

## **AFFIDAVIT OF JULIO ZAPATA**

State of New Hampshire Judicial Branch, 9<sup>th</sup> Circuit Court-Family Division-Merrimack,  
Docket No.: 266-2006-DM-00655

Arizona Enforcement Case No. FC2012-001202

I, Julio M. Zapata, being duly sworn, upon his oath, states under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. I have personal knowledge of the matters and facts stated in this declaration;  
I am over 21 years old; and am competent to testify.

2. My name is Julio Zapata. I am an attorney licensed in Arizona and Washington.

3. My Arizona bar number is 020324.

4. I am currently an attorney with my own firm:

Zapata Law PLLC  
8817 E. Bell Road, Suite 201  
Scottsdale, Arizona 85260  
Office: (480) 272-9004  
Facsimile: (480) 907-1703  
Cell: (602) 882-7696  
Email: [Mylawyer@juliozapatalaw.com](mailto:Mylawyer@juliozapatalaw.com)  
Website: [www.juliozapatalaw.com](http://www.juliozapatalaw.com)

5. Beginning in 1999 I was employed as an attorney and litigator with the firm of Fennemore Craig until my departure in January 2014.

6. I was the lead counsel for a client of the firm, Ms. Gail Rosier, since September 24, 2009, and a Probate Action in the State of Arizona No. PB2009-050356 which was consolidated with an affiliated civil action No. CV2009-011402 brought against her by Ms. Rosier's step children.

7. I filed a motion to withdraw as counsel of Ms. Rosier on January 13th, 2014 as a result of my severance from Fennemore Craig. I no longer represent Ms. Rosier. I have been asked to provide some factual information regarding pending matters before the

New Hampshire court and information I have learned through discovery in the Arizona matters.

8. As an officer of the court in Arizona, I wish to attest to certain information known to me for the purpose clarifying a transaction relating to Ms. Gail Rosier, in a related action in New Hampshire against her, upon which a series of events, findings, and orders were apparently predicated by Mr. Jeffrey Strobel.

9. I have reviewed Ms. Rosier's motion entitled *Petitioner's Motion to Bring Forward and Vacate Orders on Respondent's Petition for Motion to Clarify Dated March 13, 2009, and All Subsequent Orders*, and Mr. Strobel's response entitled *Answer and Cross-Petition to Dismiss*.

10. The scope of this affidavit is to divulge the nature of a particular transaction which Ms. Rosier disclosed to the court as well as a clarification of her financial state of affairs relating to her presumptive financial ability to contribute to the education of her son from 2006, until the death of her husband shortly thereafter, until present, which information is based upon my knowledge of Ms. Rosier since September 2009. Given the length of time I have represented Ms. Rosier, I am knowledgeable about the details of her case, having assisted in the argument before the Arizona Court of Appeals, as well as conducting extensive discovery and depositions.

11. I have been to Ms. Rosier's residence on Church Street before she lost it in a foreclosure. The residence was part of the Peter Rosier Trust, which was being administered by the step-children.

12. Shortly after my association as Ms. Rosier's counsel through Fennemore Craig, she was arrested and incarcerated. I continued to represent her in her probate case, however, her untimely arrest was a significant, damaging and arguably prejudicial factor in certain judicial actions and decisions that I was responsible for having unanimously reversed in the Arizona Court of Appeals. I would assert that I am both objective, and intimately knowledgeable about most of the legal events that Ms. Rosier has endured for

the last seven years in Arizona, and as an officer of the Court, I am compelled to reveal or assert factual information known to me.

13. The foregoing actions arose from the untimely demise of Ms. Rosier's husband of six and a half years, Dr. R. Peter Rosier died on or about March 15, 2007.

14. I have examined numerous financial documents and records secured through discovery, as well as facts obtained through depositions of the parties related to the decedent and his estate.

15. It was revealed that Dr. Rosier's financial affairs and estate planning were problematic because he held and controlled all assets, including assets that could be characterized as Ms. Rosier's because he used at least two separate Trusts, which are the subject of litigation in Arizona.

16. Subsequent to Dr. Rosier's death, his surviving spouse, Gail Rosier, suffered a "reversal of fortune" by her association with an individual known as John Albert Caruso who allegedly manipulated and swindled her out of all of her available assets, leaving her virtually penniless, with exception of any amounts due to her that were (and still are) tied-up in the Arizona probate action.

17. The pending criminal case against John Albert Caruso is pending trial under case number No. CR2010-112296-001. Ms. Rosier has represented to me that she is a primary witness against Mr. Caruso, and is doing so on her own accord, even though she was prosecuted as being his accomplice-rather than recognizing she was his victim, and she was charged with a variety of charges in CR2009-140581, and ultimately incarcerated in prison.

18. During this period of her unfortunate incarceration, as Ms. Rosier's legal counsel, I personally attended a mediation session in the probate action along with opposing counsel, in Estrella Women's Detention Facility to attempt to mediate an agreeable settlement agreement. However, Ms. Rosier attended such mediation conference while handcuffed, shackled, and garbed in prison stripes. Needless to say, in my opinion,

this was prejudicial to her case. As a result, a mutually acceptable settlement could not be achieved.

19. Although married for 6 plus years, Ms. Rosier has not paid a single cent from Dr. Rosier's estate, although under her prenuptial agreement she is entitled to \$300,000.

20. There are numerous references to the "Hopkinton Property" as being Ms. Rosier's asset in a New Hampshire action against Ms. Rosier.

21. Pursuant to various documents produced in the Arizona litigation pertaining to the "Hopkinton Property" which Ms. Rosier was under the belief she had an equitable interest in at that time in the approximate value of \$105,000. This asset appears to have been conveyed by her husband into the IRA Equity Trust. Ms. Rosier appears to neither be a control person in the trust nor involved with transactional details which she had left to her husband to handle. Attached hereto as **Exhibit 1**.

22. The following is the chronology of relevant events, as I understand them:

- July 24, 2006- The Strobel/Rosier Dominican divorce decree entered into SOUTHERN DISTRICT THE STATE OF NEW HAMPSHIRE SUPERIOR COURT Case No. 06-M-0655
- July 27, 2006- Gail files an "Answer to [Strobel's] Motion to Clarify" stating that "to the best of her knowledge" that she and her husband were partners with his former wife, Eleni in the Hopkinton Wilson Street property.
- March 15, 2007 Dr. Peter Rosier died.
- May 27, 2008 The Hopkinton property was sold by the Trust with Eleni as being the sole trustee of the trust. No beneficiaries were named in the body of the trust document on file with the Southern Middlesex District, only as an appurtenant (but missing) schedule. The property sold for \$355,000 according to the quitclaim deed. The disposition of the funds remains unaccounted for, and if able to be identified or traced, would like still be subject to the Dr. Rosier estate/probate and civil action. See **Exhibit 2 and Exhibit 3**.

23. In other words, contrary to Mr. Strobel's allegations to the contrary, it appears from the factual record that Ms. Rosier's representation to the court at that time

was truthful. It was her belief as conveyed to her by her husband that they had the equity interest in the Hopkinton Property, but it was an equity position that was in most probability lost due to circumstances beyond her control, most likely due to interest held by Eleni Rosier as sole Trustee, as Peter had already died a year prior, and his estate was subject to litigation in Arizona.

24. On page 8 of Ms. Rosier's July 2012 Arizona Rule 26.1 Disclosure Statement, it still makes reference to Gail trying to figure out what happened to the proceeds from the sale of the Hopkinton Property that was set-aside to be used for Connor's education. Nothing was stated regarding potential child support.

25. On or about October 28, 2008, Jeff Strobel files a "Petition for Motion to Clarify" with the New Hampshire court. His allegations appear not to be consistent with the actual facts. The motion provides:

To           6. What orders do you want the court to make?  
wit:

Jeff Strobel: *"That the back child support plus accrued interest being held by Gail Rosier (by agreement for Connor's college) be used for the first instances of those services and that any remaining balance be given to Jeffrey Strobel"*

26. This statement illustrates Mr. Strobel's unsupportable factual allegation and belief that there was (a) a fixed amount [of child support] amount due to him of \$150,000, and that he was entitled to any excess amount over and above Connor's actual expenses. It appears that Mr. Strobel also labelled the investment for their son's college "back child support" even though the court clearly articulated that no child support was ever requested or ordered.

27. March 13, 2009: **ORDERS ON RESPONDENT'S "PETITION FOR MOTION TO CLARIFY"** appears to be the cornerstone document to the entire chain of events and proceeding occurring after that date. The Court concludes:

*"Furthermore, there has never been a child support order entered in this or any other Court."*

- Furthermore- the Court issued two specific orders:
  - *"1. Ms. Rosier shall immediately take all necessary steps to liquidate the real estate asset which is being held for the benefit of Connor's college educational expenses, and to ensure that the funds will be available for this purpose."*
  - and *2. Ms. Rosier shall provide a complete accounting of the liquidated funds to Mr. Strobel, and the funds shall be placed into an appropriate account where the funds will be accessible for the payment of Connor's college educational expenses as they accrue,*

28. Respectfully, these two specific orders need to be examined very carefully. The first being the liquidation of the real estate would have been an impossibility, as neither Ms. Rosier [nor her husband who had died a year previously] would have had any control or influence over the disposition of the property. The property was owned by a Trust with Eleni Rosier as the Trustee and free to do whatever was in her discretion regarding the disposition of the property. In addition, on information and belief, Eleni Rosier lived in the property.

29. Second, Ms. Rosier's [and her deceased husband's] investment in the property through a beneficial interest in a trust was a beneficial interest, not even a minority interest and therefore totally illiquid, and as a small investment subject to many factors including a possible loss of her (and Peter's) entire investment.

30. The March 13, 2009 Order (in hindsight) was not based on accurate factual information regarding the essence and structure of the transaction, but Gail's unqualified belief or second-hand understanding, without being in possession of accurate factual information, and was a result of Gail's reliance on the business and financial arrangements made and details provided by her husband.

31. The truth of the matter is that until quite recently, Ms. Rosier nor her legal counsel understood what happened to the funds from the sale of the property held in trust. With some degree of investigation of subpoenaed records from Equity Trust Company (and

some deduction and conjecture, if the escrow company or the seller disbursed funds (\$355,000) to the owner of the property- "The Wilson Street Trust"- then it would have been the responsibility of the Trustee (Eleni Rosier) to disburse the appropriate funds to her "partners" who were presumably made beneficiaries of the trust. Unfortunately- the Trust documents are devoid of naming any beneficiaries- with the exception of referring to them being listed on a separate schedule- however no such schedule being filed with the Trust document.

32. On numbered page 3 of the Equity Trust Company Statement dated December 31, 2005 (see **Exhibit 4**), it shows a disbursement in the amount of \$83,919 for 0016933 7 WILSON STREET HOPKINTON. In other words they sent a check for that amount towards the real estate purchase, and their Status notation "please provide deed"- was never complied with because the property was originally purchased in the "Wilson Street Trust" on April 26, 2005- not the Peter Roser IRA. Gail states she also contributed approximately \$20,000 towards the purchase (as a partner) as these were the funds she received from the sale of her yoga studio. This is combination of sources where the original funds of approximately \$105,000 were derived- as reported to the NH court in the financial disclosures.

33. As late as March 31, 2013, the Equity Trust Statement Page 4- still indicates the following, see **Exhibit 5**:

Asset Description	Investment Type	Status	Waiting On	Price as of	Asset Value
I0016933 7 WILSON STREET HOPKINTON	Real Estate	Documents Needed	Please provide: Deed	04/22/05	\$83,919.00

34. It appears that even though the property sold on May 27, 2008, some 5 years earlier- it is still being carried as an asset on the books of the Equity Trust account, and 5 years later- they are still awaiting a deed that doesn't exist. Although the property was

originally purchased for \$409,900, and ultimately sold for \$355,000, an almost \$55,000 loss. The factored loss on the original investment of \$83,919, indicates a gross amount in the high \$60 thousand before sales costs commissions, etc. It is my understanding from Ms. Rosier, that her very recent phone contact with Shirley Sheridan, a Massachusetts attorney that handled both the purchase of the property, as well as the sale, including the drafting of the Wilson Street Trust documents, that she still has an undistributed cash balance in an escrow account under her control, from the distribution of the proceeds of the sale of the property in 2008 that is held for the benefit of the Peter Rosier IRA. Moreover, the value shown on the Equity Trust 2013 statement appears to be the value of the original investments paid out by the Equity Trust Company for purchases of land trusts and other assets. According to the Personal Representative, Jacob Rosier, the Equity Trust account is valueless. The fact that the statements continue to carry such value is misleading at best.

35. There are only two people who can clarify the history and resolution of the disposition of the funds from the sale of the Wilson Street, Hopkinton MA property- Eleni Rosier (who is presumed to have moved back to Greece), and the attorney, Shirley Sheridan, who handled all aspects of the transaction, representing all the parties to the Trust. It appears that she was hired by, and drafted and created the trust for Peter, and as well was the notary and incestuously involved with the sale of the property. According to Gail, who has attempted contact with her through the years to determine the disposition of the funds, Ms. Sheridan has not returned any phone calls. See **Exhibit 1**.

36. Ms. Rosier in the haze of losing her husband (and her life as she knew it) was too busy trying to figure out what was happening to her, and how to pay for the mortgage on her Church Street residence in Scottsdale (*which she ultimately lost anyways*) while Mr. Strobel apparently found a likely ally in plotting and colluding with Ms. Rosier's step-children who were bound and determined to deprive their father's widow from getting any of her deceased husband's money, which they felt they deserved more than her.



37. To this day, 7 years after his death, Ms. Rosier has not received a single penny from his estate, has been imprisoned, and has been subject to various orders by the State of New Hampshire courts, the State of Arizona Courts, and with my own representation, has [successfully] fought her way to assert her legal rights all the way to the Arizona Court of Appeals. At the bottom of all these issues lies the factually unsupportable allegations of Jeffrey Strobel pertaining to alleged child support versus the Hopkinton Property for college use.

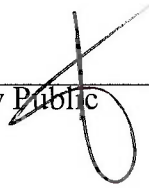
38. In deposition testimony by John Pattullo, attorney for the Personal Representative (Jacob Rosier), Mr. Pattullo testified that Ms. Rosier was a 1/3 percent beneficiary of the Equity Trust IRA account. However, statements made by the Personal Representative indicate that there is no value to be distributed from the Equity Trust IRA account to any of the beneficiaries and that administrative fees are owed on the account.

39. In 2012, Mr. Pattullo finally produced an amended Change of Beneficiary form which indicated that Ms. Rosier was a 1/3 percent beneficiary of the Equity Trust IRA account.

40. Pursuant to Rule 80(i), Arizona Rules of Civil Procedure, I declare under penalty of perjury that the foregoing is true and correct.

April 30, 2014  
By:   
Julio M. Zapata

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, this 30<sup>th</sup> day of April, 2014, by Julio Zapata.

  
Notary Public

My Commission Expires:

10-23-14

