Designation Changed (Landsee Exh 9)
14	Landsee/Taylor email exchanges (Landsee Exhs 32 and 33)
15	FNBT internal email exchanges, 12-23-13 (Landsee Exhs 37-39)
16	Email chain transmitting final order in Financial Suit to FNBT, 12-24-13, (Landsee Exh 40)
17	Email, 2-28-14 confirming Wells/Fidelity releasing funds, pursuant to order in favor of David Slosberg (Landsee Exh 44)
18	Email exchanges, Dixon and FNBT (Landsee Exh 53)
19	Burch email re Dixon email (Landsee Exh 54)
20	
21	Dixon email to Burch (Landsee Exh 56)

22	Dixon email to Burch (Landsee Exh 57)
23	Email exchange, Taylor/Burch/Dixon (Landsee Exhs 58 and 59)
24	Email, Dixon to FNBT (Landsee Exh 60)
Exhibit	DOCUMENT
25	FNBT Account Statements for all 3 accounts, 9.1.2014 –3.20.15, FNBT Bates 000589 – 000638,
26	Legacy Trust Advisors New Account Opening Form for The David K. Slosberg Asset Protection Trust II, Ex. 10 to Landsee Dep
27	Letter from Landsee to David, 5.22.2013, transmitting Transfer of Assets form, Ex. 19 to Landsee Dep
28	Email chain, 5.22.2013 5.23.2013; top one is from Mary Margaret Cooke to Taylor, cc'd Suzy Jacobs, Amy Seidner and Landsee, Ex. 27 to Landsee Dep
29	Email chain, 11.16.2013 – 11.18.2013, top one is from Taylor to Landsee, Ex. 29 to Landsee Dep
30	Email chain, 11.19.2013; top one is from Taylor to Landsee, Ex. 30 to Landsee Dep
31	Email from Landsee to Taylor, 12.10.2013, Ex. 32 to Landsee Dep
32	Email chain. 12.10.2013 – 12.19.2013; top one is from Taylor to Landsee, Ex. 33 to Landsee Dep
33	Letter from Melanie Burns to David transmitting check representing the remainder of his 2013 RMD, 12.20.2013, Ex. 34 to Landsee Dep
34	Email chain, 12.23.2013; top one is from Taylor to Aisenbrey, cc'd Landsee, Ex. 35 to Landsee Dep
35	Email chain, 12.23.2013; top one is from Aisenbrey to Taylor, cc'd Landsee, Ex. 36 to Landsee Dep
36	Email chain, 12.23.2013; top one is from Aric Burch to Frisch and Landsee cc'd Aisenbrey, Ex. 38 to Landsee Dep
37	Email from Landsee to Tracy Vogel, cc'd Aisenbrey, 12.23.2013, Ex. 39 to Landsee Dep

38	Email chain, 12.9.2013 - 12.24.2013; top one is from Taylor to Landsee, Ex. 40 to Landsee Dep
39	Email from Aisenbrey to Taylor, cc'd Landsee, 12.31.2013, Ex. 41 to Landsee Dep
40	Email from Taylor to Landsee, cc'd Aisenbrey, 2.5.2014, with attachments, Ex. 43 to Landsee Dep
41	Email from Ellen Bates to parties' counsel, 2.28.2014, Ex. 44 to Landsee Dep
42	Email chain, 3.20.2014 - 3.21.2014, with attachment; top one from Taylor to Landsee, Ex. 47 to Landsee Dep
43	Email from Landsee to Frisch, 7.14.2014, Ex. 49 to Landsee Dep
44	Email chain, 11.19.2014 - 11.21.2014; top one from Taylor to Landsee, Ex. 50 to Landsee Dep
45	Customer Identification Worksheet, signed by David on 4.15.2013, Ex. 62 to Landsee Dep
46	Order entered 12-18-15 directing certain distributions from FNBT
47	Unsigned Taylor Affidavit, Ex7 to Taylor Dep
48	Email from Suzy Jacobs ("Jacobs") to Taylor with attachments, 4.11.2013, Ex 9-A to Taylor Dep
49	Email from Jacobs to Taylor with attachments, 4.11.2013, Ex 9-B to Taylor Dep
50	Email from Taylor to Landsee and cc'd Aisenbrey, 2.5.2014, with attachments, FNBT Bates 000173 - 000176
51	Statement of Agency Account, 3.31.2014 - 12.31.2014, FNBT Bates 000473 - 000485
52	Statement of Trust II Account, 2.28.2014 - 12.31.2014, FNBT Bates 000486 - 000518
53	Statement of IRA Account 5.2.2013 - 12.31.2014, FNBT 000519 - 000546

54	Email chain, 3.8.2013 – 3.11.2013; top one is from Taylor to Stephen Merlin, Ex 24 to Taylor Dep
55	Email from Jacobs to Taylor, 4.2.2013, Ex 27 to Taylor Dep
56	Email chain, 4.3.2013; top one is from Jacobs to Taylor, Legacy Bates 000187
57	Email from Taylor to David Pollan, 10.22.2013, Legacy 000033
58	Summary of Trust II Holdings, 6.20.2014, Ex 30 to Taylor Dep
59	Taylor Affidavit, 4.25.2013, Ex 34 to Taylor Dep
60	FNBT Statements thru most current period as of trial
61	Letter from FNBT to David Slosberg re 2014 RMD
62	Email chain (Taylor Exh 35)
63	Email chain (Taylor Exh 27)
64	Email chain (Taylor Exh 24)
65	Email chain with attachment (Taylor Exh 6)
66	FNBT documents signed by David Slosberg (attached to Taylor and FNBT depositions)

FAMILY VIOLENCE

Exhibit	DOCUMENT
67	Police incident report, Ex. 124 to Robert Slosberg Dep.
68	Bond Order, Ex A to Brian Giller 2 nd Aff ("2 nd Aff.")
69	Family Violence Order, Ex. B to 2 nd Aff.
70	Compliance Report – Drug Abuse, Ex. F to 2 nd Brian Giller Aff.
71	Compliance Report – Anger Management, Ex. G to 2 nd Aff., Ex. G to 2 nd Brian Giller Aff.
72	Records re plea bargain and completion of terms
73	Affidavit of Robert Slosberg (and attached transcript of phone calls) filed in case
74	Affidavit of Tracie Slosberg (and attached transcript of phone calls) filed in case
75	Plaintiff's recordings of phone conversations

LIST OF DOCUMENTS RELATING TO MYRNA'S TRUST

Exhibit	DOCUMENT
76	Ltr from Watson to Sugarman, 9.25.2014
77	Ltr from Dixon to Sugarman, 10-9-14
78	Ltr. from Dixon to Sugarman, 10.20.2014
79	Chain email, 3.11.2015 - 3.20.215; top one is from Tyler to Zion and Sugarman
80	Settlement Statement for sale of David's house
81	Email Exchanges between Counsel concerning Myrna's Trust, App. 1 to 1st Seidner Affidavit, filed 5.18.2015
82	Contract for sale of residence, App. 2, 1 st Aff
83	Email Exchanges between Babush and Shapiro, with attachments, App 3, 1 st Seidner Aff

84	Wells Fargo Summary of Myrna's Trust Account, 2.28.2015, App 4 to 1 st Seidner Aff
85	Shapiro Invoices
86	Records of Trustee's Fees and other Trust Expenses
87	Order granting Defendants' Motion for Summary Judgment re Myrna's Trust, 11-17-15
88	Dixon email to Sugarman, 10-20-14
89	Distribution records showing distributions to heirs

DAVID SLOSBERG MEDICAL RECORDS

Exhibit	DOCUMENT
90	Dr. Chang's Medical Records, Ex. A to 3 rd Aff. of Lynne Amy Seidner ("3 rd Aff."), filed
91	Dr. Bernstein's Medical Records, Ex. B to 3 rd Aff.
92	Northside Hospital Medical Records, Ex. C to 3 rd Aff.
93	Dr. Libby's (Urologist) Medical Records, Ex. D to 3 rd Aff.
94	Laureate Medical Group's Records, Ex. E to 3 rd Aff.
95	Dr. Figiel's Medical Records
96	Dr. Johnson's Ltr re Decedent's Testamentary Capacity
97	Dr. Johnson's medical records
98	Dr. Figiel's letters re Decedent's health (re court and deposition appearances)
99	Medical Records listed in Defendant's Notice of Intent to Tender Records (previously filed in this case)

CORRESPONDENCE LIST

100	King to Pollan, 4.6.2013, Ex. A to 2 nd Aff. of Lynne Amy Seidner, filed (letter and email)
101	King to Hillary Abrams, 8.16.2013
102	Watson to Bobby and King, 8.19.2013
103	Watson to David Slosberg ("David"), 8.21.2013
104	Greg Jacobs ltr to Muwwakkil and Abrams, 9.19.2013, Ex. F to 2 nd Aff.
105	Watson to Bobby and King, 10.21.2013
106	Watson to King, 11.1.2013
107	Watson to King, 12.9.2013
108	Litt to Bobby, King and J. Tom Morgan, 4.22.2013
109	King to Watson, 6.30.2014, Ex. H to 2 nd Aff.
110	Watson to King, 7.3.2014
111	Watson to Sugarman, 9.25.14
112	Dixon ltr to O'Sullivan, 8.14.2015 re Agency Account
113	Dixon ltr to O'Sullivan, 8.14.2015 re Trust II
114	Dixon ltr to O'Sullivan, 8.14.2015 re IRA Account
115	Seidner ltr to Landsee at FNBT, 8.13.2015
116	Giller ltr to Landsee, 8.13.2015
117	King ltr to Pollan, 4.6.2013
118	Sugarman ltr to FNBT and Legacy, 9.4.2014, Ex. G to 2 nd Aff.
119	Vitetta letter, 10-3-13, and attachment

DEFENDANTS' EMAILS

EX	DOCUMENT
120	Email chain 10.21.2009; last one from David Slosberg ("David") to Suzy Jacobs ("Suzy)
121	Email chain 4.11.2010, last one from David to Suzy
122	Email chain 3.21.2011, last one from Suzy to David
123	Email chain, 3.22.2011, last one from Suzy to David

124	Email chain 4.6.2011, last one from David to Amy, Suzy and Bobby
125	Email chain 6.5.2011, last one from David to Amy
126	Email chain 6.14.2011, last one from David to Suzy
127	Email 6.23.2011, from David to Jackie Greene, cc'd Bobby, Amy and Suzy
128	Email 7.9.2011, from David to Suzy
129	Email chain, 10.15.2011, last one from David to Amy, Suzy and Bobby
130	Email from Suzy Jacob) to Bobby Slosberg ("Bobby"), Amy Seidner ("Amy"), Tracie Slosberg ("Tracie") and Brian Giller ("Brian"), 10.28.2011
131	Email chain, 11.11.2011 – 11.15.2011, last one from David to Suzy
132	Email chain, 11.20.2011 – 11.21.2011, last one from Bill To Tracie, cc'd Amy, Suzy and Bibbt
133	Email chain, 11.20.2011-11.23.2011; last one is from Bill Ames to Tracie, Bobby, Bobby and gtrbob@comcastnet (Ex. A to 4 th Amy Aff)
134	Email chain, 11.21.2011; last one is from Brighton Gardens of Buckhead to Suzy and Bobby, cc'd Tracie (Ex. B to 4 th Amy Aff)
135	Email chain, 11.21.2011, last one from Suzy to Amy and Tracie
136	Email, 11.21.2011, from Bill Ames to Tracie, Bobby, Suzy and Amy
137	Email chain, 12.6.2011, last one is from Merlin to Bobby
138	Email, 12.7.2011, from David to Amy, Suzy and Bobby
139	Email chain, all dated 12.11.2011; last one is from Shelly Horovitz to Bobby and cc'd Amy, Suzy and Tracie
140	Email chain, all dated 12.20.2011; last one from Amy to Bobby and copied to Suzy
141	Email from Amy to Tracie, Bobby, Suzy and Brian, 12.21.2011
142	Email from Amy to Bobby, 1.03.2012
143	Email chain, 1.10.2012 – 1.16.2012, last one is from Bobby to Suzy and Amy
144	Email from Suzy to Amy, Bobby, and Tracie, 1.10.2012, with attachment
145	Email chain, 1.15.2012 – 1.18.2012; last one from Roger Sullivan ("Sullivan") to Bobby, 1.18.2012 (Sullivan Dep., Ex. 37)

146	Email chain, 1.18.2012 – 1.24.2012; last one from Sullivan to Bobby (Sullivan Dep., Ex. 38)
147	Email, 1.23.12, from Amy to Bobby and Tracie
148	Email from Rabbi Saulson to Amy, Bobby and Suzy, 1.29.2012
149	Email chain, 1.31.2012 – 2.1.2012; last one from Tracie to Bobby and Amy, and cc'd Suzy and Bobby
150	Email chain, 1.31.2012; last one from Suzy to Tracie
151	Email from Amy to Bobby, cc'd Suzy, 2.9.2012, forwarded to Tracie 5.20.2013
152	Email chain, 2.17.2012 – 2.24.2012; last one from Sullivan to Bobby (Sullivan Dep., Ex. 39)
153	Email chain, 3.20.2012; last one from Suzy to Amy, Bobby, Tracie and David Slosberg ("David")
154	Email chain, 3.20.2012; last one is from Suzy to Tracie (Suzy Dep. 48)
155	Email from Amy, 4.16.2012, to Tracie and Bobby
156	Email, 4/18/2012, from Suzy to Bobby, Tracie and Amy
157	Email chain, 4.2.2012 – 4.03.2012; last one from Tracie to Amy, Suzy and "tooloutbob Slosberg" and cc'd to Bobby
158	Email chain, 4.18.2012 – 6.9.2012; last one from Suzy to Amy, Bobby and Tracie
159	Email chain, 4.30.2012; last one is from Suzy to Tracie, Amy and Bobby
160	Email chain, 6.1.2012 – 6.12.2012; last one is from Suzy to Amy, with attachment (Monumental Life Ins. Policy and letter identified as Exs. 14 and 15 in Giller Dep.)
161	Email from Sullivan to David and Bobby, 6.4.2012 (Sullivan Dep., Ex. 41)
162	Email, 6.9.2012, from Suzy to Amy, Bobby and Tracie
163	Email chain, 6.18.2012, last one from Tracie to Tracie and cc'd Suzy and Bobby
164	Email chain, 6.17.2012 - 6.18.2012; last one from Suzy to Bobby and Amy
165	Email chain, 6-25-12; last one from Amy to Tracie, gtrbob, Bobby and Suzy
166	Email chain, 6.17.2012 – 6.18.2012, last one from Suzy to Bobby, cc'd Amy
167	Email chain, 6.18.2012 -6.19.2012; last one from Bobby to Suzy
168	Email chain, 6.25.2012 – 6.27.2012; last one from Bobby to Amy

169	Email chain, 7.19.2013– 7.24.2013, last one from Amy to Laila Tehrani
170	Email from Amy to Steven Merlin ("Merlin"), 7.23.2012, with attachment (Amy Dep., Ex. 72; Merlin Dep. Ex. 9)
171	Email chain, 7.27.2012 7.28.2012 ; last one is from Bobby to Suzy and Brian, and cc'd to gtrbob, Amy and Suzy, 7.28.2012 (Amy Dep., Ex. 42; Suzy's earlier email on 7.27.12 was not part of the Exhibit)
172	Email from Suzy to Bobby and Amy, 7.28.2012
173	Email chain, 7.28.2012 – 7.29.2012, last one from Bobby to Suzy, cc'd Bobby and Amy
174	Email chain, 7.30.2012; last one from Merlin to Bobby (Merlin Dep., Ex. 32, except that the deposition exhibit included only pp. 2-3)
175	Email, 7.30.2012, from Bobby to Merlin
176	Email chain, 8.3.2012; last one from Amy to Merlin and Bobby
177	Email chain, 8.3.2012 – 8.4.2012; last one from Suzy to Merlin and cc'd to Amy, gtrbob and Bobby (Appears to have been produced by Merlin, but not Bates stamped)
178	Email chain 8.2.2012 – 8.7.2012, last one from Bobby to Merlin
179	Email chain, 8.3.2012 – 8.7.2012; last one is from Amy to Bobby (Bobby Dep., Ex. 109)
180	Email from Merlin to Bobby and Amy, 8.3.2012 (Merlin Dep. Ex.10)
181	Email chain, 8.3.2012 – 8.8.2012; last one is Merlin's email to Amy (Merlin Dep. Ex. 35)
182	Email chain, 8.30.2012; last one is Merlin's email to Bobby
183	Email chain, 9.1.2012 – 9.2.2012; last one is Amy's email to Bobby
184	Email chain, 9.8.2012-9 9.2012, last one from Bobby to Merlin (Bobby Dep. Ex. 57)
185	Email chain, 9.8.2012 – 9.10.2012; last one is Merlin's email to Bobby (Merlin Dep., Ex. 37)
186	Email chain, 9.7.2012 - 9.15.2012; last one is from Bobby to Suzy
187	Email chain, 9.10.2012 – 9.14.2012, last one from Suzy to Bobby

188	Email chain, 9.13.2012 - 9.14.2012; last one is Bobby's email to Amy (Amy Dep., Ex. 79)
189	Email chain, 9.24.2012, last one from Bobby to Amy
190	Email chain, 9.25.2012, last one from Suzy to Bobby
191	Email chain, 9.25.2012 - 9.26.2012; last one is Amy's email to Bobby
192	Email from Amy to Bobby, 9.30.2012, and forwarded to Tracie on 9.30.2012
193	Email chain, 9.29.2012 - 10.1.2012, last one from David to Suzy
194	Email from Amy to Bobby, 9.30.2012
195	Email chain, 10.22.2012 - 10.25.2012; last one is from Merlin to Merlin [sic]
196	Email chain, 10.1.2012 - 10.4.2012, last one from Bobby to Suzy
197	Email chain, 10.14.2012, last one from Amy to Bobby and bcc'd Suzy
198	Email from Merlin to Richard Babush ("Babush") and Sullivan, 11.1.2012 (Sullivan Dep., Ex. 15)
199	Email chain, 11.2.2012; last one is from Merlin to Bobby and cc'd Babush, hamill@bnki.com and Sullivan (Merlin Dep. Ex. 38)
200	Email from Bobby to Sullivan, 11.08.2012 (Sullivan Dep. Ex. 24)
201	Email chain, 11.9.2012 - 11.12.2012; last one is from Sullivan to Lisa M. Livsey (Sullivan Dep. Ex. 23)
202	Email chain, 11.11.14.2012; last one is from Sullivan to oMerlin and Babus and cc'd Linda Hamill (Merlin Dep. Ex. 14)
203	Email chain, 11.14.2012; last one is from Babush to Merlin Babush Dep. Ex. 8)
204	Email from Lynn Stevens to Babush and Sullivan, 11.14.2012
205	Email chain, 11.19.2012; last one is from Sullivan to Slosberg (Sullivan Dep. Ex. 42)
206	Email chain, 11.30.2012 - 12.1.2012; last one is from Suzy to Amy
207	Email chain, 11.25.2012 - 11.26.2012; last one is from Merlin to Bobby and Adam Gaslowitz ("Gaslowitz") and cc'd Babush and Sullivan (Merlin Dep. Ex. 14)
208	Email chain, 11.26.2012; last one is from Bobby to Gaslowitz and cc'd Merlin (Merlin Dep. Ex. 41)

209	Email chain, 11.26.2012 – 11.27.2012; last one from Merlin to Bobby and Gaslowitz
210	Email chain, 11.26.2012 – 11.28.2012; last one is from Bobby to Gaslowitz and Merlin
211	Email chain, 11.26.2012 – 11.28.2012; last one is from Amy to Merlin forwarding her email to Bobby on 11.28.2012 (Merlin Dep. Ex. 42)
212	Email from Suzy to Merlin and cc'd Amy and Bobby, 11.30.2012
213	Email chain, 11.30.2012; last one is from Amy to Merlin
214	Email chain, 11.30.2012 – 12.1.2012; last one is from Merlin to Suzy and cc'd Babush, Amy and Bobby (Merlin Dep. Ex. 44)
215	Email chain, 12.3.2012; last one is from Bobby to Suzy and Merlin and cc'd Amy (Merlin Dep. Ex. 47 – The deposition Exhibit consisted of only the last 2 pages—First 2 pages that were part of chain are added)
216	Email from Merlin to Bobby, Amy and Suzy and cc'd Gaslowitz, Babush and lhamill@bnkj.com , 12.5.2012 (Merlin Dep. Ex. 48)
217	Email chain, 11.6.2012-12.7.2012; last one is from Merlin to Suzy and Bobby and cc'd Amy (Merlin Dep. Ex. 49)
218	Email chain, 12.10.2012; last one is from Marvin Botnick ("Botnick") to Merlin, Suzy, Amy and Bobby, cc'd Babush and lhamill@bnkj.com (Merlin Dep. Ex. 51)
219	Email chain, 12.10.2012; last one is from Suzy to Merlin, Amy and Bobby, and cc'd Babush, lhamill@bnkj.com and Botnick (Merlin Dep. Exs. 50 and 52)
220	Email chain, 12.12.2012; last one is from Botnick to Merlin and Babush (Merlin Dep. Exs. 54 and 55)
221	Email chain, 12.12.2012; last one is from Merlin to Gaslowitz (Merlin Dep. Ex. 53)
222	Email chain, 12.13.2012, last one from Bobby to Suzy
223	Email chain, 12.25.2012-12-26-2012, last one from Amy to Bobby
224	Email chain, 1.2.2013; last one is from Amy to Bobby
225	Email chain, 1.4.2013; last one is from Suzy to Amy and Bobby
226	Email chain, 1.4.2013 – 1.6.2013; last one is from Suzy to Amy and Bobby

227	Email chain, 1.6.2013 – 1.7.2013; last one is from Bobby to Tracie forwarding Amy's 1.7.2013 email
228	Email from Madina Scott to Bobby, Suzy and Amy and cc'd Babush and Merlin, 1.9.2013 (Merlin Dep. Ex. 25; Bobby Dep. Ex.110)
229	Email from Amy to Tracie and cc'd Suzy and Bobby, 1.14.2013
230	Email chain, 1.14.2013; last one from Tracie to Amy and cc'd Suzy and Bobby
231	Email from Suzy to Bobby and cc'd Amy, Merlin and Gaslowitz, 1.14.2013 (Bobby Dep. Ex. 61)
232	Email chain, 1.14.2013; last one is from Bobby to Suzy, cc'd Amy, Merlin and Gaslowitz (Merlin Dep. Ex. 26 [sic])
233	Email chain, 1.15.2013 -1.25.2013; last one from Merlin to Suzy
234	Email, 1.27.2013, from Bobby to Suzy and Amy
235	Merlin Dep. Ex. 27
236	Merlin Dep. Ex. 28
237	Merlin Dep. Ex. 29
238	Email, 1.28.2013, from Merlin to Suzy, cc'd Amy and Babush
239	Email, 1.28.2013, from Merlin to Babush
240	Email, 2.14.2013, from Merlin to Sullivan, cc'd Babush
241	Email from David to Bobby, 1.27.2013
242	Email chain, 1.27.2013 – 1.28.2013, last one from David to Suzy and Amy
243	Email from Gayle Horton ("Horton") to Bobby, Amy and Suzy, 2.5.2013, with attachment
244	Email chain, 2.6.2013-2.25.2013, last one is from Bobby to Amy
245	Email chain, 2.14.2013; last one is from Merlin to Bobby and cc'd Suzy
246	Email from Merlin to Sullivan and cc'd Babush, 2.14.2013 (Merlin Dep. Ex. 26)
247	Email from Suzy to Merlin and Amy, 2-14-13 (Merlin Dep. Ex. 31-A)
248	Email from Suzy to Amy and Bobby, 2.22.2013 (Amy Dep. Ex. 66)
249	Email chain, 2.25.2013 – 2.28.2013; last one is from Bobby to Marvin Botnick (Botnick Dep. Ex. 3)
250	Email from Bobby to Merlin and cc'd Gaslowitz, 2.26.2013

251	Email from Merlin to Amy, 2.28.2013
252	Email chain, 2.27.2013 – 2.28.2013; last one is from Merlin to Bobby and Gaslowitz
253	Email chain, 2.27.2013 – 2.28.2013; last one is from Bobby to Merlin and Gaslowitz
254	Email chain, 2.27.2013 – 2.28.2013; last one is from Merlin to Amy (Bobby Dep., Ex. 113)
255	Email chain, 2.28.2013 – 3.1.2013; last one is from Bobby to Merlin
256	Email from Bobby to David Pollan ("Pollan") and cc'd Merlin and Gaslowitz, 3.1.2013
257	Email from Bobby to David, 3.3.2013 (Bobby Dep. Ex. 140)
258	Email chain, 3.3.13- 3.4.13; last one is from Bobby to Merlin (Merlin Dep. Ex. 56)
259	Email from Merlin to Gaslowitz, 3.4.2013 (Merlin Dep. Ex. 57)
260	Email chain 3.4.2013 -3.5.2013; last one from Pollan to Merlin and Horton, cc'd to Taylor , Horton and Suzy (Merlin Dep. Ex. 18, which was part of a larger chain of emails produced by Merlin)
261	Email chain, 3.3.2013 – 3.4.2013; last one is from Gaslowitz to Merlin and cc'd Millie Baumbusch ("Baumbusch") (Merlin Dep. Exs. 56 and 58, both of which were produced by Merlin in one chain of emails.)
262	Email chain 3.4.2013; last one is from Suzy to Gayle Horton
263	Redacted email chain, 3.4.2013 – 3.5.2013; last one is from Bobby to Merlin (Merlin Dep. Ex. 19)
264	Email, 3.5.2013 from Bobby to Merlin
265	Email chain, 3.5.2013; last one is from Bobby to Merlin (Merlin Dep. Ex. 62)
266	Email chain, 3.5.2013; last one is from Merlin to Bobby (Merlin Dep. Ex 63)
267	Email chain, 3.5.2013; last one is from Bobby to Merlin (Merlin Dep. Ex. 72; also includes 10:45 a.m. email)
268	Email chain, 3.5.2013; last one is from Merlin to Bobby (Bobby Dep. Ex. 116; Merlin Dep. Ex. 20)

269	Email chain, 3.5.2013; last one is from Bobby to Merlin (Bobby Dep. Ex. 115)
270	Email chain, 3.5.2013; last one is from Bobby to Merlin (Bobby Dep. Ex. 118)
271	Email chain, 3.5.2013; last one is from Bobby to Merlin (Merlin Dep. Ex. 19; Bobby Dep. Ex. 118)
272	Email chain, 3.5.2013; last one is from Bobby to Merlin (Merlin Dep. Ex. 60)
273	Email chain, 3.5.2013; last one is from Merlin to Bobby
274	Email chain, 3.4.2013 - 3.5.2013; last one is from Gaslowitz to Merlin, cc'd Baumbusch (Merlin Dep. Ex. 64)
275	Email chain, 3.5.2013; last one is from Merlin to Gaslowitz (Merlin Dep. Ex. 65 included in larger chain of emails produced by Merlin)
276	Email chain, 3.4.2013 – 3.5.2013; last one is from Pollan to Merlin and Horton, cc'd Jo-Ann Taylor and Elizabeth Snarey (Merlin Dep. Exs. 18 and 66)
277	Email chain, 3.6.2013; last one is from Merlin to Elizabeth Snarey and Horton, cc'd Jennifer Reefe (Merlin Dep. Ex. 67)
278	Email chain, 3.3.2013 – 3.8.2013; last one is from Merlin to Gaslowitz, cc'd Baumbusch
279	Email chain, 3.3.2013 – 3.10.2013; last one is from Gaslowitz to Merlin (Merlin Dep. Ex. 68; Bobby Dep. 119)
280	Email chain, 3.8.2013 – 3.10.2013; last one is from Bobby to Merlin
281	Email chain, 3.14.2013 - 3.10.2013; last one from Merlin to Gaslowitz
282	Email from Bobby to Gaslowitz and cc'd Merlin, 3.10.2013
283	Email chain, 3.19.2013 – 3.20.2013; last one is from Merlin to Suzy (Merlin Dep. Ex. 21)
284	Email from Amy to Suzy; 3.10.2013
285	Email chain, 2.5.2013 – 3.11.2013; last one is from Bobby to Merlin and Gaslowitz (Bobby Dep. Ex. 137)
286	Email chain, 3.11.2013 – 3.12.2013; last one is from Merlin to Pollan (Merlin Dep. Ex. 69)
287	Email chain, 3.12.2013; last one is from Merlin to Pollan (Merlin Dep. Ex. 70)

288	Email chain, 3.4.2013 – 3.12.2013; last one is from Gaslowitz to Merlin, cc'd to Baumbusch (Merlin Dep. Ex. 71)
289	Email from Bobby to Merlin and Gaslowitz, cc'd Kevin Tolnai, 3.11.2013
290	Email from Bobby to Merlin, 3.12.2013
291	Email chain, 3.13.2013 – 3.14.2013; last one is from Bobby to Merlin
292	Email from Bobby to Merlin and Gaslowitz, 3.13.2013
293	Email from Bobby to Merlin and Gaslowitz, 3.13.2013
294	Email chain, 3.13.2013 – 3.14.2013; last one is from Merlin to Gaslowitz
295	Email chain, 3.14.2013; last one is from Gaslowitz to Pollan, Baumbusch and Merlin
296	Email chain, 3.14.2013; last one is from Gaslowitz to Suzy, cc'd Pollan and Merlin
297	Email chain, 3.19.2013 – 3.20.2013; last one is from Merlin to Suzy (Merlin Dep. Ex. 21)
298	Email from Bobby to Merlin, cc'd Michael LaScala, 3.21.2013
299	Email chain, 3.19.2013 – 3.24.2013; last one is from Merlin to David, cc'd Pollan, Suzy, Bobby and Bobby (Merlin Dep. Ex. 23)
300	Email chain, 3.20.2013 – 3.24.2013; last one from David to Merlin, cc'd Pollan, Suzy, Bobby and Amy (Merlin Dep. Ex. 21)
301	Email chain, 3.19.2013 – 3.20.2013; last one from Merlin to Suzy (Merlin Dep. Ex. 22)
302	Email chain, 3.5.2013 – 4.4.2013; last one is from David to Bobby. (Bobby Dep. Ex. 105)
303	Email from David to Bobby, cc'd Pollan, Bobby and Suzy, 4.9.2013 (Bobby Dep. Ex. 56)
304	Email chain, 4.19.2013 – 4.21.2013; last one from David to Bobby, Amy and Suzy
305	Email from Tracie to Sullivan, cc'd Babush and Bobby, 5.3.2013 (Sullivan Dep. Ex. 19)
306	Email from Bobby to Sullivan and Babush, cc'd Merlin, 5.4.2013 (Sullivan Dep. Ex. 18)

307	Email chain 5.11.2013; last one is from Bobby to Pollan and Taylor (Legacy 000176)
308	Email chain, 5.11.2013, last one from Mike Slosberg to Bobby
309	Email from David to Bobby and Tracie, 6.7.2013 (Bobby Dep. Ex. 102)
310	Email chain, 7.24.2013; last one is from Bobby to Laila Tehrani
311	Email chain, 5.1.2013; last one is from Pollan to Brian (missing)
312	Email from Pollan to Merlin and Horton, cc'd Taylor, Horton and Elizabeth (Horton 11)
313	Email chain, 7.23.2013 – 7.26.2013; last one from Pollan to King, cc'd Jacobs (Pollan 36)
314	Email chain, 6.16.2014 – 6.19.2014; last one is from Suzy to Joe Vitetta (Suzy Dep. Ex. 1)
315	Email chain, 10.21.2014 – 1.6.2015; last one is from Ken Shapiro to Tyler Dixon and Skip Sugarman; cc'd Babush
316	Email Suzy to siblings 2-22-13 (Amy Bobby Dep. Ex. 66)
316	Amy email to Tracie 1-14-13 (Amy Dep. Ex. 67)
317	Amy email to siblings (Amy Dep. Ex. 85)
318	David Slosberg email to Bobby and Tracie 6-7-13 (Amy Dep. Ex. 102)
319	Typewritten document (Amy Dep. Ex. 99)
320	David Slosberg email to Bobby 4-9-13 (Bobby's Dep. Ex. 56)
321	Merlin email to Bobby and Gaslowitz 11-27-12
322	Bobby's email of 10-27-11 forwarding Merlin email (Bobby Dep. Ex. 40)
323	Bobby email to Merlin 9-9-12 (Bobby Dep. Ex. 57)
324	David Slosberg email to Bobby, 06.7. 2013 (Bobby Dep. Ex. 102)
325	Email, Bobby to Merlin, 8.7.2012 (Bobby Dep. Ex. 109)
326	Merlin email to Amy, 2.28.2013 (Bobby Dep. Ex. 113)
327	Email chain, 3.15.2013; last one is from Bobby to Merlin (Bobby Dep. Ex. 11____)
328	Email chain, 3.5.2013; last one is from Merlin to Bobby (Bobby Dep. Ex. 115)
329	Email chain, 3.5.2013; last one is from Bobby to Merlin (Bobby Dep. Ex. 118)

330	Sullivan email siblings 2.5.13 (re access financial records)(Sullivan Dep. Ex. 4)
331	Any emails or letters attached as Exhibits to any Depositions taken in this case
332	Any emails or letters attached as Exhibits or appendices to any affidavits, pleadings or responses filed in this case
333	4-18-12 Email from Suzy to Bobby, Tracie and Amy
334	Email Chain between Merlin and Suzy (cc: Amy and Babush)
335	2-25-13 email chain between Bobby and Amy (top one from Amy)
336	11-28-11 email from Suzy to Bobby, Amy, Tracie and Brian
337	12-1-12 email from Merlin to Suzy (cc: Babush, Amy and Bobby)
338	Email from Horton to Pollan, 2.28.2013 (Horton 10)
339	David's authorization to provide daughters with financial information, 2.14.2013
340	Steve Merlin's Invoices

MISCELLANEOUS

341	Wells Fargo Visa xxxx3414 - 2012
342	Wells Fargo Visa xxxx3414 - 2013
343	Wells Fargo Private Banking Interest Checking xxxx4026 - 2012
344	Wells Fargo Private Banking Interest Checking xxxx4026 - 2013
345	BOA Checking xxxx5219 - 2011
346	BOA Checking xxxx5219 - 2012
347	BOA Checking xxxx5219 - 2013
348	BOA Checking xxxx5219 5.1.14 - 10.0.9.14
349	BOA Credit Card xxxx5290 - 2012
350	BOA Credit Card xxxx2630 - 2013
351	FNBT Statement of Account David Slosberg 1/1/19 - 1/21/19
352	Complaint, David Slosberg v. Robert Slosberg
353	Receivership records
354	Audio and/or recordings produced by Plaintiff
355	Probate Court records (re petition to probate)
356	Deposition exhibits applicable to or referenced in deposition
357	Testimony of any witness whose testimony is tendered though deposition

358	Fidelity Account Statement with handwritten notes (Sullivan Exh 31)
359	Evaluator's Report for Guardianship/Conservatorship Proceedings
Exhibits to be identified in January 25, 2019 deposition of FNBT	
Documents to be produced by Bank of America at or before trial pursuant to subpoena	
Documents to be produced by Plaintiff pursuant to Notice to Produce.	
Documents to be produced by Wells Fargo at or before trial pursuant to subpoena	