

5/24/11

DISTRICT COURT ARAPAHOE COUNTY, STATE OF COLORADO 7325 South Potomac Street Centennial, Colorado 80112 (303) 649-6355	
IN THE MATTER OF THE ESTATE OF EMMA PARR Protected Person/Ward	▲ COURT USE ONLY ▲
<i>Attorneys for Larry Parr:</i> Rebecca Klock Schroer, #36829 Kelly Dickson Cooper, #33927 Holland & Hart LLP P.O. Box 8749 Denver, Colorado 80201-8749 Phone No.: (303) 295-8000 Fax No.: (303) 383-5677 Email: rkschroer@hollandhart.com Email: kdcooper@hollandhart.com	Case Number: 07PR579 Division: 21 Courtroom :
PETITION TO REMOVE BARTON COX AS GUARDIAN FOR EMMA PARR	

COMES NOW Larry Parr (hereinafter "Larry"), by and through his attorneys, Holland & Hart LLP, and hereby petitions this Court pursuant to *Colo. Rev. Stat. § 15-10-503* for removal of Barton Cox as guardian for the ward, Emma Parr. In support of this response, Larry states as follows:

Procedural Background

1. Barton Cox was appointed Guardian for Emma Parr by this Court on February 8, 2008 ("Cox").
2. Patty Jones was appointed Conservator for Emma Parr by this Court on January 23, 2008 ("Patty").
3. Emma Parr, the protected person in this matter, is Larry's mother ("Emma"). She is an 89 year-old who has had diabetes for thirty years. She is blind in one eye and with blurred vision in the other since the late 1990's.
4. Mr. Cox filed a Petition for Emergency Suspension of the Powers of the Conservator and Trustee Pursuant to C.R.S. § 15-10-503 and for their Removal and Appointment of Public Administrator as Temporary Conservator and Trustee on May 4, 2011. Larry filed a

response to such Petition on May 23, 2011 and incorporates the arguments in that response into this petition.

Factual Background – Emma’s Assets

5. Emma owns the following assets, either individually or through the Emma Parr Trust Number One dated September 7, 1989 and amended and restated August 3, 2006 (“Trust One”), as detailed below:

ASSETS	TITLE
E. Parr Family Limited Partnership (“Partnership”)	Trust One**
Personal Property	Trust One
Checking Account – 0190 (“Emma’s Account”)	Individually, controlled by Patty Jones, as Conservator

**Trust One does not have a separate bank account.

6. Emma’s Account receives her monthly social security payment (approximately \$1,200), lease payments and contributions from Larry.

7. Emma has an ill-liquid interest in a partnership, the sole asset of which is a piece of real property in Englewood. That property is subject to a valid lease continuing until 2030 which generates the sole income for the property. All monies required and available for timely distribution to all parties have been made. Because the distributions are less than the monthly costs of Emma’s care, Larry has personally advanced monies out of pocket due Emma in order to pay her monthly expenses.

Factual Background – Emma’s Current Situation

8. Emma is currently residing at the Court at Denver. Although there have always been issues and concerns with the care being provided at the Court at Denver over the past two years, this has reached an alarming level in the past six months. Larry has been the person who has been most involved with Emma for the past 40 years of her life. He cares about her deeply and does not believe that she is receiving adequate care at the Court at Denver. Unfortunately, Mr. Cox is dismissive of Larry’s concerns. In addition, Larry has raised questions about Emma’s care with the staff and has received negative reactions.

Condition at the Court of Denver Are Unacceptable and Dangerous to Emma's Welfare

9. In the past two years and especially in the last four months, Emma has experienced abuse at the Court at Denver in the forms of malnutrition, hunger, dehydration, inadequate clothing, assault, and sanitary issues.

10. For example, Emma's blood sugar level was repeatedly low in January, 2011. On January 25, 2011, the nurse in her room told Larry that it was low because she was not getting enough food to eat. When the nurse fed Emma a sandwich, she devoured it out of her hand.

11. In addition, Emma lost 10 pounds since the start of 2011, which Cox attributed to her no longer eating the junk food that Dennis Parr would supply to her. However, Emma continued to eat mostly cheese sandwiches, peanut butter and jelly sandwiches and pizza. The weight loss is another cause for concern.

12. Also, on January 8, 2011 Emma had been admitted to the Emergency Room for stomach bleeding because of her poor diet. Mr. Cox failed to inform Larry of Emma's trip to the Emergency Room for two days. Mr. Cox stated as follows in an email dated January 12, 2011 attached as Exhibit 1:

I'm sorry I didn't notify you earlier of Emma's ER visit. I'll be better about informing you more quickly in the future, should it happen again.

13. Furthermore, Larry has purchased clothing for Emma and the clothing mysteriously disappears. Emma has been brought out in subzero temperatures with inadequate clothing. Patty Jones also mentioned that the staff has misplaced Emma's medical equipment. Ms. Jones purchased 100 test strips for Emma and after delivering them to the Court at Denver, she received phone call the next day that they had none.

14. The most alarming issue is that in the early morning of April 6, 2011, Emma suffered at least one injury with a blunt object to the face that left both eyes black and blue and swollen. The assault happened at The Court at Denver while she was in bed asleep. She was found in bed the following morning and was sent to the emergency room for an examination and treatment and returned seven hours later. *See Exhibit 2, Photos.*

15. Larry was told by Mr. Cox that his mother was sent to the emergency room with what appeared to be an infection around one of her eyes. Later, Cox asserted that she bumped her head. In an email to Larry on April 7, 2011, Mr. Cox states:

I have spoken numerous times with Marissa in person and by telephone since the incident happened. Marissa surmises that Emma did not fall, but that instead she bumped her head against something in her room while she was alone. If she had fallen, she probably would not have been able to get up and back into bed on her own, which was how she was found just before 8 AM.

Regarding the scratch under Emma's eye, Marissa told me that Emma had been observed to be scratching around her eyes. Perhaps the scratch under her left eye was a result of this. Since no one witnessed the incident, we may never know what actually happened.

16. Mr. Cox then hired an outside care agency to stay with Emma 24 hours a day, 7 days a week at The Court at Denver for several days. This was a further waste of financial resources as Emma continued to reside at the Court at Denver.

17. The assault on Emma was an emergency, yet Cox failed to move her to Larry's care – a viable placement option. In addition, Mr. Cox did not act in Emma's best financial interest when he elected to incur another expense by hiring an outside care agency to stay with her 24/7 for her protection from The Court at Denver when she could have been moved.

18. The staff at The Court at Denver has repeatedly misrepresented events that have taken place and also provided false information about Larry. For example, a tea party was held at the Court at Denver last winter. The staff told Mr. Cox that Larry prevented Emma from participating. Larry had no objection to Emma attending and she did in fact attend. When Larry arrived she had been served coffee, which she does not drink and has not had in over three decades. She told Larry she was nauseous, had a headache and needed to get in bed. Larry then escorted her back to her room so she could lie down; he was not refusing to allow her to stay at the party as the staff reported. After sorting out this incident, Mr. Cox wrote the following in an email to Larry dated 1/12/11 and attached as Exhibit 6:

I'm also sorry about the misinterpretation of what happened at the tea party on 1/11. My understanding is that it was not Marissa herself who claimed to see this, but another staff person who reported it to Marissa.

19. Given the Court at Denver's failure to care for Emma and keep necessary records, it is not surprising that the staff interprets Larry's questions about Emma's care "disruptive." For example, on one occasion, Larry inquired about whether Emma had received her insulin and the staff informed her that they had given Dennis directions on how to administer the insulin. Despite this, there was no record of whether the insulin was actually administered. An omission of this type from a medical record is not only alarming, but dangerous to Emma's welfare.

Plan Regarding Emma's Care

20. Larry offered to move Emma into his house at 2710 W Union Ave with full time care because he believes it is in her best interest. Mr. Cox initially agreed to this plan. Once Emma was moved to Larry's personal residence, he was going to move to the other house on the property, located only 300 feet away. Larry, Patty and Kent Olsen, Emma's guardian ad litem, agreed to this plan in January of 2011. Mr. Cox then took steps to implement the agreement and acknowledged that Emma may be moving in his Annual Report for the period 4/8/2010 to 4/8/2011. See Exhibit 3, Guardian Report for Period 4/8/2010 to 4/8/2011.

21. Larry is very capable of assisting with Emma's care. He cared for his wife for years while she had Lou Gehrig's disease until she died in 2009. In addition, he administered Emma's insulin for years when she lived at home because of her failing eye sight. Larry conducts his business out of his house, so he would be available to ensure that Emma received proper care. Also, Larry has put in many hours to prepare for Emma living at home, including arranging for full-time care.

22. Mr. Cox issued a notice for Emma to vacate the Court at Denver on February 1, 2011. *See Exhibit 4, Bill from Bart Cox.* In preparation for Emma's arrival, Larry hired a full time personal assistant to live with Emma. He also hired Homehelpers, Inc., a company that specializes in Alzheimer's to come in and assist his mother as needed. In short, the necessary arrangements were being made to move Emma to the residence. As part of the agreement, Larry was going to ensure that the costs were paid.¹

23. Larry is not clear as to all the reasons that the agreement was not implemented and does not understand why Mr. Cox failed to move Emma, seek Court approval for the move, or petition the Court for instructions.

Request for Removal

24. The conditions at the Court at Denver are dangerous to Emma's welfare and it is clear why there was a plan to move Emma to a safe environment where her care needs can be met appropriately. Therefore, Larry requests the immediate suspension of Barton Cox as guardian because there is imminent risk of substantial harm to Emma. *Colo. Rev. Stat. § 15-10-503.*

25. Larry also requests that Mr. Cox be removed pursuant to *Colo. Rev. Stat. § 15-10-503(2)* because it is in Emma's best interest. Mr. Cox is failing to make decisions that are in Emma's best interest. He could have moved Emma from the Court at Denver, sought the approval of the Court for the move, or petitioned the Court for instructions. He failed to take any of those actions. Instead, he left Emma at the Court at Denver and then petitioned to remove the conservator and the trustee claiming that they had refused to pay the facility when in fact, there are not sufficient liquid funds to pay the facility.

26. Prior to the appointment of Barton Cox, Larry was acting as agent under Emma's medical power of attorney. Larry request that he be appointed as guardian, as was agreed to in the settlement agreement filed with the Court November 9, 2007. In the alternative, Larry would be willing to agree to a guardian who is an independent person in this matter.

WHEREFORE, Larry Parr requests that the Court:

¹ Larry also ensured that his brother, Dennis, would have adequate access to Emma and could schedule visitation. There is a protective order in place between Dennis and Larry which Larry is not willing to remove, but he is willing to make sure that Dennis has access to his mother.

- a. Remove Barton Cox as guardian for Emma Parr;
- b. Appoint Larry Parr as guardian for Emma Parr;
- c. In the alternative, appoint an independent guardian after the interested persons submit nominations;
- d. Order that Emma Parr be moved from the Court at Denver immediately;
- e. Deny all fees to Mr. Cox and his agents in regard to this proceeding;
- f. Award attorney fees to Mr. Parr based upon the Colorado Probate Code or any other applicable statute.

Dated: May 24, 2011

Respectfully submitted,

[Original Signature on File]

/s/

Rebecca Klock Schroer, #36829

HOLLAND & HART LLP

ATTORNEY FOR LARRY PARR

CERTIFICATE OF SERVICE

I certify that on May 24, 2011, I served a copy of the foregoing filing to the following by U.S. Mail, postage prepaid or electronically via LexisNexis File & Serve, as indicated below:

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