

Mother of NASGA Iowa Legislative Liaison, Jay Driesen (Iowa)

Dorothy Driesen, a 96 year old widowed Mother, has had her entire estate taken away from her by court decree and forced to reside at a Rock Valley, IA nursing home that has had multiple felony accounts charged against it in 2003.

Judge Jeffrey A. Neary took our Mother into his chamber, asked her a few questions, had her read from a prepared statement and then fired both Dorothy and her sons as Trustees, appointed a bank to be her new Trustee, appointed a known adversarial guardian over her and accepted a purported amendment devising her entire Trust estate to the new guardian. All of this happened within one days time upon the filing of court documents by the wannabe guardian and friend of the court.

After this drastic and unbelievable event in the local district court, the two sons of our Mother have been falsely accused of various things and arrested and incarcerated on four separate occasions. To add insult to injury, the two sons of our Mother and their families have not been able to visit their Mother since early 2008.

The last call of desperation was made from our Mother during New Years weekend in 2009 in which our Mother claimed her life was in danger and she pleaded with us to get her out of this nursing facility. Mail that the family tries to send our Mother is received by the guardian and does not appear to reach her. All incoming calls to our Mother are screened by the front desk and she has no way of calling out.

Shortly after our Mother was incarcerated in this nursing home, before this disastrous court decision, the family would attempt to visit our Mother and shortly after we would arrive, either the guardian would show up in the doorway and demand that we leave or the town police officer would show up and threaten us with arrest.

This case has been heard by the Sioux County, IA District Court in early 2008 and appealed. Jay, as the original trustee, lost this entire first court battle. Then the predators and bank, thinking they had victory, later filed for perceived monetary damages from Jay, Dorothy's eldest son, in neighboring Lyon County, IA District Court, where Jay resides. Jay fought back pro se in attempt to save his incarcerated Mother and her Irrevocable Trust. For over one year, the predators and bank attempted to gain their loot and then labored to shut this second case down by way of motion. After the judge initially ruled in Jay's favor three separate times; for some reason, the bank was finally successful in receiving a judgment against Jay for over \$34,000. This amount was deemed necessary by the court to adequately compensate this bank (was appointed as Trustee in August, 2008), that is highly active in farm land, for their effort in defending the case and to cover their expense in securing the assets of Mother Driesen. This case had originally been scheduled for a jury trial, including all evidence of the murders in this nursing home during 2003, but the case was shut down by motion for Summary Judgment.

On appeal, the Iowa Court of Appeals applied the doctrine of "claim preclusion" as an original error was not raised by the defense attorney.

A small victory was gained in the Iowa Legislature in 2010 wherein a guardianship hearing can not

take place unless notice of service is served on the proposed ward (protected person) and their present family and / or care taker. In our Mother's case, a guardianship hearing took place without advanced notice being served on her and her present children caretakers. Notice of what had happened was served on the family over 20 days later.

Since the initial dramatic events occurring in 2007 – 2009, the family members were forced to retreat into survival mode and tend to numerous law suits hurled their way by the predatory parties to our Mother's cause....suits aimed at destroying their finances and business.

During the fall of 2011, Jay was successful in reaching his Mother by a late evening phone call placed to the nursing home. An unsuspecting nursing assistant brought Mother Driesen to the front desk and gave her the phone to converse with her son Jay. Very quickly the supposed "incompetent" Mother asked Jay about her farm land and etc. Suddenly there was a scuffling noise as Jay could hear the phone receiver fall to the floor with a later hang up click.

Further negative efforts levied against Jay's business led to action in Federal District Court for the Northern District of Iowa. The District Court ruled: "For the reasons discussed, I find that under the Rooker-Feldman doctrine, this court lacks subject matter jurisdiction to consider plaintiffs' claims. Therefore, defendants' motions to dismiss are granted and this case is dismissed in its entirety pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction." That by Judge Mark W. Bennett. The Rooker-Feldman doctrine holds that federal courts other than the US Supreme Court should not sit in direct review of state court decisions unless Congress has specifically authorized such relief. In short, federal courts below the Supreme Court must not become a court of appeals for state court decisions. This is case law made up by a couple of decisions of the US Supreme Court masquerading as the rule of law when in reality the US Congress has not issued any such law. Violations of Constitutional law such as "impairment of contract" along with civil rights violations such as encroachment of "life, liberty and property" can and do take place on a regular basis in state courts, but a large number of personal rights and contract impairment cases, and select cases of interstate commerce (the issue in Jay's case), are thrown out of the federal court system. The US Supreme Court will supposedly hear these cases, but most are denied as the US Supreme is unable to hear the vast majority of them. Currently this case resides with the Lyon County District Court of Iowa. This case resulted in the predators of our Mother's beneficiaries transferring a perceived remaining South Dakota judgment against the company of Jay to Iowa in attempt to collect the same from Jay personally even though the South Dakota default judgment did not name Jay but was applied against Jay's company only. A default judgment took place as the attorney working for Jay's company did not show for the hearing. Attorney Michael Jacobsma, now attorney for both a previous South Dakota customer of Jay and the guardian of our Mother, transferred this perceived remaining judgment against Jay into Iowa and applied Lis pendens to farm land Jay had deeded to his brother in 2004. Lis pendens is applied to the property record listing pending legal action against the property. Jay's brother, already having suffered four wrongful imprisonments from the estate predators of our Mother, managed to sell the family farm and paid off over \$300,000 to clear a debt that never was applied to Jay personally. Jay maintains that the South Dakota customers had no right to any additional judgment as the log home customers received all of their materials after failing to supply necessary building decisions.

Another action was initiated by Jay in Sioux County, Iowa in May, 2014, concerning the initial action and damage against our Mother, her Irrevocable Trust, her property and her beneficiaries that took place as ruled on by Judge Jeffrey A. Neary on August 04, 2008. The case is a malpractice case against the trust attorney of our Mother's Irrevocable Trust. This trust attorney worked in lock step with the predators of our Mother and without question refused to apply even a limited standard of professional care to our Mother, her person, her estate and her beneficiaries. The defense attorney for this trust attorney played the card that lay persons would not be able to understand the intricacies of probate law and that that Jay needed to supply an expert witness as obviously he is not one. In May of 2015, Judge Duane E. Hoffmeyer ruled in favor of the defendants on the sole issue of Jay not providing an expert witness. The judge refused and ignored to rule on many of the claims Jay raised in his Original Petition and numerous filings by ignoring his responsibility to set forth findings of fact and conclusions of law. The truth of the matter is that there currently is no attorney from the NW corner of Iowa that will serve as an expert witness much less even represent our Mother. At present she remains without representation in her deplorable condition. This case has entered the appeal stage.

Our Mother has now reached the age of 96 years and regardless of the stress placed on her by denial of her civil rights per 42 USC Sec 1395i-3, IA Code 235F and IA SF 306, she remains in good physical and mental health. Jay has been in to see his Mother numerous times and is continually run out with threat of arrest made regardless of Jay's Mother expressing strong desire for him to continue with the visit. Previously, the nephew attorney of the guardian has sent a letter to Jay threatening arrest if Jay attempts to visit his Mother again, in direct violation of both federal law and the new IA visitation law, still known as Senate File 306. At least one case has already been filed in Iowa using this new law. The guardian in that case resisted vigorously.

On April 19, 2014, a distant relative of our Mother stopped at the Rock Valley nursing home for a visit. Very happy to see the visitor, Mother soon began reminiscing with him about bygone days on neighboring small family farms. Our Mother was asked if she would like to talk to her son, Jay. Yes she would, Mother replied, and so the visitor connected Jay to his Mother with his cell phone. A lengthy visit ensued to the joy of our Mother. Upon scolding, Jay had to explain why he does not come to see her. Shortly the call ended as Jay could hear his Mother commenting; "they do not like what we are doing". Jay felt uneasy and within a period of time the visitor called Jay from the Sioux County, Iowa jail explaining the events and requesting someone to furnish bail for him in the morning. Meanwhile, at the nursing home, the guardian of our Mother arrived and ordered the visitor out, explaining that she was the legal guardian of our Mother. The visitor noted the frightened reaction of our Mother who requested the visitor to remain there with her. The guardian attempted to walk around the visitor in quest for the cell phone still in possession of our Mother which did not happen as the visitor quickly retrieved the cell phone. The visitor explained that our Mother pointed to the guardian and ordered her to leave her room which was repeated over eight times. The guardian ignored the pleas and soon the local police appeared, ignoring the pleas of our Mother and proceeded to arrest the visitor for Interference with Official Acts and Assault, both simple misdemeanors. This visitor was also sent a letter threatening to arrest him should he come back to visit our Mother.

In June, 2014, an out of state relative stopped by the Rock Valley nursing home to visit their cousin,

Dorothy. They were directed down the hallway towards the particular wing of our Mother's location. The doors to this wing were shut. After securing the attention of the staff on duty, they were told that they could not see their cousin, our Mother.

The new Elder Abuse Bill has been signed into law (IA Code 235F) in Iowa on July 1st, 2014. Jay, along with others, worked tirelessly on this bill for over seven years.

Surely some would ask: "why isn't Jay doing something about this especially with two new favorable laws on the books?" The Lord willing this will happen. The problem with this case of Elder Abuse, as with many others, the original trustees, beneficiaries and family member Power of Attorneys (POA) are so severely damaged that many never get to the task of defending their vulnerable elder and family member.

Please stay tuned as any and all support is greatly appreciated.