

1 Beatrice K. Pacheco
2 2518 Sun Mor Avenue
3 Mt View, CA. 94040
4 650.969.3370
5
6
7

**ENDORSED
FILED**

2013 APR 24 PM 12: 04

David H. Yarneselli, Clerk of the Superior Court
County of Santa Clara, California

By: _____
Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SANTA CLARA

10 In re Conservatorship of Beatrice
11 K. Pacheco

Case No. 1-12-PR-171580

**DECLARATION OF IN SUPPORT OF
EMERGENCY PETITION FOR
REMOVAL AND REPLACEMENT OF
CONSERVATOR
PROB.CODE § 2651**

16
17 I, Beatrice Pacheco, hereby declare and state to the following:

18 1. That I am the Conservatee in the above caption, and I present this declaration with
19 sound mind and voluntarily, without any undue influence or pressure from anyone typing it for me
20 or presenting it to the court in support of emergency petition for removal of conservator.

21 2. I can also state that I can be brought before the court, this declaration and other
22 filings read to me on record, and can tell the court whether the contents of all my filings are based
23 upon what my wishes are.

24 3. Furthermore, I am willing and able to testify to the contents herein and am
25 competent to do so.

26 4. That I am an elderly woman over 80 years of age.
27
28

1 5. That I have very poor eye sight and am physically weak compared to what I once
2 was.

3 6. That I am unable to work for a living or even drive any longer and am essentially
4 disabled in these areas.

5 7. I do have a working brain and am able to think for myself without anyone telling
6 me what to do; however, I have no problem in receiving assistance from persons who are truly
7 interested in my well-being and best interests'.

8 8. I have authorized David Merritt to present to the court my wishes to do whatever
9 was needed to bring me back together with my husband.

10 9. I have been very depressed and stressed in not having communications with my
11 husband Gene and I took it upon myself to constantly call him every day until he finally began to
12 answer his phone to speak with me.

13 10. This court ordered for my "Conservator" (i.e. Stephen Pacheco), to make certain
14 that \$500 per week was available to me in my own checking account. See Exhibit A.

15 11. This has not been done at anytime from the time that this Court issued its order to
16 now.

17 12. Sometime before April 22, 2013, Stephen cancelled by checking account, without
18 forewarning me and without my knowledge or permission.

19 13. From the first time that I called him, after the restraining order, Gene told me that
20 he was not answering my phone calls because the TRO stated that he could not contact me, but
21 that he did not know what that meant until he learned in the library that the restraining order says
22 that he cannot initiate the contact, but he does have a right to answer his phone.

23 14. Before Gene and I were married at the end of 2012, we had lived together in my
24 home for more than 6 months.
25
26
27
28

1 15. Although all of this is very private and I should not have to divulge such things
2 publicly, I can state that I have not met a kinder and gentler man than Gene, and this is what
3 caused me to start liking then ultimately loving him.

4 16. Gene has never abused me physically or financially.

5 17. My son Stephen has been violently against my falling in love in my older years and
6 has always acted with dislike and hatred towards Gene.

7 18. Gene had tried to reason with Stephen by telling him that he was willing to submit
8 to pre-nuptial agreement or otherwise relinquish any right to my property and estate.

9 19. I witnessed Stephen reject these offers out of hand and showed that it was not the
10 money but something else driving him to dislike and hate Gene, which may be due to the fact that
11 Gene is African American.

12 20. Stephen has directly told me that I am too old to be having Gene as my husband
13 and flatly discriminates against me because of my age.

14 21. Stephen has directly told me that I am now the child and that he is the adult who
15 must always subject my desires and needs to what he believes is best for me.

16 22. My knowledge about Stephen is one who never has been sensitive or able to
17 sympathize with others and pretty much thinks only what is best for him and it is partly way he
18 refuses to see or understand my best needs and interests'.

19 23. I have never witnessed Stephen to show love towards me or actions which reflect
20 that he truly cares what is best for me.

21 24. I can no longer have a peaceful conversation with Stephen because any time I
22 mention Gene and my desire and need to get back together with him, Stephen becomes verbally
23 violent which is a direct abuse upon my mind and spirit.

24 25. I have consistently spoken to this court's examiner, lawyers, my son and others
25 regarding my estate and marriage to Marreon Gene Starks.
26
27
28

1 26. I have clearly expressed to them each that I have a clear mind and desire to make
2 the decision to live my remaining days with Gene precisely because he has given more happiness
3 then I actually ever experienced before with my deceased husband and otherwise.

4 27. Once I learned about these conservatorship proceedings, and spoke with all the
5 actors playing in it, I have repeatedly asked, begged, ordered and otherwise requested for them to
6 permit me to speak with the judge directly on the record so that the public record will show that I
7 have sound mind and made the decisions to be with Gene based upon my own volition and was
8 not tricked or wrongfully manipulated to be with Gene or marry him.

9 28. My son and Michael Desmarais are 100% against anyone who does not go along
10 with their plan to take my money and are attacking anyone who is showing signs of helping me.

11 29. Michael Desmarais positively knows that I have a sound mind and wish to be with
12 Gene, and that Stephen does not have my best interest at heart, but it appears that he has not
13 represented to this court any of my needs, wishes or what is best for me.

14 30. I have and are in a state of depression because of this forced and illegal separation
15 from Gene, which even my mental doctor is aware of but it appears that non of this is being
16 considered by the court.

17 31. Since I have been talking to and expressing all my wishes to the court examiner,
18 Michael Desmarais, Stephen and others, and the court still issued and maintains a restraining order
19 against my husband Gene and I, I can only conclude that everyone currently involved in this
20 Conservatorship affair does not have my best interests' at heart.

21 32. Gene Starks has been 100% the best thing that has happened to me.

22 33. Gene has never abused me, harmed me or tried to dupe me into anything.

23 34. He is kind and loving to me and is why I so readily married him.

24 35. Before I married him I asked this court examiner was it ok and whether anything
25 bad would happen, and they told me basically that it was my right and that nothing bad could
26 happen.
27

1 36. I am selfishly fighting for my right to be free and pursue my happiness as the
2 constitution allows.

3 37. It appears that all involved are violating this right, and wish to take away my
4 happiness, which is causing me more harm than good.

5 38. Michael Desmarais and my son are taking advantage of my soft spirit and my
6 ailments of poor sight and physical weakness to do as they well.

7 39. I am deeply afraid that I am at physical risk of harm from my son, and I have
8 constantly been mentally abused.

9 40. I have a lot to say on this subject to any judge willing to hear directly from me and
10 not from those who are only interested in taking or securing money from me.

11 41. I need a court interested in getting me a lawyer who will only have my best
12 interests at heart and not conspire with my son or anyone to cause my harm.

13 42. This court has, and is going along, with the fabrication of lies made by my son and
14 Michael Desmarais, and I need a judge who will not permit them to commit fraud upon me.

15 43. I do not believe that it is right for any court to make rulings over my life without
16 even hearing from me to determine whether I am having fraud committed upon me.

17 44. The problem that the court has presented is that it left my life and well-being in the
18 hands of a son who has only his interests' in mind.

19 45. I must depend upon him to ensure that food is here.

20 46. He has informed me that he is recording or otherwise listening to my talks with
21 Gene and others, which violates my right to privacy.

22 47. I do understand that they wish to make me legally incompetent so that what I say or
23 desire will be considered as coming from someone who is incapable of decision making.

24 48. Whatever issues that I may have with my memory does not make me incompetent
25 to pursue my own happiness.
26

1 49. Yes, I have problems recalling some things, but not abuses and those experiences
2 that I have with people whom I encounter.

3 50. I can appreciate the laws to protect Elders, and am not really resisting honest and
4 sound court intervention or monitoring where, when and if it be needed, but I complain about the
5 court taking action without personally talking with me in order to determine whether what is being
6 considered is needed; if it is being done honestly and whether some other approach should be
7 taken.

8 51. Gene has been made out to be the Bad Guy here, and the court accepted it without
9 considering my input.

10 52. On April 22, 2013, I was physically assaulted by Stephen Pacheco and I called
11 Gene in frantic fear.

12 53. David Merritt was there and overheard everything.

13 54. I have given Gene permission to record any of my calls he and David wished to
14 record in order to fight this restraining order and conservatorship.

15 55. Stephen had initially called me saying that he was coming to get the car because his
16 car was in the shop and that he needed my car in order to get around.

17 56. I first called Gene about this and David came on the line, then I asked them
18 whether I had to give my car over to Stephen.

19 57. David told me that if it is in my name then I did not have to.

20 58. The week before, I had told David that I was willing to sell the car in order to raise
21 money so that I and Gene could hire a lawyer to fight the restraining order and other legal issues
22 arising from this.

23 59. So on Monday Stephen came with the scheme to get the car from me and when I
24 told him no and held on to my keys, he tried to pry the keys from my hands then twisted my arm
25 and wrist so violently that it left a clear bruise on my right hand.
26
27
28

1 60. Of course I do bruise, but not as severely as the markings left by Stephen Monday
2 and this is when I phoned Gene back and again told him, like I had been telling Gene for weeks,
3 that I was fearful of Stephen due to his growing violent behavior.

4 61. David asked me whether I felt that it was a need to call the police and I said yes.

5 62. He asked me several more times to be clear and finally stated that he would call and
6 make a police report.

7 63. The police official and my care giver were witnesses of the results of Stephen's
8 assault upon me and promised to make certain that Stephen would not return and harm me.

9 64. I clearly explained to the officer my fears and facts regarding this and he reassured
10 me that he would take care of it properly.

11 65. I then later learned that Gene and David went to police station as my witnesses to
12 confirm what they experienced and that Gene was taken into custody for violating restraining
13 order although it was I who was calling him and he never called me.

14 66. I need a Conservator who will not protect or be controlled by anyone's interests'
15 other than mine.

16 67. I am attaching copy of Michael Desmarais Petition for Attorney's Fees and Costs
17 as evidence of his ill intent.

18 68. He is seeking to obtain over \$32,000 for doing the very things against my best
19 interests' and helping only the interests of Stephen. For personally hearing from me and
20 witnessing my clear state of mind and desires, but apparently not reporting such to this court
21 faithfully or honestly. No lawyer should be compensated for doing what has been done to me.

22 69. I am objecting to Desmarais being paid anything, because he has not honestly
23 represented my interests' before this court.

24 70. I request the court to remove Stephen Pacheco as conservator; eliminate the
25 restraining order against Gene; find me a honest female lawyer to replace Michael Desmer
26

1 I, Beatrice Pacheco, declare under penalty of perjury under the laws of the State of California
2 that the foregoing is true and correct, that I made these words known to David Merritt, who I
3 gave permission to record me, and to present this to the court on my behalf in hopes that my
4 interests will be protected and made known. Although Mr Merritt used his own words, he read
5 to me the things written herein and I confirmed to him that all was my wishes.

6 I, Beatrice K. Pacheco, the petitioner in this matter, declare that I have had the contents of
7 this petition read to me, and read petition in a larger font size duplicate and know its contents,
8 which are true to my own knowledge except for those matters stated on my information and belief,
9 and as to those matters I believe the petition to be true.

10 I declare under penalty of perjury under the laws of the State of California, that the foregoing
11 is true and correct

12 Dated: April 23, 2013

13 ** Beatrice Pacheco*
14 By: Beatrice K. Pacheco

15 CERTIFICATE OF SERVICE

16 I, David Merritt, hereby certify that I am over 18 years old and not a professional process server
17 and that I placed a true copy of:

18 Declaration of Beatrice K. Pacheco and

19 EMERGENCY PETITION FOR REMOVAL AND REPLACEMENT OF CONSERVATOR
20 PROB.CODE § 2651

21 To Michael Desmarias at 16450 Los Gatos Boulevard, ste 208, Los Gatos, CA 95032 with first
22 class postage affixed thereto on April 24, 2013.

*ALSO SERVED ON STEPHAN PACHECO
1334 PRAGUE ST. SAN FRAN. CA 94112*

23 Executed in Sunnyvale, CA.

24 *[Signature]*
25 David Merritt
26 660 Pinnacles Terrace
27 Sunnyvale, CA 94085
28