

1 Pontiac, Michigan

2 Wednesday, February 5, 2025

3 8:35:40 a.m.

4 THE CLERK: Calling Sharon Kramer, 2024-418314-GA,
5 2024-418315-CA.

6 MR. MUNGER: Jon Munger, Your Honor, conservator
7 and I guess temporary successor guardian for Sharon Kramer.

8 MR. SUSSELMAN: Good morning, Your Honor. Marc
9 Susselman on behalf of the defendant, Martin Leaf.

10 MR. BUTTIGLIERI: For the record, Your Honor,
11 Joseph P. Buttiglieri on behalf of Mr. Munger.

12 MR. LEBENBOM: Michael Lebenbom appearing on
13 behalf of the Danto Nursing Facility. I'll sit back here,
14 Your Honor.

15 THE COURT: I don't know why you're getting so
16 comfortable.

17 MR. SUSSELMAN: I don't know that I'm feeling
18 comfortable, Your Honor. I'm sure -- I don't understand
19 what you're referring to.

20 THE COURT: Nothing. You can do whatever you
21 want. You got a motion for stay.

22 MR. SUSSELMAN: Correct, Your Honor. That's what
23 I'm here for.

24 THE COURT: It's definitely not going to be
25 granted.

1 MR. SUSSELMAN: Without hearing my argument?

2 THE COURT: The other thing is that a status con--
3 I don't have to hear your argument, but I'll give it a
4 shot. Go ahead.

5 MR. SUSSELMAN: Well, you've already predetermined
6 (indiscernible.)

7 THE COURT: You want me to stay the case --

8 MR. SUSSELMAN: Due process requires that you --

9 THE COURT: I just want to get this straight.

10 MR. SUSSELMAN: Yes, your Honor.

11 THE COURT: You want me to stay the case in order
12 for you --

13 MR. SUSSELMAN: No. Stay in order. No, just stay
14 in order. Not the case. Stay in order.

15 THE COURT: Stay at what order? Suspending your
16 client --

17 MR. SUSSELMAN: The January 10th order, removing
18 Mr. Leaf as guardian.

19 THE COURT: I didn't remove him. I suspended him.

20 MR. SUSSELMAN: Okay, suspending him. Whatever.

21 THE COURT: I'm definitely not staying that order.
22 You mean, so if I stay the order then he remains guardian
23 in persistent violation of my direct orders.

24 MR. SUSSELMAN: He's not. First of all, you
25 haven't even heard his --

1 THE COURT: He is.

2 MR. SUSSELMAN: Wait a minute. The last hearing,
3 you didn't even listen to Mr. -- you didn't lis-- even
4 allow me to finish my case to present Mr. Leaf's side of
5 the argument. You issued the order which is on a
6 application, an emergent application to the Michigan Court
7 of Appeals, which is currently pending.

8 THE COURT: Mr. Leaf.

9 MR. SUSSELMAN: Marc Susselman.

10 THE COURT: I mean Susselman.

11 MR. SUSSELMAN: Yes.

12 THE COURT: Are you referring to my order to
13 suspend him?

14 MR. SUSSELMAN: Yes. And appointing Mr. --

15 THE COURT: Do you recall --

16 MR. SUSSELMAN: Yeah.

17 THE COURT: -- me having a conversation with you
18 and with him about the specific thing that I was concerned
19 about. I had ordered him to permit Mr. Munger and a real
20 estate agent to have access to the house and to be able to
21 show the house. He didn't do it. So we came back to
22 court --

23 MR. SUSSELMAN: See, you don't even want to listen
24 to my argument.

25 THE COURT: Wait. I --

1 MR. SUSSELMAN: You don't even want to listen to
2 my side of the argument. The fact of the matter is that
3 Mr. Leaf has communicated with --

4 THE COURT: Mr. Susselman.

5 MR. SUSSELMAN: Yes, Your Honor.

6 THE COURT: What you're saying --

7 MR. SUSSELMAN: Yes.

8 THE COURT: -- is not true. I did let you argue.
9 In fact, it's (cross talk) --

10 MR. SUSSELMAN: Not now you're not. Not now
11 you're not.

12 THE COURT: Mr. Susselman.

13 MR. SUSSELMAN: Yes, Your Honor.

14 THE COURT: Do you want to be held in contempt?

15 MR. SUSSELMAN: No, of course not.

16 THE COURT: Then keep quiet while I'm talking.

17 MR. SUSSELMAN: Sure, go ahead.

18 THE COURT: We had a hearing --

19 MR. SUSSELMAN: Uh-huh.

20 THE COURT: -- some time ago. I ordered your
21 client to permit Mr. Munger and a real estate agent to have
22 access to the house for the purpose of placing the house on
23 the market. That's it. Just place it on the market. Get
24 it ready, see what needs to be done, place it on the
25 market. Your client, Martin Leaf, interfered with that.

1 MR. SUSSELMAN: No, he didn't.

2 THE COURT: So --

3 MR. SUSSELMAN: Well, he didn't.

4 THE COURT: Okay. You're in contempt of court.
5 Keep it up, and I going to tell you what it's going to cost
6 you. He would not allow them in. We discussed that at
7 another hearing. And I, once again, told him to permit him
8 to do so. Then we had this last hearing on January 10th.
9 And I -- and the issue was brought up once again. And I
10 spoke directly to you and directly to Mr. Leaf. You gave
11 me your theory that the guardian has control over real
12 estate because of some, what really amounts to dicta in a
13 Supreme Court decision dealing with a completely different
14 issue. I believe, Mr. Susselman, that, in fact, was my
15 case. I know exactly what that case is about.

16 The fact of the matter is that nowhere in the
17 statute, and I've explained this to you, and I've actually
18 read through the statute what the different powers are.
19 Nowhere in the statute for guardians does it give a
20 guardian authority to control real estate. The only
21 financial authority it gives them is authority to receive
22 and spend money for the support of the ward. A
23 conservator, on the other hand, has authority over all of
24 the ward's property. So, certainly, even if a guardian had
25 some arguable authority -- and I explained this to you last

1 time.

2 MR. SUSSELMAN: Uh-huh.

3 THE COURT: Even if a guardian had some arguable
4 limited authority over real estate when there is just a
5 guardian, the guardian certainly does not have that
6 authority when a conservator is appointed. And for sure
7 doesn't have it when the judge limits the guardian's
8 authority, if they had any in the beginning, to not include
9 real estate. And I have done all that with you. And I
10 questioned Mr. Leaf --

11 MR. SUSSELMAN: Uh-huh.

12 THE COURT: -- on January 10th. Are you going to
13 obey my order? And at first he said no. He did. Then we
14 talked about it some more, he got nervous about what my
15 reaction was going to be.

16 MR. SUSSELMAN: Uh-huh.

17 THE COURT: So he backed off a little bit. But I
18 have no confidence in Mr. Leaf obeying my order as long as
19 he's guardian because he has an attorney who believes that
20 -- because he thinks I'm wrong --

21 MR. SUSSELMAN: Uh-huh.

22 THE COURT: -- that my order, the Judge's order,
23 --

24 MR. SUSSELMAN: Uh-huh.

25 THE COURT: -- because you think the Judge's order

1 is wrong --

2 MR. SUSSELMAN: Uh-huh.

3 THE COURT: -- you don't have to obey it.

4 MR. SUSSELMAN: No, that's not what --

5 THE COURT: You're going to appeal it, and
6 meanwhile I'm supposed to sit there and let your client
7 violate my orders.

8 MR. SUSSELMAN: Uh-huh.

9 THE COURT: Because of that, Mr. Susselman --

10 MR. SUSSELMAN: Uh-huh.

11 THE COURT: -- not just because of him --

12 MR. SUSSELMAN: Yes.

13 THE COURT: -- but because of you and the position
14 you've taken in this case --

15 MR. SUSSELMAN: Uh-huh. Right.

16 THE COURT: On that matter --

17 MR. SUSSELMAN: Uh-huh.

18 THE COURT: -- I suspended your client because I
19 don't trust him to obey my order. And I don't trust you as
20 an officer of the court, as a sworn attorney, to uphold the
21 laws of this State. I don't trust you to advise your
22 client to obey the Judge's order. That's what happened.

23 MR. SUSSELMAN: Well --

24 THE COURT: So I suspended your client.

25 MR. SUSSELMAN: Uh-huh.

1 THE COURT: Now give me your best shot on your
2 motion for a stay.

3 MR. SUSSELMAN: Well, first of all, there, you
4 know, there are ways of interpreting decisions. You have
5 your interpretation. You claim that what the Supreme Court
6 said in the *Findling* (ph) case is obiter dicta.

7 THE COURT: We already had this argument, Mr.
8 Susselman.

9 MR. SUSSELMAN: Well, it's on appeal.

10 THE COURT: I've made an order.

11 MR. SUSSELMAN: Yes. And I've contested your
12 reading of the case with the Michigan Court of Appeals.

13 THE COURT: So I'm right. Because you disagree
14 with the judgment of the order.

15 MR. SUSSELMAN: No. I have a right to file an
16 application for leave.

17 THE COURT: When you're -- I -- absolutely. I'm
18 happy --

19 MR. SUSSELMAN: Yes.

20 THE COURT: -- to have you file. I used to work
21 in the Court of Appeals, Mr. Susselman.

22 MR. SUSSELMAN: Okay. So?

23 THE COURT: And I was an appellate attorney --

24 MR. SUSSELMAN: Okay. I'm going --

25 THE COURT: -- (cross talk) prosecutor too.

1 MR. SUSSELMAN: -- I'm an appellate attorney, too.

2 THE COURT: So I know something about it.

3 MR. SUSSELMAN: I do too.

4 THE COURT: What you, apparently, do not know --

5 MR. SUSSELMAN: Yeah?

6 THE COURT: -- is that the Judge's order is the
7 Judge's order until it's overturned by the appellate (cross
8 talk) --

9 MR. SUSSELMAN: Pending a motion for stay. Which
10 is what I filed.

11 THE COURT: Not pending a motion for stay. Until
12 it's stayed --

13 MR. SUSSELMAN: Uh-huh.

14 THE COURT: -- it is alive and well.

15 MR. SUSSELMAN: And I immediately filed a motion
16 for stay. And if you deny it, I'll file an application
17 for leave for a stay with the Court of Appeals which is the
18 procedure. And you -- what you claim is obiter dicta.

19 THE COURT: (Cross talk) --

20 MR. SUSSELMAN: May I talk? May I talk?

21 THE COURT: Mr. Susselman?

22 MR. SUSSELMAN: Yes, Your Honor.

23 THE COURT: What is the point of you saying you
24 don't agree with my (cross talk) --

25 MR. SUSSELMAN: Your claim that that's obiter

1 dicta is not correct.

2 THE COURT: (Cross talk) --

3 MR. SUSSELMAN: Your claim that that's --

4 THE COURT: You know, even if I'm wrong about
5 that --

6 MR. SUSSELMAN: Yes. Yeah.

7 THE COURT: -- I am 100 percent right about what
8 the Epic says, the authority of the guardian is and the
9 authority of the conservator.

10 MR. SUSSELMAN: Not according to the Supreme Court
11 in the (cross talk) decision.

12 THE COURT: I am 200 percent correct.

13 MR. SUSSELMAN: Yeah. Okay.

14 THE COURT: That when I remove any authority over
15 the house from the guardian --

16 MR. SUSSELMAN: Yes.

17 THE COURT: -- then he has no authority.

18 MR. SUSSELMAN: I don't dispute that. That's why
19 I filed an application for leave. I -- I'm -- it's our
20 position that your order --

21 THE COURT: You --

22 MR. SUSSELMAN: May I talk?

23 THE COURT: No. I want to be clear.

24 MR. SUSSELMAN: Yes?

25 THE COURT: Are you saying you dispute my

1 authority to limit the authority of the guardian?

2 MR. SUSSELMAN: On the basis that you gave, yes.
3 On the basis that you believe the statement that the
4 (inaudible) decision that a guardian has control over the
5 real estate --

6 THE COURT: That isn't why I limited his
7 authority. I did that before you ever brought that case
8 up.

9 MR. SUSSELMAN: Not in your order. Your order
10 appointing him as guardian has no limitations on it
11 whatsoever.

12 THE COURT: Since that time, I ordered him in
13 an order to cooperate with Mr. Munger.

14 MR. SUSSELMAN: And he has.

15 THE COURT: No, he hasn't.

16 MR. SUSSELMAN: Well he has. Well, Your Honor, he
17 has. I have emails showing that were sent to Mr. Munger's
18 attorney indicating he's going to move out by February 23rd
19 pursuant to the judgment --

20 THE COURT: Go ahead and make your --

21 MR. SUSSELMAN: -- by the 48th District Court.

22 THE COURT: -- stay argument --

23 MR. SUSSELMAN: Uh-huh.

24 THE COURT: -- and make whatever false statements
25 you want.

1 MR. SUSSELMAN: I don't make false statements.

2 I resent you saying it.

3 THE COURT: Because I --

4 MR. SUSSELMAN: I don't make false statements.

5 THE COURT: You are a piece of work, you know
6 that?

7 MR. SUSSELMAN: You're right.

8 THE COURT: Go ahead. Whatever false statements
9 you want to make, make them.

10 MR. SUSSELMAN: Fine. I'm going to file complaint
11 with the Judicial Tenure Commission regarding your
12 conduct throughout this case. You violated due process
13 persistently. You're not allowing me to represent my
14 client, persistently. You're making a ruling without
15 letting him take the stand to testify in our case in chief.
16 You're cutting off the case and that's a violation of the
17 process (indiscernible) on the application for leave to the
18 Court of Appeals.

19 THE COURT: Hopefully, when the Judicial Tenure
20 Commission --

21 MR. SUSSELMAN: Yes. Yeah.

22 THE COURT: -- reviews it --

23 MR. SUSSELMAN: Yeah.

24 THE COURT: -- they won't just read the
25 transcript, they will watch my demeanor and they will watch

1 yours and see just who is acting out of line.

2 MR. SUSSELMAN: Right.

3 THE COURT: Go ahead with your motion for a
4 stay.

5 MR. SUSSELMAN: So it's our position in your
6 claim that the statement in Dar -- the *Findling* case, which
7 states, "A guardian's duties includes being responsible for
8 the ward's care, custody and control, and communicating and
9 consulting with the ward, if possible, before making
10 decisions; secure services for the ward's mental and
11 physical well-being, and care for and protect the ward's
12 personal and real property, or dispose of it in the ward's
13 best interest," which gives the guardian coordinated
14 control over the real estate with the conservator
15 according to the Michigan Supreme Court. And you claim
16 that's obiter dicta. We say it's not. It's --

17 THE COURT: I just said it doesn't matter whether
18 it is because for sure when a judge limits the authority of
19 a guardian, their authority is limited.

20 MR. SUSSELMAN: You don't understand the argument.
21 It's our argument you limited his authority based on a
22 claim that by --

23 THE COURT: No.

24 MR. SUSSELMAN: -- may I finish?

25 THE COURT: Based on the fact --

1 MR. SUSSELMAN: Yes.

2 THE COURT: -- that he's interfering with the
3 conservator who is trying to do something that I've
4 instructed him to do.

5 MR. SUSSELMAN: Again --

6 THE COURT: That's why I limited his authority.

7 MR. SUSSELMAN: You based that decision --

8 THE COURT: No.

9 MR. SUSSELMAN: -- on a conclusion which was in
10 violation --

11 THE COURT: No.

12 MR. SUSSELMAN: -- of the Supreme Court ruling
13 that he does have authority over the real estate.

14 THE COURT: No. You brought up that decision --

15 MR. SUSSELMAN: Yeah.

16 THE COURT: -- only January 10th. Before January
17 10th, in a prior hearing, I went through the Estates and
18 Protected Individuals Code --

19 MR. SUSSELMAN: Uh-huh.

20 THE COURT: -- and read to you --

21 MR. SUSSELMAN: Yes.

22 THE COURT: -- what the code says --

23 MR. SUSSELMAN: Yes.

24 THE COURT: -- the authority of the guardian is and
25 the authority --

1 MR. SUSSELMAN: Yes.

2 THE COURT: -- of the conservator is.

3 MR. SUSSELMAN: Yes.

4 THE COURT: -- and if you'd like --

5 MR. SUSSELMAN: Yeah.

6 THE COURT: -- I'll go in here --

7 MR. SUSSELMAN: No, you don't have to.

8 THE COURT: -- and I'll find (cross talk) --

9 MR. SUSSELMAN: Because (cross talk) ignoring MCL
10 700.5314. You're ignoring MCL 5-- 700.5314, which is what
11 the Supreme Court relied on to rule that the guardian has
12 control over the real estate. And the Supreme Court, I
13 believe, has more authority over the interpretation of the
14 code than you do.

15 THE COURT: Go ahead with your argument. I read
16 right from 5314. If the Supreme Court had chosen to do
17 that instead of -- I got to be respectful. Instead of just
18 paraphrasing what they considered to be in the code, if
19 they had read from it exactly what the guardians duties
20 are --

21 MR. SUSSELMAN: Yeah.

22 THE COURT: -- they wouldn't have said that.

23 MR. SUSSELMAN: They did. They quoted it. And
24 you're saying you know more than the Supreme Court does.

25 THE COURT: I'm saying I can tell you exactly what

1 is in 700.5314, and it does not include; A, authority over
2 real estate; and B, it does not include authority to ignore
3 the Judge's order that his authority is limited and his
4 order -- the Judge's order, his or hers, that only the
5 conservator has that authority. I absolutely have
6 authority to limit a guardian's authority. In fact, I'm
7 required to.

8 MR. SUSSELMAN: Uh-huh. Well, you disagree with
9 the Supreme Court. And I --

10 THE COURT: No, I don't.

11 MR. SUSSELMAN: Yeah, you do.

12 THE COURT: No, I don't.

13 MR. SUSSELMAN: Yeah, you do. It's right there in
14 black and white, (cross talk) decision.

15 THE COURT: I feel like I'm arguing with a child
16 sometimes.

17 MR. SUSSELMAN: Okay. Fine.

18 THE COURT: Finish your argument, sir. Finish
19 your argument, sir.

20 MR. SUSSELMAN: So we filed an emergency
21 application for leave to appeal to reverse your order
22 temporarily for suspending Mr. Leaf as guardian because you
23 based your decision on the understanding that under MCL
24 700.5314(B) that he doesn't have control over the property,
25 which is contrary to what the Supreme Court said, directly

1 interpreting that statutory provision. And, therefore,
2 since you based your decision on a claim that by doing what
3 Mr. Leaf is required to and allowed to do under the Probate
4 code, that by doing that you had the right to remove him,
5 even though he was following the law.

6 THE COURT: I didn't remove him.

7 MR. SUSSELMAN: Or suspended him or whatever you
8 did. You suspended him. You actually, what you did was,
9 you bootstrapped an argument that he doesn't have the
10 authority, which he does under the statute, where the
11 Supreme Court (indiscernible) held he has, as a basis for
12 suspending him as guardian, and that's bootstrapping. And
13 that's the argument I'm making to the Michigan Court of
14 Appeals. And my request was that you stay your order
15 suspending him pending a decision by -- which is an
16 emergency application -- by the Michigan Court of Appeals,
17 and they've indicated they're going to deal with that as
18 expeditiously as possible.

19 And by removing him, suspending him as guardian
20 and giving authority over to Mr. Munger, he's -- by the
21 way, in terms of his not cooperating, he did communicate
22 with Mr. Munger's attorney and the 48th District Court, has
23 already -- has to leave the house by February 23rd, and
24 he's agreed to do that. And he contacted Mr. Munger's
25 attorney and asked for time because he has legal files in

1 the house currently that he doesn't want strangers to see.
2 He has a dog there that also will probably attack or act
3 aggressively to any strangers that come to the house. And
4 we asked Mr. Munger's attorney to communicate with Mr.
5 Munger to get -- to find out if he was agreeable to that,
6 and he never responded. We sent -- I sent him two emails
7 showing our cooperation, and Mr. Munger never responded.
8 And they say -- in response to his reply, Your Honor, he
9 says the house is subject to a short sale on February 18th
10 for a failure to pay the taxes. Mr. Leaf is able and
11 willing to pay the \$17,000 tax arrearage this week to
12 remove that arrearage. And for -- then it won't be
13 necessary to sell the house. Mr. Munger's argument is that
14 the house needs to be sold in order to pay for Ms.
15 Kramer's -- am I distracting you, Your Honor?

16 THE COURT: No, sir.

17 MR. SUSSELMAN: Okay.

18 THE COURT: I've heard every word you said.

19 MR. SUSSELMAN: Uh-huh.

20 THE COURT: Would you like me to repeat it?

21 MR. SUSSELMAN: Yeah go ahead. Repeat it.

22 THE COURT: You are --

23 MR. SUSSELMAN: Go ahead. Repeat it.

24 THE COURT: -- a contemptuous lawyer.

25 MR. SUSSELMAN: Uh-huh. I'm a very good lawyer.

1 I've been a very -- I'm a very lawyer and a very good trial
2 attorney and a very good appellate attorney.

3 THE COURT: I would love to see evidence of that,
4 sir. Finish your argument.

5 MR. SUSSELMAN: So there will not be a sale of the
6 house because Mr. Leaf is going to pay the taxes. And
7 there's no need to sell the house, which will actually
8 disqualify Ms. Kramer from receiving Medicaid benefits
9 because that will increase her assets, which will
10 disqualify her from receiving Medicaid benefits, which only
11 requires her to pay \$1,500 a month rather than \$50,000 a
12 month that Danto requires her to pay. And Mr. Munger's
13 actions are actually not in Ms. Kramer's best interest.
14 They're contrary to the ward's interest because he's going
15 to disqualify her from receiving Medicaid benefits. And so
16 the house -- the sale of the house is not necessary, and
17 it's not in Ms. Kramer's best interest. And I, therefore,
18 request that you grant a stay pending a decision by the
19 Michigan Court of Appeals.

20 THE COURT: Do you have anything to say, Mr.
21 Buttiglieri?

22 MR. BUTTIGLIERI: I'll be very brief, Your Honor.
23 First of all --

24 THE COURT: Let's see. Just so the records -- you
25 may sit down. Just so the records clear --