

IN THE CIRCUIT COURT OF MACON COUNTY, MISSOURI

MARY KATHRYN CROCKER-WYSS)

a/k/a MARY KATHRYN WYSS,)

Plaintiff,)

v.)

Case No.: 23MA-CC000020

JOHN W. BRISCOE, et al.,)

Defendants.)

ANSWER OF DEFENDANT JOSEPH A. BRANNON TO
PLAINTIFF'S FIRST AMENDED PETITION

COMES NOW Defendant Joseph A. Brannon by counsel and makes the following answer to Plaintiff's First Amended Petition:

1. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 1.
2. Admits the allegations of paragraph 2.
3. Admits the allegations of paragraph 3.
4. Admits the allegations of paragraph 4.
5. Denies the allegations of paragraph 5, although consents to venue in the Circuit Court of Macon County.
6. Admits the allegations of paragraph 6.
7. Admits the allegations of paragraph 7.
8. Admits the allegations of paragraph 8.
9. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 9.
10. Admits the allegations of paragraph 10 although denies the allegation of "beneficiaries of the entirety of the Judy Place" states there is no reference to "Judy Place" within the deed referred to.
11. Admits the allegations of paragraph 11.

12. Admits the allegations of paragraph 12 except denies there was any express revocation of any beneficiary deed to the “Judy Place” and denies that any deed referred to the “Judy Place.”

13. Admits the allegations of paragraph 13.

14. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 14.

15. Answering paragraph 15 Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof and denies that any deed referred to mentions or refers to “The Judy Place.”

16. Admits the allegations of paragraph 16.

17. Defendant admits the allegations of paragraph 17.

18. Denies the allegations of paragraph 18.

19. Answering paragraph 19 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

20. Answering paragraph 20 states that Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

21. Answering paragraph 21 states that Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

22. Answering paragraph 22 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

23. Answering paragraph 23 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

24. Answering paragraph 24 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

25. Answering paragraph 25 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

26. Answering paragraph 26 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

27. Answering paragraph 27 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

28. Answering paragraph 24 adopts, realleges and incorporates herein by reference each and every paragraph heretofore stated in this answer consisting of paragraphs 1-27.

29. Answering paragraph 29 states Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations thereof.

30. Denies the allegations of paragraph 30.

31. Denies the allegations of paragraph 31.

32. Denies the allegations of paragraph 32.

33. Denies the allegations of paragraph 33.

34. Denies the allegations of paragraph 34.

35. Denies the allegations of paragraph 35.

36. Further answering states that Plaintiff's First Amended Petition for Damages fails to state a claim upon which relief can be granted in that the allegations demonstrate that:

a. There was no attorney-client relationship between Plaintiff Mary Kathryn Crocker-Wyss and Defendant or any of the Defendants which would establish any duty owed by any of the Defendants to Plaintiff.

b. Plaintiff has no standing to maintain any action for negligence against the Defendants in that Plaintiff's First Amended Petition does not establish that Plaintiff was a client of any of the Defendants.

c. Plaintiff's First Amended Petition does not allege any facts which, if true, would establish any negligence on the part of any Defendants.

37. Further answering states that Margaret Caldwell referred to in Plaintiff's First Amended Petition executed the beneficiary deed of July 3, 2012 before the notary public and acknowledged that she executed the same as her free act and deed for the purpose of revoking the beneficiary deed of January 22, 2010, and to convey the described property upon her death to Mary Kathryn Crocker-Wyss; that Margaret B. Caldwell on July 3, 2012 accepted the beneficiary deed as drafted and in so doing acknowledged and affirmed it was her intention that the real estate as described be conveyed upon her death. Because of the conduct and action of Margaret B. Caldwell in accepting and approving said deed of July 3, 2012, and executing the same as her "free act and deed" Plaintiff Mary Kathryn Crocker-Wyss is now estopped and barred from contesting the legitimacy of said beneficiary deed of July 3, 2012. The conduct of Mary B. Caldwell in accepting, executing and acknowledging such deed and by not at any time during the 8 years thereafter before

her death contesting or acting to revoke, alter or change said beneficiary deed of July 3, 2012 serves to Estop and bar Plaintiff's claim against the Defendant attorneys for Margaret B. Caldwell.

38. Further answering states that the action of Plaintiff Mary Kathryn Crocker-Wyss against Defendants alleged in Plaintiff's first amended petition is barred by the applicable statute of limitations of §516.120 RSMo for the reason that said action was not commenced within five years following accrual of the action claiming negligence or malpractice with respect to the beneficiary deed of July 3, 2012, or in the alternative the action barred by reason of the defense of laches arising from the passage of 8 years following the approval, acceptance and execution of the beneficiary deed of 2012 during which time said Mary B. Caldwell at no time acted to revoke, alter or change said beneficiary deed.

39. Defendant denies each and every allegations and averment of Plaintiff's First Amended Petition except those matters specifically admitted in this answer.

WHEREFORE, having fully answered Defendant Joseph A. Brannon prays to be hence dismissed with his costs.

/s/ Hamp Ford

CERTIFICATE OF SERVICE

The undersigned certifies that a complete copy of the foregoing instrument was electronically filed through the court's electronic filing system on this 2nd day of November, 2023.

/s/ Hamp Ford

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