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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF LOS ANGELES
10

11 Estate of	)	CASE NO. LP0XXXXX
)	
12	)	NOTICE OF AND MOTION FOR
	)	PROTECTIVE ORDER TO TERMINATE
13 FREDERICK ALBERT S.	)	THE DEPOSITION OF W. S. AND FOR
	)	SANCTIONS OF \$1,000.00;
14	)	MEMORANDUM OF POINTS AND
	)	AUTHORITIES; DECLARATIONS OF
15	)	JAMES G. MORRIS, BAYLEIGH JORDAN
	)	PETTIGREW AND BRANDON C.
16 Deceased.	)	MURPHY; AND DEPOSITION
	)	TRANSCRIPTS OF W. S.
17)	
	)	Date: November 3, 2009
18	)	Time: 9:00 a.m.
	)	Dept: NW-C
19)	
)	
20	)	Trial Date: November 17, 2009
21)	

22 TO ALL PARTIES, AND TO THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on November 3, 2009 at 9:00 a.m., in Department
24 NW-C of the Los Angeles Superior Court located at 6230 Sylmar Avenue, Van Nuys, CA
25 91401, Petitioner W. S. ("Petitioner") moves the Court for a protective order terminating
26 Petitioner's videotaped deposition and for sanctions.

27 This Motion is made under Code of Civil Procedure § 2025.420(b) to protect
28 Petitioner from unwarranted annoyance, embarrassment, oppression and undue burden; and

1 under Code of Civil Procedure § 2019.030(a) on the ground that the information sought is
2 unnecessarily cumulative and duplicative.

3 This Motion is based on this Notice; the Memorandum of Points and Authorities
4 and the Declaration of JAMES G. MORRIS, the Declaration of BRANDON C. MURPHY and
5 the Declaration of BAYLEIGH J. PETTIGREW attached hereto; the pleadings, records and
6 filings herein; records of which the Court may take judicial notice; and such other and further
7 evidence that may be presented at the hearing on this matter.

8
9 DATED: _____, 2009

10 MORRIS & ASSOCIATES

11
12 By: _____
13 BAYLEIGH J. PETTIGREW,
14 Attorneys for GARY M. and
15 W. S.

16 S..mtn.protect.order/4/8/12/t

1 MEMORANDUM OF POINTS & AUTHORITIES

2 I

3 SUMMARY OF FACTS

4 This Motion for Protective Order is brought after two (2) days of deposition and the
5 insistence by the attorney for Cross-Petitioner, N. & ASSOCIATES, that it must go for another
6 one (1) or two (2) days. MRS. S.'s attorneys have brought this motion for a protective order. This
7 is the first such motion in the firm's twenty-five (25) year history. The actions by N. seem to be
8 consistent with an abusive discovery process consistent with the firm's mission statement on its
9 website: *"Either You are with us, or against us and to be against us will cause you pain."*
10 PETTIGREW Declaration, ¶10; Exhibit 1.

11 W. S. (hereinafter "MRS. S.") is an elderly woman, who is eighty-four (84) years old.
12 She lives in a retirement community in Walnut Creek, California, where she is the sole caretaker
13 for her nearly eighty-eight (88) year old husband, YUAN SHOU S., who has been gravely ill since
14 1996. Due to her husband's illness, MRS. S. is unable to travel outside the immediate locale of
15 her home. MRS. S., as well as her brother, TSENG-CHIN S., and her sister, TSENG-SHI S., are
16 the blood siblings of Decedent, FREDERICK ALBERT S.. MRS. S. is the only sibling living in the
17 United States. Declaration of BAYLEIGH JORDAN PETTIGREW, ¶9. On January 3, 2009, MRS.
18 S. nominated GARY M. to act as the Administrator of FREDERICK S.'s Estate. The Petition for
19 Letters of Administration was filed in this Court on January 8, 2009. On March 17, 2009, Cross-
20 Petitioner, MEHRDAD A., filed a Notice of Petition to Administer Estate of MEHRDAD A. (sic), as
21 well as a petition to be appointed administrator of a "lost or destroyed will." Cross-Petitioner A.
22 alleged that Decedent, FREDERICK S., had created a will in 1997, but that MRS. S. had
23 destroyed the will.

24 On or about September 10, 2009, notice of taking the deposition of MRS. S. by her
25 attorneys was mailed to MR. A.'s attorneys. It included notice that the deposition was to be taken
26 by videotape for possible use at trial. On or about September 22, 2009, amended notice of the
27 deposition of MRS. S. was sent to the attorneys for MR. A., reflecting his attorneys', N. &
28 ASSOCIATES' request that the deposition date be changed to October 15, 2009 at 11:00 a.m. at

1 MRS. S.'s home in Walnut Creek, California. It also stated that the deposition would be
2 videotaped for possible use at trial. Prior to sending out this notice, the attorney for MRS. S. had
3 expressed concern that moving the date so close to the cutoff date for discovery would not allow
4 any room for error should her elderly client, whose health is decent for that age but still fragile,
5 cause need for delay. Due to concerns about the frailty of MRS. S., the attorney stipulated that
6 should MRS. S. fall ill, to that deposition only, the discovery deadline would be voluntarily waived.
7 PETTIGREW Declaration, ¶2.

8 MR. A.'s consistent lateness and delays have also amounted to a harassing
9 technique in this deposition as well as the deposition of GARY M.. Tardiness and delays without
10 notice in the deposition of W. S. have accounted for two (2) hours and twenty-three (23) minutes
11 lost, during which time N. & ASSOCIATES could have been cross-examining MRS. S., bringing
12 their total cross-examination percentage of forty-one percent (41%) of the deposition to fifty-five
13 percent (55%) of the time MRS. S. was ready and awaiting cross-examination. PETTIGREW
14 Declaration, ¶3; Declaration of BRANDON C. MURPHY, ¶s 2-4; and Exhibits 1-2.

15 The deposition on October 15, 2009 was to be delayed until 11:10 a.m. due to
16 some technological difficulties with the speakerphone system; however, it was further delayed by
17 the failure by MR. A. to call in to the deposition at the new time given by the court reporter. The
18 deposition itself did not start until approximately 11:40 a.m. On that first day of the deposition,
19 Deponent's counsel, who had noticed the deposition, intended to introduce approximately sixty
20 (60) documents and complete their testimony within three and one-half (3 1/2) hours. The
21 exhibits, though numerous, were merely to be authenticated by MRS. S., and therefore it was not
22 expected that it would take very long to introduce them. However, MR. A. insisted that they be
23 allowed to cross-examine MRS. S. on each exhibit as it was introduced. With the understanding
24 and expectation that questioning would be limited to those exhibits and that it would allow the
25 questioning to be more efficient, MRS. S.'s attorneys', BAYLEIGH JORDAN PETTIGREW and
26 JAMES G. MORRIS, granted this accommodation to MR. A.. However, rather than merely clarify
27 several questions on each exhibit, MR. A. engaged in questioning that was unnecessarily
28 duplicative and attempted to browbeat Deponent after she had answered queries to why the

1 exhibits had postmarks on the letters when she clearly stated that she did not know. Great
2 latitude was granted to these attorneys due to the fact that MRS. S. is unable to travel to Los
3 Angeles to appear personally at the trial. PETTIGREW Declaration, ¶¶ 3, 5 & 6.

4 In addition, at every break throughout the first day of the deposition, when a specific
5 time to return was agreed upon by the parties on the record, MR. A. failed to return to the
6 teleconference deposition at that time, and it was actually necessary for MRS. S.'s attorneys to
7 personally call N. & ASSOCIATES to request that they return to the deposition so that it could
8 continue. By 3:00 p.m., MRS. S.'s attorney had finished asking questions except for the
9 authentication of the remainder of the approximately sixty (60) documents. This authentication
10 was believed to take an hour or less. At around 4:55 p.m. of that day, MR. A. stated his intent to
11 finish the deposition for that day at 5:00 p.m. despite the late start to that deposition that morning.
12 At that time, it was agreed that the deposition would be continued for one (1) more day. It was
13 scheduled for October 21, 2009. Due to MRS. S.'s age and her husband's illness, the first day of
14 deposition had been scheduled to begin at 11:00 a.m. because the court reporter and the
15 videographer needed approximately one (1) hour to set up the equipment in her home, meaning
16 that MRS. S. would only have until 10:00 a.m. to get her husband settled for the day. At MR. A.'s
17 insistence, the deposition for October 21, 2009 was scheduled to begin at 10:00 a.m., requiring
18 the court reporter and the videographer to begin setup with MRS. S. at her house at 9:00 a.m. on
19 October 21, 2009. PETTIGREW Declaration, ¶¶ 3, 4, 7 & 9.

20 On or about October 21, 2009, at a few minutes before 10:00 a.m., MRS. S., her
21 attorney, and the court reporter and videographer were all present on the conference call and
22 ready to proceed with the deposition at 10:00 a.m. When MR. A. failed to appear on the
23 telephone, a call was given to the N. & ASSOCIATES office, which informed MS. PETTIGREW
24 that the deposition could not begin at that point because MR. N. and Cross-Petitioner, MR. A.,
25 were not yet at the building for the deposition. MS. PETTIGREW requested that MS.
26 GALLAGHER come on record for the administering of the oath and the admonishments in order
27 to try to mitigate the delay caused by the demand to wait for the appearance by MR. N. and MR.
28 A. before beginning any questioning. MR. N. did not arrive for the deposition that he had

1 requested start at 10:00 a.m. until 10:25 a.m., and then insisted on further delay while waiting for
2 his client, MR. A.. MS. PETTIGREW expressed her concerns over the delay with the attorneys
3 from N. & ASSOCIATES, stating that she wanted to ensure that the deposition would be finished
4 by that day, as she was certain that MR. N. would insist on the deposition ending at 5:00 p.m.,
5 and that the deposition could not go further because it was very draining on her client's health.
6 Despite this concern, MR. N. insisted that they wait until MR. A. arrived, which was not until
7 approximately 10:40 a.m. PETTIGREW Declaration, ¶¶ 11 & 12.

8 Throughout the morning session, which lasted approximately an hour and a half,
9 the attorneys from N. & ASSOCIATES continued to browbeat the Deponent through
10 argumentative or repetitive questions. In particular, they suggested that MRS. S.'s actions or
11 beliefs were less than honorable, offending the Deponent. They also continued to refuse to
12 accept MRS. S.'s answer when she would state, "I don't know." PETTIGREW Declaration, ¶13.

13 At approximately 12:15 p.m., when the videographer needed to switch out the tape,
14 it was agreed that a lunch break would be taken at that point. MR. N. stated that it should be an
15 hour for lunch and that the deposition should resume at 1:20 p.m. When MS. PETTIGREW
16 suggested that they take a forty-five (45) minute lunch break instead of an hour, MR. N. became
17 quite hostile and began accusing MS. PETTIGREW of trying to rush the proceedings. When MS.
18 PETTIGREW was finally able to explain that she was just concerned that the deposition was not
19 going fast enough due to the late start and was not going to be able to be completed by the end
20 of the day, MR. N. still insisted that he needed an hour because he needed to prepare for the
21 afternoon session of the deposition. When MRS. S., MRS. S.'s attorney, and the court reporter
22 and videographer returned at 1:15 p.m. as per MR. N.'s insistence, he was again late, not
23 returning to the deposition until 1:25 p.m.. PETTIGREW Declaration, ¶¶ 14 & 15.

24 MS. PETTIGREW continued to accommodate MR. A.'s request that he be allowed
25 to question after each exhibit; however, at one point, the scope of MR. N.'s questioning went far
26 from the document that had just been entered. It was a discussion about the money that MRS. S.
27 had given to GARY M. in appreciation for all the friendship and assistance that he and his family
28 had given her brother and herself in dealing with FREDERICK S.'s care and his funeral

1 proceedings after his wife died, when FREDERICK S. was all alone. MS. PETTIGREW requested
2 that MR. N. hold off on that questioning until after the exhibits had been entered, as that was not
3 relevant to the exhibit at hand; however, MR. N. stated that if he was allowed to do the
4 questioning at this time, he would have very little other questioning to do at the end. With the
5 expectation that this would allow the deposition to be shortened and, therefore, completed by the
6 end of the day, MS. PETTIGREW again accommodated MR. N.'s demand to cross-examine
7 MRS. S.. PETTIGREW Declaration, ¶15.

8 At one point during the afternoon, MRS. S. requested water or juice because she
9 was not feeling well and needed to get her blood sugar up. At this point, MR. N. stated that he
10 would like to run outside his building to get a cup of coffee. It was agreed that we would take a
11 five (5) minute break. Again, MR. A. was late in returning to the deposition, causing a delay.
12 PETTIGREW Declaration, ¶17.

13 When MRS. S.'s attorney finished entering the exhibits and concluded her part of
14 the deposition with a few questions, it was just after 4:00 p.m. At that point, MR. N. again began
15 questioning MRS. S. again about the gifts of money that she had given GARY M. in appreciation
16 for the assistance his family had given her family. He attempted to browbeat the Deponent
17 through argumentative and unduly repetitive questions, not accepting that she did not know the
18 exact amount that she had given GARY M., despite the fact that MRS. S. had explained that she
19 had opened up a joint checking account and deposited funds in it, but she could not remember
20 exactly how much she had deposited nor was she aware how the money was spent. MRS. S.
21 stated that she had used her funds from the P.O.D. designating her as beneficiary on her
22 brother's bank accounts, and that it was her money to give GARY M. if she so chose, and that
23 was why she was not concerned with the amounts. In addition, she stated that she would give
24 MR. N. a spreadsheet that she had been given by GARY M. that reflects the amounts of the
25 deposits and how they were spent, that would allow MR. N. to see all the transactions because
26 the spreadsheet and the bank statements she offered were the only source she had for that
27 information, as she did not know the actual amounts from her own recollection and knowledge.
28 However, MR. N. continued to question MRS. S. on this, asking her to come up with a number

1 and stating that when she could not, after so much questioning, that she was refusing to answer,
2 when instead she was saying, "I don't know." Additionally, when she tried to explain why she did
3 not know, he would accuse her of talking around the question and refusing to answer. He
4 repetitively asked her what amount of money she would consider as the amount appropriate to
5 show her gratitude toward GARY M., and would not accept the fact that MRS. S. could not come
6 up with an exact dollar amount for the friendship and assistance that she had been given.
7 PETTIGREW Declaration, ¶¶ 18 & 19.

8 MR. N. then began accusing MRS. S. of criminal behavior, stating that he and his
9 client believed that she was engaging in some type of fraud. Finally, he began questioning her
10 repetitively on how much MRS. S. would be willing to pay someone to destroy a will, a question
11 that no person could answer, and would not accept her answer that she would not pay any
12 amount of money to destroy a will. PETTIGREW Declaration, ¶19.

13 After having given MR. A. much latitude throughout the entire deposition, and
14 accommodating their requests and dealing with their many delays, MRS. S.'s attorney insisted
15 that this line of questioning was not appropriate and that MR. A. needed to stop. At this time, it
16 was approximately 4:45 p.m. MR. N. then stated that he needed the deposition to be continued
17 again, despite his earlier claim that if he had been allowed to ask the questions that he was
18 asking at that time, he would not have the need to ask many further questions. MRS. S. stated
19 that she felt drained and did not feel up to continuing the deposition. MR. MORRIS asked MR. N.
20 how long MR. N. estimated to complete his examination. MR. N. insisted that he would need at
21 least another day or two of questioning before he could complete his examination. MR. MORRIS
22 said that was unreasonable and unacceptable. When MR. N. continued to insist, MR. MORRIS
23 stated that MR. N. would need to obtain a court order in order to continue the deposition based
24 upon the duplicative questioning and the unduly burdensome and hostile and threatening
25 questions and statements made by MR. A. throughout the deposition. PETTIGREW Declaration,
26 ¶¶ 19 & 21.

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II

A PROTECTIVE ORDER IS WARRANTED TO PROTECT
PETITIONER FROM UNWARRANTED ANNOYANCE,
EMBARRASSMENT, OPPRESSION, OR UNDUE BURDEN AND
EXPENSE, AND TO PREVENT CUMULATIVE AND
DUPLICATIVE TESTIMONY

During a deposition, “for good cause shown,” the court may grant a protective order to control the deposition proceedings or the information obtained thereby. CCP § 2025.420. The court is empowered to issue whatever order “justice requires” to protect a party or deponent against “unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.” CCP § 2025.420. It is also ground for relief that the information sought is unnecessarily cumulative or duplicative. CCP § 2019.030(a). Among other powers granted by CCP § 2025.420, the court may limit the scope of questioning permitted at the deposition, impose terms and conditions on which the deposition may proceed, and order that the deposition be terminated. CCP § 2025.420(b)(5),(9), (10) and (16).

Here, good cause exists. MRS. S. has been subjected to two (2) days of duplicative questioning by MR. A. as well as significant, unnecessary, and unprofessional delays to the deposition due to MR. A.’s failure to appear at the deposition at the requested times, as well as his failure to resume the deposition at the agreed-upon times. This manner of questioning has been unduly burdensome on MRS. S., as she is eighty-four (84) years old and lacks the resilience to withstand more than two (2) days of browbeating and accusations by MR. A.. Furthermore, throughout the deposition, at his request, MR. A. was allowed to cross-examine MRS. S. after the introduction of each exhibit. He was given this accommodation because he had stated that that would allow the deposition to proceed more smoothly and because he could not be expected to have to go through all the exhibits again after Deponent’s attorney had completed her questioning and authentication of the exhibits. In addition, when MR. A. was given the accommodation for beginning questioning regarding MRS. S.’s gift of money to GARY M. prior to the completion of the introduction of the exhibits, the accommodation had been given strictly on his assertion that if he was allowed to question MRS. S. on that subject at that time, it would clear everything up for him and he would have very few other questions. He was allowed to complete

1 his questioning on that subject at that time before Deponent's attorney returned to the exhibits.
2 Yet, despite making such assertion, when the exhibits were completed, he returned to that
3 subject and continued to browbeat Deponent and use hostile and threatening words, such as
4 stating that he and his client believed that MRS. S. was engaging in criminal and fraudulent
5 activity, and refusing to accept her answers to the questions asked.

6 Continuing this deposition, or at least continuing it in the manner in which it has
7 occurred thus far, would cause MRS. S. unwarranted and unduly burdensome stress and a
8 negative effect on her health, particularly due to the browbeating of MRS. S. through MR. A.'s
9 unduly repetitive questions and hostile and threatening words. MR. A. has been given
10 unprecedented leeway in cross-examining MRS. S. throughout the entire deposition. The delays
11 appear to be a pattern by N. & ASSOCIATES aimed at delaying the deposition over multiple
12 days.

14 III

15 CONCLUSION

16 Therefore, the moving party has requested the Court grant this protective order to
17 control the deposition proceedings as justice requires. Moving party requests a protective order
18 that the deposition not be continued (CCP §2025.420(b)(1)). However, if the Court is inclined to
19 allow MR. A. to continue the deposition, moving party requests that the Court appoint a referee,
20 to oversee the proceedings to protect MRS. S. from further threatening accusations and
21 unnecessarily duplicative questioning, at MR. A.'s expense. Moving party requests that MR. A.,
22 who has caused much, if not all, of the delay in this deposition thus far, be required to pay the
23 costs of the remainder of the deposition. Additionally, the moving party requests that the Court
24 limit the time allowed in any continuation.

25 The court shall impose a monetary sanction against any party who unsuccessfully
26 opposes a motion for a protective order, "unless it finds that the one subject to the sanction acted
27 with substantial justification or that other circumstances make imposition of the sanction unjust."
28 CCP § 2025.420(d). If the Court grants Petitioner's protective order, request is hereby made for

1 attorney's fees and costs of \$1,000.00.

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3 DATED: April ____, 2012

4 MORRIS & ASSOCIATES

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6 By: _____
7 BAYLEIGH J. PETTIGREW,
8 Attorneys for GARY M. and
9 W. S.
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1 delays throughout the deposition process to require more days of deposition, including this
2 deposition by phone from their own offices and the deposition of GARY M. taken at their own
3 offices. See also Declaration of BRANDON C. MURPHY.

4 4. On October 15, 2009, the deposition of W. S. was scheduled to start at
5 11:00 a.m. so that the court reporter and videographer could set up an hour previous. Right
6 before 11:00 a.m., I received a call from the company doing the deposition stating that they
7 were going to be running about ten (10) minutes late, so I called N. & ASSOCIATES to give
8 them that information and the new start time of 11:10 a.m. When I called in to the conference call,
9 we waited about ten (10) or fifteen (15) minutes beyond the time that the deposition was
10 scheduled to begin, and then finally I used my cell phone to call N. & ASSOCIATES to see if they
11 were planning to join the deposition. They finally called in to the deposition at approximately 11:40
12 a.m., causing an unnecessary thirty (30) minute delay.

13 5. In the approximate hour and a half or so after the deposition finally got
14 started and before we broke for lunch, I asked the bulk of my direct examination questions of W.
15 S. and had authenticated the first eighteen (18) exhibits. We broke at approximately 1:30 p.m.,
16 with an agreement among the parties to return to the teleconference call at 2:00 p.m. to begin the
17 deposition again at 2:05 p.m. At 2:05 p.m., everyone was present and ready except N. &
18 ASSOCIATES. When there was no call from the other side, I again used my cell phone to request
19 that they call in to the conference so that we could continue the deposition, and they did so,
20 causing another delay until 2:14 p.m. At this point, it was my intention to try to go through the
21 exhibits that I had prepared for the deposition.

22 6. As I began going through the remaining exhibits, of which there were
23 approximately sixty-four (64), my primary purpose was simply to authenticate the documents.
24 To go through that many documents should have taken me, had I been uninterrupted,
25 approximately one hour. For the most part, I was not intending to ask questions on the content
26 of the documents themselves.

27 7. As I started to go through the exhibits, the attorneys from N. &
28 ASSOCIATES insisted on doing their cross-examination on every single exhibit after I finished

1 authenticating it. When I requested that they let me just go through them so that I could finish my
2 direct, and then they could cross-examine MRS. S. on the exhibits in whatever order or to
3 whatever degree of specificity that they desired, as is the procedure at trial, they insisted that they
4 had the right to “clarify” under CCP §2025, which is not correct; however, in the interest of
5 efficiency, we complied. The questioning went beyond mere clarification of certain questions, and
6 was not only repetitive but it was also compounded and designed to confuse the witness. Further
7 requests to just let me go through the exhibits were met likewise with the insistence that they
8 could not be expected to go through them a second time. In the interest of trying to complete the
9 deposition as efficiently as possible, I accommodated their demands to cross-examine my client
10 after the introduction of every exhibit.

11 8. At one point during the direct or cross-examination, one of the attorneys
12 from N. & ASSOCIATES stopped the deposition to ask a question. She hung up the line and
13 never called back. After waiting more than five (5) minutes, I finally, again, got out my cell
14 phone and called N. & ASSOCIATES to see if they were planning to return to the deposition.
15 This caused an unnecessary delay of eleven (11) minutes.

16 9. During their questioning of MRS. S. after each exhibit, N. & ASSOCIATES
17 went beyond mere clarification. They continually asked repetitive questions, and when MRS. S.
18 would state that she did not know the answer to their question, they would continue to re-ask the
19 question, telling her that they were “confused” and asking her to guess instead of accepting her
20 answer when she would state that she did not know. This repetitive questioning was designed to
21 badger MRS. S. into guessing at an explanation so that later, when she did realize what must
22 have happened, N. & ASSOCIATES could and did accuse her of changing her testimony. When
23 MRS. S. guessed at a possible explanation to their questioning on postmarked envelopes during
24 the lunch break, she willingly offered it. MR. N. then asked her if she had spoken to her attorney
25 (me) at the break. MRS. S. responded that she had not, which was true as I was aware from
26 previous depositions with this attorney that he would ask that and then insinuate improper
27 coaching, so I did not speak to her during the break. Despite MRS. S.’s answer to the contrary,
28 the attorneys from N. & ASSOCIATES persisted that she was being untruthful. Additionally, they

1 asked questions that were arguments and accusations with a question tacked onto the end. I had
2 been instructed to give them latitude in their questions, and in allowing the cross-examination to
3 continue throughout my questioning in order to make the deposition as efficient as possible due
4 to concerns regarding MRS. S.'s age, since she is eighty-four (84) years old and suffers from
5 vertigo when she is under too much stress.

6 10. At approximately 4:45 p.m., as I was continuing to attempt to authenticate
7 my exhibits, MR. N. interrupted because he told us that he wanted to end the deposition for that
8 day at 5:00 p.m. I suggested that we go longer since we had not started on time and had not
9 started until approximately 11:40 a.m., but he insisted on ending the deposition at 5:00 p.m. and
10 requested that we reschedule it for October 21. He also requested that on the 21st, we begin the
11 deposition at 10:00 a.m. instead of 11:00 a.m., meaning that the deponent, W. S., would have to
12 be up at 9:00 a.m. to let the teleconference people and the court reporter in to set up the
13 equipment. MRS. S. and I agreed to this request to begin the deposition earlier.

14 11. At the end of the first day of the deposition on October 15, 2009, I had only
15 reached Exhibit 229 (beginning with Exhibit 201). The bulk of these exhibits were
16 communications between W. S. and her brother, FREDERICK ALBERT S., showing that there
17 was a relationship established between them as brother and sister because my earlier requests
18 to N. & ASSOCIATES to stipulate that they were so related as blood relatives had been denied,
19 despite their own petition and legal documents designating W. S. as FREDERICK ALBERT S.'s
20 sister. In addition, we discussed and I provided them with the copy of the mitochondrial DNA test
21 that had been taken from tissue received from the coroner's office of FREDERICK ALBERT S.
22 and a sample taken from W. S. after N. & ASSOCIATES refused to stipulate to W. S. being a
23 blood relative of FREDERICK ALBERT S., proving that there was a 99.457% probability that
24 FREDERICK ALBERT S. and W. S. are siblings.

25 12. When the deposition continued, on October 21, 2009, I called in to the
26 teleconference at a few minutes before 10:00 a.m. Nobody from N. & ASSOCIATES was on the
27 line by 10:00 a.m., despite their having requested that the deposition start at 10:00 a.m. instead of
28 11:00 a.m. I had my secretary call N. & ASSOCIATES to see if they were planning to come onto

1 the deposition call, and was told that they were waiting for MR. N. and MR. A. to arrive. I had my
2 secretary call back and request that if there was any attorney available, that they come onto the
3 line at that time so that we could at least do a check of the teleconferencing equipment for sound
4 as well as re-admonish the participants and swear in W. S.. At about 10:14 a.m., MS.
5 GALLAGHER of N. & ASSOCIATES came on the teleconference call and agreed to do the
6 above, explaining that her boss, MR. N., and MR. A. had not yet arrived, and so she wanted to
7 wait until they arrived in order to begin the rest of the deposition. I so complied.

8 13. Although it had been MR. N. who had insisted on October 15, 2009 that the
9 deposition begin at 10:00 a.m., he never had himself nor had anyone from his office call our office
10 to let us know that they would be late. MR. N. finally came on the teleconference call at
11 approximately 10:25 a.m. When I stated on the record what time it was that he was appearing, he
12 stated that he had been in the building but he just had not come up because his client was not
13 there yet, which not only refuted what his associate had told me, but he then accused me of
14 making a false record when the record clearly states that MS. GALLAGHER had tried to reach
15 both MR. N. and MR. A. but that they had not appeared. It was another ten (10) or fifteen (15)
16 minutes until their client, MR. A., arrived. They refused to start the deposition without their client.
17 The deposition that they had requested to start at 10:00 a.m. did not start until approximately
18 10:40 a.m. When MR. N. yelled at me for being unprofessional by commenting on their lateness, I
19 reminded him that it had been at his insistence that the deposition begin at 10:00 a.m. and that
20 since I was certain he would want to end at or before 5:00 p.m. again, I was requesting that N. &
21 ASSOCIATES be responsible for returning to the deposition after breaks at the agreed-upon
22 times because we needed to finish the deposition that day.

23 14. When the deposition began, I again began authenticating exhibits, starting
24 with Exhibit 229. We were about halfway through the exhibits. My intent remained to identify and
25 authenticate each exhibit, which, had there been no interruptions, would have taken
26 approximately one-half (1/2) hour. However, again, MR. N. insisted on cross-examining on each
27 exhibit as we went through it because, as he had said the earlier day, it was too hard for him to go
28 back and do them all later. The attorneys from N. & ASSOCIATES continued to question MRS. S.

1 in an unnecessary, repetitive manner, refusing to accept it when she would say that she did not
2 know the answer. At 12:15 p.m., when the deposition had been going for only about one and one-
3 half (1 ½) hours, the videographer had to change the tape, and so I suggested that we break for
4 lunch. MR. N. suggested that we take an hour for lunch, coming back at 1:20 p.m. When I asked
5 if it could be a forty-five (45) minute lunch since we had started so late, MR. N. accused me of
6 trying to rush things, and when I finally got him to stop interrupting so that I could speak, I told him
7 it was merely a suggestion since we had started late and because the deposition needed to be
8 completed today, and that I was certain he would want to be done by 5:00 p.m. again. I stated
9 that it was only a question, and that he did not need to react the way that he did, and that if he
10 truly felt that he needed an hour for lunch, we would accommodate this request, but I still
11 intended for the deposition to be finished by the end of the day.

12 15. When I came back on the line shortly before 1:15 p.m., again, N. &
13 ASSOCIATES was not on the line. They were, again, ten (10) minutes late returning to the
14 deposition.

15 16. At one point during the afternoon while I was attempting to complete the
16 authentication of the exhibits, MR. N.'s cross-examination went well beyond the scope of the
17 exhibits, delving into questioning on the gifts of money MRS. S. had given to her brother's
18 neighbors, GARY M. and ESTEE M., and to a local school for a new math and science lab in her
19 deceased brother's name. MRS. S. feels deeply indebted to GARY M. and his family because of
20 the assistance they had given her brother, FREDERICK S., after his wife, THERESA S., died. He
21 had struggled living alone and, due to her husband's illness, MRS. S. had not been able to travel
22 to Southern California to assist her brother and had found great comfort in the care that GARY M.
23 and his family gave FREDERICK S. and for the assistance they gave her in making all his funeral
24 arrangements. As I had intended to introduce a foundation to this questioning after the exhibits
25 were complete, I requested that MR. N. wait to begin this line of questioning as it had nothing to
26 do with the exhibit. MR. N. stated that if he was allowed to question MRS. S. on this topic at this
27 time, he would not need to do much cross-examination at all later. With that understanding, I
28 allowed him to fully and completely finish his questioning on that topic before continuing with the

1 next exhibit.

2 17. At several other points during the deposition, the attorneys from N. &
3 ASSOCIATES became quite rude and abusive of my client, MS. S.. They engaged in baiting my
4 client with insulting questions, accusing her of criminal activity, being very disruptive throughout
5 the deposition, and appeared to take to heart their motto that they have on their website, which
6 states, "Our Mission Statement is as follows: *Either You are with us, or against us and to be*
7 *against us will cause you pain.*" A true and correct copy of this mission statement printed from
8 one of the websites for N. & ASSOCIATES is attached hereto as Exhibit 1.

9 18. Shortly after lunch, my client, MS. S., requested a glass of water or juice, as
10 her blood sugar was low. When I asked if she needed a break, she said no, but the videographer,
11 I believe it was, had to change the tape at that point anyway. MR. N. asked for five (5) minutes to
12 run outside the building to get a cup of coffee. Once again, he did not return for fifteen (15)
13 minutes, causing an unnecessary ten (10) minute delay.

14 19. At the conclusion of my exhibits, I asked a few more questions and then
15 suggested that N. & ASSOCIATES complete their cross-examination, since I had been told it
16 would be brief if I allowed the earlier questioning on the gifts to GARY M., which I had. The next
17 approximately thirty (30) to forty (40) minutes consisted of MR. N. asking MRS. S. to answer
18 many of the same questions he had asked earlier regarding the gifts MRS. S. had given. When
19 MRS. S. would answer that she did not know how much money had been deposited into a joint
20 account that she had opened, nor how much of it had been used for her brother's funeral
21 expenses, MR. N. continued to browbeat her, asking her to come up with amounts after she had
22 clearly stated that she did not know. When that attempt at confusion was unsuccessful, he would
23 again ask the question and when MRS. S. would say that she did not know the amounts but that
24 she could and would provide him with the bank statements and a spreadsheet that itemized the
25 deposits and withdrawals from the joint account, he would accuse her of refusing to answer.
26 Then, when she would try to explain why she did not know the amounts, MR. N. would accuse
27 her of avoiding the question. However, MR. N. continued to question MRS. S. on this, asking her
28 to come up with a number and stating that when she could not, after so much questioning, that

1 she was refusing to answer, when instead she was saying, "I don't know." Additionally, when she
2 tried to explain why she did not know, he would accuse her of talking around the question and
3 refusing to answer. He repetitively asked her what amount of money she would consider as the
4 amount appropriate to show her gratitude toward GARY M., and would not accept the fact that
5 MRS. S. could not come up with an exact dollar amount for the friendship and assistance that she
6 had been given.

7 20. When MR. N. began threatening MRS. S., accusing her of fraud and criminal
8 conduct and questioning her in a threatening manner, I told him it was inappropriate and insisted
9 that he stop with the threats and accusations. Although he persisted for a few minutes,
10 questioning MRS. S. repetitively on how much she would be willing to pay someone to destroy a
11 will, a question that no person could answer, and would not accept her answer that she would not
12 pay any amount of money to destroy a will, he finally did stop. At this point, due to the disruptions
13 and repetitive questioning, as well as the chronic lateness by N. & ASSOCIATES, it was
14 approximately 4:45 p.m., and MR. N. stated that the deposition needed to continue to yet another
15 day, despite the fact that earlier, when I had first allowed him to question MRS. S. on this topic,
16 he had stated that that would basically be all he needed to cross-examine her on.

17 21. MR. N.'s demand came after he had been disruptive and had consistently
18 and continually been late to the deposition, and had not allowed the deposition to occur in an
19 orderly manner so that instead of my authentication of the documents taking an hour or so, it had
20 taken nearly a day and a half to enter them due to the repetitiveness of their cross-examination.
21 In addition, I had told him that day, both at the beginning of the deposition and at lunchtime, that
22 the deposition needed to be finished by the end of the day because my client is eighty-four (84)
23 years old, she is the sole caretaker for her eighty-seven (87) year old husband, who has been
24 extremely ill for thirteen (13) years. Due to her husband's illness, MRS. S. is unable to travel
25 outside the immediate locale of her home. MRS. S., as well as her brother, TSENG-CHIN S., and
26 her sister, TSENG-SHI S., are the blood siblings of Decedent, FREDERICK ALBERT S.. MRS. S.
27 is the only sibling living in the United States. MRS. S. had suffered from vertigo and taken a
28 couple of falls at the beginning of October but had agreed to continue with her deposition anyway,

1 to avoid delay.

2 22. At this point JAMES G. MORRIS entered the teleconference and asked MR.
3 N. how much longer he thought he would need to complete the deposition. MRS. S. said that she
4 was drained and did not want to go through much more. MR. N. told MR. MORRIS that he
5 expected it would take at least a day, if not two (2) more days, of deposition to complete his
6 questioning. MR. MORRIS stated that that was not acceptable, as they have consistently been
7 non-efficient with the time and have been late and disrespectful to the client. MR. N. continued to
8 insist that it would take another one (1) to two (2) days of deposition, and MR. MORRIS stated
9 that, due to MR. N.'s inflexibility and to the way he had conducted himself throughout the entire
10 deposition, he did not find that acceptable and that he would not allow his client, MRS. S., to
11 continue the deposition without court direction to do so.

12 23. MR. N. was very upset with this and stated that he was giving Notice of Ex
13 Parte for Friday, October 23, 2009. On October 24, 2009, DAVID L. of N. & ASSOCIATES
14 contacted me and stated that they were retracting the Notice of Ex Parte. He did not give me
15 another date.

16 24. On October 22, 2009, I left a message for MR. N. to meet and confer. On
17 October 23, 2009, I called N. & ASSOCIATES and told the secretary ("SERENE") that I was
18 calling to inquire as to whether MR. A. was still insisting on the continuation of the deposition or if
19 his stance had changed at all. SERENE told me his resolve had not changed. I asked her to have
20 one of the attorneys call me back to confirm. A few minutes later, SERENE called me and told me
21 that CHANNE G. had given her a note in response to my message stating that their resolve had
22 not altered and that they would be bringing a motion to compel the continuation of the deposition.

23 25. A table of excerpts demonstrating some of the abusive tactics and repetitive
24 questioning engaged in is attached hereto as Exhibit 3. The highlighted pages copied from the
25 original transcripts of the deposition are attached hereto as Exhibit 4. The original transcripts of
26 the deposition of W. S., volumes I and II have been lodged with this court on November 2, 2009

27 I declare under penalty of perjury under the laws of the State of California that
28 the foregoing is true and correct.

Executed this ____ day of November, 2009, at Burbank, California.

BAYLEIGH JORDAN PETTIGREW

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1 document arrived during that time. At 4:45 p.m., MR. M. and I went back into MR. N.'s office
2 and MR. N. said that the document had not yet arrived. He said, "I am going to continue the
3 deposition to a third day." I told him that I would not agree to do so and that I was terminating
4 the deposition because he had already asked all the questions he had to ask of my client. MR.
5 N. said that he had at least another day or two of further questions for MR. M.. I believe this
6 statement contradicted his prior statement that he had only a few questions left for MR. M.. I
7 told MR. N. that if he filed a motion to compel a third day of testimony for MR. M., I would
8 oppose such motion.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed this _____ day of November, 2009.

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12 _____
13 BRANDON C. MURPHY
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2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 I am employed in the County of **Los Angeles**, State of California. I am over the
5 age of 18 and not a party to the within action. My business address is **2312 West Victory
6 Boulevard, Burbank, California 91506-1227.**

7 On April ____, 2012, I served the foregoing document described as **NOTICE OF
8 AND MOTION FOR PROTECTIVE ORDER TO TERMINATE THE DEPOSITION OF W. S. AND
9 FOR SANCTIONS OF \$1,000.00; MEMORANDUM OF POINTS AND AUTHORITIES;
10 DECLARATIONS OF JAMES G. MORRIS, BAYLEIGH JORDAN PETTIGREW AND BRANDON C.
11 MURPHY; AND DEPOSITION TRANSCRIPTS OF W. S.** on interested parties in this action

12 By placing: the original a true copy thereof
13 enclosed in sealed envelopes addressed as follows:

14 **Channe G.
15 N. & Associates
16 3540 Wilshire Blvd Ste 901
17 Los Angeles, CA 90010**

**Chris D.
Chris Daniels – Attorney at Law
17024 Lassen Street
Northridge, CA 91325**

**Jeffrey T. S.
20933 Devonshire Street, Suite 102
Chatsworth, CA 91311**

18 **BY MAIL:** I caused such envelope with postage thereon fully prepaid to be placed in
19 the United States mail at Burbank, California.

20 **BY FAX:** I caused such document to be transmitted by facsimile transmission to
21 _____, facsimile number (____) ____-____, on April ____, 2012. The
22 transmission was reported as complete and without error.

23 **BY PERSONAL SERVICE:** I caused such an envelope to be delivered by hand to the
24 offices of the addressee.

Executed on April ____, 2012, at Burbank, California.

25 (State) I declare under penalty of perjury under the laws of the State of California
26 that the above is true and correct.

27 (Federal) I declare that I am employed in the office of a member of the bar of this
28 Court at whose direction the service was made.

TRACEY DAVENPORT

Signature