

First Defendant
Margaret Jane Sheppard
First

June 2007
Exhibits "MJS1" - "MJS19"

CLAIM NO.: HC07C01317

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

IN THE MATTER OF GRAHAM SHEPPARD DECEASED

BETWEEN

IAN ROBERT SHEPPARD

Claimant

and

(1) MARGARET JANE SHEPPARD

(2) RICHARD JAMES SHEPPARD

(3) CENTRE FOR ALTERNATIVE TECHNOLOGY

Defendants

WITNESS STATEMENT OF THE FIRST DEFENDANT

I, Margaret Jane Sheppard of 6 Benedict Close Teignmouth Devon TQ14 8FD will say as follows:-

1. Exhibited to this Statement are the following :-

The Will of 12th October 2004, marked "MJS1"

The Will of 2nd August 2005, marked "MJS2"

Correspondence between my Solicitors and those of CAT, marked "MJS3"

Affidavits sworn by Thomas James Barling and Ruth Margaret Barling, marked "MJS4"

Affidavit sworn by Margaret Ann Bacon, marked "MJS5"

The Claimant's Statement dated 3rd June 2007, marked "MJS6"

Photocopy of my diary for week beginning 11th October 2004, marked "MJS7"

Garage invoice for Mondeo, marked "MJS8"

The Deceased's Abbey bank statement, marked "MJS9"

E:mails in Italian with English translation, marked "MJS10"

E:mail in Italian with English translation, marked "MJS11"

Copy of a letter from Dr Patrick Roberts, marked "MJS12"

One Tel telephone bill, marked "MJS13"

Our joint Abbey bank statement, marked "MJS14"

Copies of letters from British Airways with our flight details for 13th October 2004, marked "MJS15"

E:mail from the Claimant to me dated 30th January 2007, marked "MJS16"

E:mail from the Claimant to Christopher Barling, marked "MJS17"

Copy of letter from British Airways re Data Protection Act, marked "MJS18"

E:mail from the Claimant dated 1st March 2007, marked "MJS19"

2. My late husband Graham Sheppard of 6 Benedict Close, Teignmouth, Devon, TQ14 8FD died on 24th August 2005 leaving two Wills which he had signed since the date of our marriage. We married on 3rd April 2004 having lived together for twenty years. These Wills were dated respectively the 12th October 2004 ("the 2004 Will") and 2nd August 2005 ("the 2005 Will").
3. The 2004 Will and the 2005 Wills are exhibited to this Statement marked "MJS1" and "MJS2". The terms of the Wills are very similar, each appointed me and my brother, Christopher David Barling, as executors. Each contained a series of specific gifts of various personal chattels which are identical in both Wills. Each left residue to me subject only to an interest in a property known as Hunters Way, Craven Road, Inkpen, Hungerford, Berkshire ("Hunters Way") for the Centre for Alternative Technology ("CAT"). Each contains a series of cash legacies to an identical group of beneficiaries. Greater sums are given to my late husband's sons (the Claimant and Richard James Sheppard) and his brother and sister (Kenneth John Sheppard and Carol Margaret Eden) under the 2005 Will but otherwise the terms of the two Wills are almost identical.
4. Probate of the 2005 Will was granted to me in the Bristol District Probate Registry on 30th March 2006, following my personal application at the Exeter Sub-Registry, with power reserved to my brother. I proved the Will and subsequently administered the estate in accordance with its terms because I believed it to be valid and was certain that it represented my husband's true, last wishes.
5. Within days of my husband dying I informed the Claimant (and his brother, the Second Defendant, Richard James Sheppard,) of the circumstances of the signing and witnessing of the 2005 Will. He was content for the estate to be administered in accordance with that Will, taking no steps to prevent Probate being granted six months later, and furthermore accepting a legacy of £150,000 in accordance with the terms set out in the 2005 Will.
6. Several months after all specific gifts had been distributed and all cash legacies under the 2005 Will had been paid, the Claimant indicated that he was considering bringing claims against the estate and I took advice from my current legal advisers. I then became aware of the detailed provisions of Section 9 of the Wills Act 1837 (as amended) and of the fact that those requirements had to be complied with strictly. I also learnt that the beneficial interest that my husband had tried to create for the Centre of Alternative Technology (CAT) failed under both Wills.
7. I did not take steps to have the Grant of Probate in respect of the 2005 Will revoked because I believed that it expressed my late husband's wishes for the distribution of his estate and accordingly I did not want the four beneficiaries who had received legacies higher than they would have done under the 2004 Will to have to repay them. I determined to protect CAT's interests myself as I had control of Hunters Way, and so the only person who was prejudiced by my proving and administering the 2005 Will rather than the 2004 Will was me particularly as a substantially higher amount of Inheritance Tax was paid in accordance with the greater legacies of the 2005 Will.
8. In order to put my husband's wishes with regard to CAT into effect I have entered into negotiations with the charity and their Solicitors (Wilsons). I have not completed this process because I have been anxious not to take any step that would fetter the powers of this Court in respect of this claim nor of the Court dealing with the Claimant's existing

claim No HC06C03585 brought under the Inheritance (Provision for Family and Dependents) Act 1975. Exhibited to this Statement and marked "MSJ3" is correspondence between my Solicitors and those of CAT in this regard.

9. The Claimant has asked for the Will dated 2nd August 2005 to be declared invalid and for Probate of that Will to be revoked. I now consent to such an Order being made. I had originally thought that the extenuating circumstances surrounding its execution were sufficient to make it valid. On 23 August 2005 with my husband extremely ill in hospital and knowing that he had recently written another will I arranged for my parents to accompany me to the hospital so that they could witness the signing of the Will. To my dismay I discovered that my husband had already signed the Will. At the time I was not aware that in such circumstances my husband could merely have acknowledged his signature in front of the witnesses and redated his Will, and so I simply asked my parents to witness my husband's signature. They and I were in no doubt that it was my husband's signature that appeared on the Will. My husband died in hospital the following day.
10. The Claimant also requests an Order that the 2004 Will be declared invalid. I oppose this because the 2004 Will was executed fully in accordance with Section 9 of the Wills Act 1837 (as amended). The circumstances of the execution of the 2004 and 2005 Wills were completely different. On 12 October 2004 my late husband and I went to my parents' house at 5 Woodway Road Teignmouth Devon for the express purpose of having the Will signed and witnessed by my parents (Mr and Mrs Barling).
11. Exhibited to this Statement and marked "MJS4" are Affidavits sworn by my father (Thomas James Barling) and mother (Ruth Margaret Barling) confirming that the Will was executed properly in their presence. A friend of my parents (Margaret Ann Bacon) was also present in their house when my husband and I visited to get the Will signed. The Affidavit of Margaret Ann Bacon setting out her recollection of events is annexed to this Statement and marked "MJS5".
12. In paragraph 13 of his Statement dated 3rd June 2007 submitted in respect of Claim HC06C03585 ("MJS6"), the Claimant suggests that the 2004 Will was signed before 12th October 2004. That is not the case.
13. The Claimant's belief that the 2004 Will is invalid rests upon his recollection of meeting his father at the home of Edward Norrington at 49 Kenwood Drive, Walton-on-Thames on the afternoon of 12th October 2004. The following chronology of events and the Claimant's own changing recollections contradict this.

Chronology of events surrounding the signing of the 2004 Will

14. I have a clear recollection of the events of 11th to 13th October 2004 and have been assisted in that recollection by my diary. For over 12 years I have written very detailed diaries every evening. "MJS7" is a photocopy of my diary for the week beginning Monday 11th October 2004 (both at its actual size and also photocopied at a larger size for ease of reference). The entries verify each of the statements made in the following chronology and give some further detail.

- 14.1 On 11th October 2004 Graham Sheppard collected our Ford Mondeo L295 MMV from Swanson Motor Company of 4/5 Northumberland Place, Teignmouth TQ14 8DD. "MJS8" is a copy of the Garage invoice. "MJS9" is my late husband's Abbey bank statement showing a debit card payment in settlement of that invoice (clearing through the account on Wednesday 13th October 2004) with the transaction being dated 11th October 2004.
- 14.2 On Monday 11th October 2004 my husband and I were awaiting British Airways tickets for our flight from London Heathrow to Rome, which was booked for 13th October. These had not arrived in the post on or before that morning. "MJS10" are copies of e-mails in Italian (together with English translations) sent on 11th October 2004 between me and our friend Luisa Quattrocchi (whom we were to visit in Rome) informing her that the tickets had not arrived. My husband would not have left Teignmouth ahead of me without a flight ticket and in any case we were to share the driving particularly because of his poor health.
- 14.3 On the morning of Tuesday 12th October 2004 our flight tickets arrived. "MJS11" is an e-mail in Italian (together with English translation) from me to Luisa Quattrocchi in Rome confirming that the flight tickets had arrived and confirming our travel plans.
- 14.4 My husband was concerned to verify that his medical condition did not mean that he should not fly to Rome. Accordingly he telephoned Dr Patrick Roberts, his Consultant Haematologist at the Torbay District General Hospital, on telephone number 01803 655237. This he did from our home in Teignmouth on 12th October 2004 and received confirmation that there was no problem with flying to Rome. "MJS12" is a copy of a letter from Dr Patrick Roberts from which his direct line telephone number can be ascertained. "MJS13" is a page of our One.Tel telephone bill showing calls being made from telephone number 01626 870136, (of our matrimonial home at 6 Benedict Close, Teignmouth, Devon TQ14 8FD) to Dr Roberts' number both at 09.17 and 12.44 on 12th October 2004. These calls would have to have been made by my late husband, due to reasons of patient confidentiality as they related to my husband's medical treatment. Accordingly, my husband must have been at home in Teignmouth at those times.
- 14.5 The page of our One.Tel bill ("MJS13") also shows calls being made on 12th October to Mr Edward Norrington. My husband and I were planning to stay with Mr Norrington at his house in Walton-on-Thames on the evening of Tuesday 12th October 2004. This was to enable us to be at Heathrow Airport early enough on Wednesday 13th October 2004 to take our flight to Rome.
- 14.6 The One.Tel statement ("MJS13") also shows calls to my parents' telephone number 01626 772216. Those calls (the latest of which is timed at 14.20) were to make arrangements for my husband and me to visit them at their home for my husband to sign his Will in their presence, prior to our setting off for Walton-on-Thames.
- 14.7 My husband and I left my parents' house at about 2.45pm, following the execution of my husband's Will. "MJS14" is our joint Abbey bank statement which shows a debit card payment to the Telegraph Hill Service Station dated

12th October 2004, clearing through the account on Friday 15th October. Telegraph Hill Service Station is on the A380 between Teignmouth and Exeter, on the direct route from Teignmouth to Walton-on-Thames. My husband and I normally purchased petrol on our joint account when we were travelling together but on our sole name accounts if we were travelling alone, and in that context I believe that this entry verifies that my husband and I were travelling together from Teignmouth to Walton on Thames on 12th October 2004.

- 14.8 The joint Abbey bank account statement ("MJS14") also shows a debit payment (clearing through our account on Thursday 14th October 2004) dated 12th October 2004 to "Badgers Rest" which is a Pub near Mr Norrington's home where we ate together that evening.
- 14.9 On Wednesday 13th October my husband and I flew together to Rome on Flight BA548. "MJS15" are copies of letters from British Airways confirming this.

The Claimant's reasons for disputing the validity of the 2004 Will

15. The Particulars of Claim represent the latest version of the Claimant's recollection of events. This has changed to fit each new piece of evidence as it has been provided, whereas my recollections have remained consistent and accord with documentary evidence and my diary entries. For example in paragraph 6 of his Statement dated 3rd June 2007 ("MJS6") the Claimant states categorically that my husband left Teignmouth the day before me (ie 11th October 2004) but in paragraph 9(b) of the Particulars of Claim he states that he is unsure whether or not my husband was at 6 Benedict Close, Teignmouth on 12th October.
16. The Claimant initially expressed the view that the 2004 Will was invalid because it was signed at the foot of the first page rather than at the end. Subsequently he seemed to indicate that he considered it to be invalid only so far as the provisions on the second page were concerned. I have been advised that Wills no longer need to be signed at the foot or end and accordingly the Will dated 12th October 2004 was validly executed. He also alleged forgery but this allegation has been withdrawn and in paragraph 14 of his Statement dated 3rd June 2007 (exhibit "MJS6") appears to acknowledge that the 2004 Will was written, signed and dated by my late husband.
17. The Claimant subsequently indicated that the Will was invalid stating that his father could not have been in Teignmouth on 12th October 2004 and also asserting a clear recollection in an e:mail to me dated 30th January 2007 ("MJS 16") that I was already in Rome. The Claimant believed that, if his father had travelled alone from Heathrow on Wednesday 13th October 2004, he would need to have left Teignmouth prior to 12th October 2004 because of his poor health. The Claimant states this in an e:mail to my brother Christopher Barling ("MJS17"), claiming that he had written evidence from British Airways to the effect that Captain Graham Sheppard travelled alone. We never received any such evidence from the Claimant. Indeed "MJS18" is a copy of a letter from British Airways confirming that under the Data Protection Act they would not have been able to disclose such information to the Claimant concerning any passenger other than my late husband.

18. Prior to seeing my evidence regarding payment by his father of the Teignmouth Garage bill on 11th October 2004 the Claimant had stated that his father had travelled from Hunters Way (in the village of Inkpen) to Walton-on-Thames .

19. More crucially, in an e:mail ("MJS 19") the Claimant asserted that he visited both his father and me (rather than just my husband as he states in his Particulars of Claim) at Edward Norrington's house in Walton-on-Thames on the afternoon of 12th October 2004. As he received details of telephone bills the Claimant changed his version of events.

20. As further evidence has been supplied to him the Claimant has acknowledged that my late husband and I flew together on Wednesday 13th October 2004 and (having been presented with evidence that at least one of us bought petrol from the Telegraph Hill Petrol Station and was making telephone calls on Tuesday 12th October 2004) the Claimant has modified his view to the effect that my husband travelled alone to Walton-on-Thames ahead of me so that he was already in Walton-on-Thames at the time when my recollection and diary entries indicate my husband to have been in Teignmouth signing his Will.

21. The Claimant or his legal advisors have previously been supplied with all the exhibits to this Statement except:

- 19.1 The e:mail exhibited as "MJS16";
- 19.2 The e:mail exhibited as "MJS17";
- 19.3 The letter from British Airways exhibited as "MJS18"; and
- 19.4 The e:mails exhibited as "MJS19".

21. For the reasons set out in this Statement I ask the Court to make the following Orders:-

1. That the Grant of Probate of the Will dated 2nd August 2005 be revoked;
2. That Probate of the Will dated 12th October 2004 be granted in Common Form; and
3. That this action be dismissed with costs awarded against the Claimant.

I believe that the facts stated in this Statement are true.

Signed Margaret J. Sheppard

Dated 28 June 2007