

IN THE HIGH COURT OF JUSTICE

HC06C03585

BETWEEN

IAN SHEPPARD

Claimant

and

MARGARET JANE SHEPPARD  
RICHARD JAMES SHEPPARD  
CENTRE FOR ALTERNATIVE TECHNOLOGYDefendantsWITNESS STATEMENT OF THE FIRST DEFENDANT

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

1. Master Bowles on 15<sup>th</sup> March 2007 ordered that the claim be stayed. I understood the purpose of staying proceedings to be to enable Ian Sheppard to investigate his concerns that the Wills signed by my husband on 12<sup>th</sup> October 2004 and 2<sup>nd</sup> August 2005 may not be valid.
2. I have provided to Ian Sheppard or his Solicitors an Affidavit of Due Execution sworn by Thomas James Barling on 21<sup>st</sup> February 2007, an Affidavit of Due Execution by Ruth Margaret Barling sworn on 21<sup>st</sup> February 2007 and an Affidavit sworn by Margaret Bacon on 7<sup>th</sup> March 2007 (these three Affidavits are exhibited to this Statement and marked "MJS1"). Thomas James Barling and Ruth Margaret Barling are the witnesses to the Will dated 12<sup>th</sup> October 2004 and Margaret Bacon was present in the home of Mr & Mrs Barling when that Will was signed.
3. I have also supplied to Ian Sheppard or his Solicitors a number of documents which corroborate the movements of my late husband on 12<sup>th</sup> October 2004 and the surrounding days, hoping that these would help to allay Ian Sheppard's concerns. I understood Ian Sheppard's concerns about the validity of the Will dated 12<sup>th</sup> October 2004 principally to arise from his recollection of his father's movements at around that time which he thought would not have enabled Graham Sheppard to have been present at 5 Woodway Road Teignmouth when his Will was signed and witnessed.

4. Ian Sheppard continues to dispute the validity of the Will dated 12<sup>th</sup> October 2004 but at the date of this statement has produced no documentary or other evidence to support that contention.
5. I do not believe that Ian Sheppard's concerns raised about his father's precise whereabouts are of direct relevance to the question of whether he signed his Will validly in accordance with Section 9 of the Wills Act 1837 (as amended) on 12<sup>th</sup> October 2004 with Mr & Mrs Barling acting as witnesses in accordance with those provisions. The Affidavit evidence I have supplied speaks directly to that issue. I am also able to confirm that I was present when the Will was signed and I recall that the procedure complied with my understanding of the requirements of Section 9.
6. I have not sought to submit evidence concerning the formal validity of the Will dated 2<sup>nd</sup> August 2005. After I had obtained Probate of that Will, and distributed the estate in accordance with its terms, I took advice in connection with claims which Ian Sheppard indicated he might wish to bring in respect of his father's estate. As a result of that advice I became aware of the requirements of Section 9 of the Wills Act 1837 (as amended) and I realised that the circumstances of the signing and witnessing of the Will dated 2<sup>nd</sup> August 2005 did not comply with the strict requirements of Section 9. Prior to this I had believed that Will to be valid.
7. Shortly after my husband's death I discussed with Ian Sheppard the circumstances in which that Will was signed and witnessed. This would have been about 6 months prior to my distributing the estate and Ian Sheppard accepting his legacy under the Will dated 2<sup>nd</sup> August 2005.
8. When I discovered that I had proved a Will that may have lacked formal validity, and distributed the estate in accordance with the terms of that Will, I decided to take no action. The advice I received had convinced me that my husband's earlier Will of 12<sup>th</sup> October 2004 was valid. The provisions relating to the legacies and gifts under the two Wills were virtually identical except that Ian Sheppard and his brother, Richard James Sheppard, received significantly larger legacies under the terms of the Will dated 2<sup>nd</sup> August 2005 at the expense of residue which was due to me under both Wills. The Inheritance Tax payable was also considerably greater. Therefore the only

beneficiary of the Will dated 12<sup>th</sup> October 2004 to have been prejudiced was me. Accordingly believing that the later Will reflected my husband's wishes I was happy for those larger legacies to have been paid at my expense.

9. To the date of this statement my Solicitors have not received notification of any action commenced by Ian Sheppard in respect of the validity of the Wills.
10. Ian Sheppard has proposed that we meet to discuss his claims. I have not been willing to do so for two reasons. First, there is no agreement as to the status quo. Ian Sheppard states that he wishes to contest the validity of his father's Wills, believing my husband to have died intestate, whereas I believe my husband died testate as the Will dated 12<sup>th</sup> October 2004 is valid. This makes discussion or mediation difficult. Second, it has been indicated by Ian Sheppard that any negotiated settlement would have to involve the property of my late husband known as Hunters Way Craven Road Inkpen RG17 9DY. This pre-condition is a stumbling block, because my husband's wishes in relation to that property are expressed in his Wills and – so that I can give effect to these wishes – I would not wish this property (or a share in it) to be part of any settlement. I believe that any award to Ian Sheppard in respect of this claim could be met without this property being directly involved.
11. I believe that the facts stated in this Statement are true.

Signed.....*Margaret J. Sheppard*.....

Dated.....*30 May 2007*.....

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November 2008

WITNESS STATEMENTS