

PRECEPT TO SERVE

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

CAUSE NO. 14-0229-CP4

GUARDIANSHIP OF
TERRY ANDREW MACE,
AN INCAPACITATED PERSON

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§

IN THE COUNTY COURT
AT LAW NO. 4
WILLIAMSON COUNTY, TEXAS

TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS OR OTHER AUTHORIZED PERSON - GREETING:

YOU ARE HEREBY COMMANDED that you serve YVONNE MACE in the above numbered and entitled cause with the accompanying copy of the ORIGINAL EMERGENCY APPLICATION FOR GUARDIANSHIP, APPOINTMENT OF TEMPORARY GUARDIANSHIP, AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND THE EX PARTE TEMPORARY RESTRAINING ORDER. The present address of said YVONNE MACE is 201 SETON PKWY, ROUND ROCK, TX 78665.

HEREIN FAIL NOT, but of this precept make due return showing how you have executed the same.

Issued and given under my hand and seal of office, at Georgetown, Texas, on this the 24th day of March, 2014.

Applicant's Stephen Casey
Attorney: 501 S. Austin Ave., Ste. 1130
Georgetown, TX 78626



Nancy E. Rister
Williamson County Clerk
405 MLK Street, Box 14
Georgetown, Texas 78626

By: Seline, Deputy

OFFICER'S RETURN

Came to hand on the ____ day of _____, 20__ at ____ o'clock __. m. and executed at _____ within the County of _____ at ____ o'clock __.m. on the ____ day of _____, 20__, by delivering to the within named _____ a true copy of the ORIGINAL EMERGENCY APPLICATION FOR GUARDIANSHIP, APPOINTMENT OF TEMPORARY GUARDIANSHIP, AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND THE EX PARTE TEMPORARY RESTRAINING ORDER having first attached such copy of such ORIGINAL EMERGENCY APPLICATION FOR GUARDIANSHIP, APPOINTMENT OF TEMPORARY GUARDIANSHIP, AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND THE EX PARTE TEMPORARY RESTRAINING ORDER to such copy of precept and endorsed on such copy of precept the date of delivery.

To certify which witness my hand officially: _____

FEES PAID _____

COPY TO BE SERVED

FILED
at 2:07 o'clock P.M.

MAR 24 2014

No. 14-0229-CP4

Nancy E. Roster
County Clerk, Williamson Co., TX

In the Interest of
Terry Andrew Mace

In the Court Court 4
Williamson, Texas

**Original Emergency Application/ for
Guardianship, Appointment of
Temporary Guardianship, and
Application for Temporary Restraining
Order**

To the Honorable Judge of Said Court:

Now Comes Petitioners Terry Mace and Carol Mace, parents of Terry Andrew Mace, proposed ward, and petition this court for guardianship of their son, to be appointed as temporary guardians until a hearing can be made on the issue, and for a temporary restraining order to immediately restore nutrition, hydration, and oxygen if necessary to Terry Andrew Mace.

Discovery Control Plan Level

1. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery in this case under Level 3.

Parties and Service

2. Petitioners are Terry Mace, Sr., and Carol Mace, who are residents of Herndon, Pennsylvania. They reside at 1904 Klingerstown Road, Herndon, PA 17830.
3. Respondent Yvonne Mace is currently separated from Terry Andrew Mace, the proposed ward, but is in the midst of divorce proceedings and is currently preparing to mediate the lawsuit on file in Colorado at this time.
4. Proposed ward Terry Andrew Mace is a patient at Seton Medical Center Williamson, 201 Seton Pkwy, Round Rock, TX 78665.

Jurisdiction and Venue

5. The subject matter in controversy is within the jurisdictional limits of this Court. This Court has personal jurisdiction because the acts discussed herein and the proposed ward

are within this County. Venue in this cause is proper in Williamson County as the acts discussed herein and the proposed ward are in this county.

Facts

6. Terry Andrew Mace ("Terry"), date of birth 9/25/1970, is the adopted child of Terry Mace, Sr., and Carol Mace, of Herndon, Pennsylvania. He is a male, and is located at Seton Medical Center Williamson, 201 Seton Pkwy, Round Rock, TX 78665.
7. On March 6, 29014, Terry suffered a heart attack.
8. He is currently in intensive care at Seton Williamson.
9. His wife, Yvonne Mace ("Yvonne"), is currently engaged in divorce litigation with Terry.
10. Because of her adverse litigation posture, Yvonne has a conflict of interest.
11. Terry Mace, Sr., is in a better position to made impartial decisions on behalf of his son.
His
12. Upon information and belief, there is no advanced directive or living will of Terry at this time.
13. On Saturday, March 26, 2014, Yvonne directed Seton Williamson physicians to remove oxygen, hydration, and nutrition provision from Terry.

Claims

A. Application for Guardianship

14. All paragraphs prior to this are reincorporated by reference.
15. Petitioners Terry Mace, Sr., and Carol Mace request to be appointed the guardians over Terry.
16. Terry is incapacitated and needs guardianship until he is medically responsive and able to declare his desires and intentions.
17. Guardianship would include both of the person and the estate.
18. The proposed ward has three children, ages 21, 19, and 16 years old.
19. The proposed ward has a spouse, Yvonne, who has been separated for over 4 years from the proposed ward and who has a conflict of interest in any decision-making for the proposed ward.

20. The proposed ward is in Williamson County, thus, this appointment based on the venue is proper in this court and in personam jurisdiction is proper in this court.
21. The provisions in the Texas Health and Safety Code Chapter 166 permit a substitution for a person who does not have a legal guardian to use the following categories regarding decisions on life-sustaining treatment:
 - 21.1. Spouse
 - 21.2. Adult children
 - 21.3. Parents
 - 21.4. Living Relatives
22. The adult children were raised by their mother and are in a position where they could be inclined to follow her thinking as they spent most of their time with the mother.
23. The parents are best suited to make decisions for Terry.

B. Application for Temporary Guardianship

24. All paragraphs prior to this are reincorporated by reference.
25. Petitioners Terry Mace, Sr., requests to be appointed the temporary guardian over Terry.
26. Terry is incapacitated and needs guardianship until he is medically responsive and able to declare his desires and intentions.
27. Guardianship would include both of the person and the estate.
28. The proposed ward has three children, ages 21, 19, and 16 years old.
29. The proposed ward has a spouse, Yvonne, who has been separated for over 4 years from the proposed ward and who has a conflict of interest in any decision-making for the proposed ward.
30. The proposed ward is in Williamson County, thus, this appointment based on the venue is proper in this court and in personam jurisdiction is proper in this court.
31. The provisions in the Texas Health and Safety Code Chapter 166 permit a substitution for a person who does not have a legal guardian to use the following categories regarding decisions on life-sustaining treatment:
 - 31.1. Spouse
 - 31.2. Adult children

31.3. Parents

31.4. Living Relatives

32. The adult children were raised by their mother and are in a position where they could be inclined to follow her thinking as they spent most of their time with the mother.
33. Terry Mace, Sr., is temporarily in Round Rock and capable and present to make decisions for Terry.

C. Emergency Application for Temporary Restraining Order Requiring Seton Williamson to Restore Hydration, Nutrition, and Oxygen

34. All paragraphs prior to this are reincorporated by reference.
35. Yvonne's role as a medical decision-maker for Terry evince a direct conflict of interest as she is in an adverse litigation posture regarding divorce proceedings.
36. It is not in Terry's best interest for Yvonne to make these decisions.
37. Under CPRC § 65.011, this court has injunctive power direct the temporary guardian to restore hydration, nutrition, and oxygen.
38. The act of removal is prejudicial to Terry.
39. The act of removal interferes with his rights and was made by a person who has a financial and legal conflict of interest.
40. There is probable injury in that harm is imminent. Terry will die if not hydrated and provided food and/or oxygen while in the hospital.
41. The injury of death is irreparable.

Jury demand

Prayer for Relief

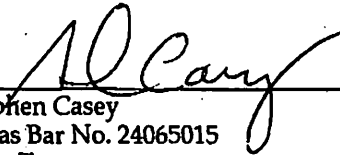
WHEREFORE, PREMISES CONSIDERED, Petitioners request that:

42. Petitioner Terry Mace be appointed temporary guardian of the person and estate of Terry Mace, Jr.;
43. Emergency temporary relief be ordered by this Court to be provided that includes the restoration of hydration, nutrition, and/or oxygen, (a.k.a. "life-sustaining treatment).
44. After a hearing, that Terry Mace, Sr., and Carol Mace be appointed guardians of Terry Mace, Jr., over his person and estate until Terry Mace presents himself and is able to be declared of legal capacity to make his own decisions.

45. such other further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,

TEXAS CENTER FOR DEFENSE OF LIFE




Stephen Casey
Texas Bar No. 24065015
Greg Terra
Texas Bar No.

501 S. Austin Avenue, Ste. 1130
Georgetown, TX 78626
512-763-9068 (phone)
512-692-2878 (fax)
stephen@caseylawoffice.us

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Original Emergency Application/ for Guardianship, Appointment of Temporary Guardianship, and Application for Temporary Restraining Order was served upon Respondent by the manner and method indicated below on this day, March 24, 2014.

Via private process server


Stephen Casey; Counsel for Petitioners

No. 14-6227-CP4

In the Interest of
Terry Andrew Mace

In the County Court of Law
Williamson, Texas #4

Ex Parte Temporary Restraining Order

BE IT REMEMBERED,

That on this day the Court heard the request of Petitioners Terry Mace and Carol Mace, parents of Terry Andrew Mace, proposed ward, and their petition to this court for temporary restraining order to restore life-sustaining treatment, including nutrition, hydration, and oxygen if necessary, to their son, Terry Mace, Jr.

Having considered the pleadings on file and the facts of the case in the pleadings, the Court makes the following FINDINGS OF FACT:

1. The court assumes emergency jurisdiction.

1. The subject matter in controversy is within the jurisdictional limits of this Court. This Court has personal jurisdiction because the acts discussed herein and the proposed ward are within this County. Venue in this cause is proper in Williamson County as the acts discussed herein and the proposed ward are in this county.
2. Terry Andrew Mace ("Terry"), date of birth 9/25/1970, is the adopted child of Terry Mace, Sr., and Carol Mace, of Herndon, Pennsylvania. He is a male, and is located at Seton Medical Center Williamson, 201 Seton Pkwy, Round Rock, TX 78665.
3. On March 6, 29014, Terry suffered a heart attack.
4. He is currently in intensive care at Seton Williamson.
5. His wife, Yvonne Mace ("Yvonne"), is currently engaged in divorce litigation with Terry.
6. Because of her adverse litigation posture, Yvonne has a conflict of interest.
7. Terry Mace, Sr., is in a better position to made impartial decisions on behalf of his son.
8. This Court currently has no proof of any advanced directive or living will of Terry Mace, Jr. at this time.
9. On ~~Saturday~~, March 26, 2014, Yvonne directed Seton Williamson physicians to remove oxygen, hydration, and nutrition provision from Terry.

... based upon allegations contained in the unsworn Application for Temporary Restraining Order.

(JTB)

10. The injury to Terry Mace, Jr., is irreparable, and the harm is imminent. He has no adequate remedy at law, and ~~will likely die absent this Court's immediate and emergency relief~~ JPM

11. There is inadequate time for a notice and a hearing.

THIS COURT ORDERS that:

1. Life-sustaining treatment, including but not limited to hydration, nutrition, and oxygen if necessary be restored to Terry Mace, Jr. by either agents, employees, or persons acting on behalf of Yvonne Mace, Terry Mace, Sr., or Carol Mace;
2. Such treatment shall not be denied during the next ³~~2~~ days absent further order from this Court.
3. This order shall expire in ³~~4~~ days from the date signed.
4. A hearing on this order is set for March 27, 2014 at 9:00 am/pm.
5. Due to the emergency circumstances of this case, bond is WAIVED/~~SEE ATTACHED~~.

IT IS SO ORDERED, this 24th day of March, 2014, at ^{5:00}~~5:00~~ pm.


Hon. Judge Presiding

FILED ^P
at 4:12 o'clock 10 M

MAR 24 2014

Nancy E. Ruter
County Clerk, Williamson Co., TX

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COUNTY OF WILLIAMSON

CAUSE NO. 14-0229-CP4

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Attorney: 501 S. Austin Ave., Ste. 1130
Georgetown, TX 78626



Nancy E. Rister
Williamson County Clerk
405 MLK Street, Box 14
Georgetown, Texas 78626

By: *[Signature]*, Deputy

OFFICER'S RETURN

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To certify which witness my hand officially: _____

FEES PAID _____

ORIGINAL
Return to County Clerk