

STATE OF LOUISIANA \*\* PARISH OF FRANKLIN  
2010  
FIFTH JUDICIAL DISTRICT COURT

FILED  
FRANKLIN PARISH  
CLERK OF COURT  
3/14

SUCCESSION OF  
PEGGY MARIE McDOWELL TRAYLOR

2010  
FILED  
JUNE 1, 2010

*Alexandra*  
DEPUTY CLERK

PROBATE DOCKET NO.: 41,291

**MOTION FOR TURN-OVER ORDER**

NOW INTO COURT through undersigned counsel comes FRED RYAN ELLINGTON (“Ryan”) and NOBLE EDWARD ELLINGTON, III (“Noble”), Independent Co-Administrators, of the Succession of Peggy Marie McDowell Traylor, who, with respect, represent:

1.

Peggy Marie McDowell Ellington Traylor (“Decedent”) died domiciled in Franklin Parish, Louisiana, on August 22, 2009. She is survived by two children of a prior marriage, your Petitioners, and also Judge Chet D. Traylor (Ret.), her surviving spouse.

2.

Succession proceedings for the Decedent were opened in the Fifth Judicial District Court by the Court’s appointment of Ryan and Noble as Independent Co-Administrators of the succession proceeding. Letters of Independent Co-Administration were issued by this Honorable Court on February 24, 2010 to your Petitioners.

3.

The Decedent was first married to Noble Edward Ellington, II. That marriage ended in divorce and, thereafter, the Decedent married Judge Traylor (Ret.) on November 11, 1997. A significant amount of separate property was brought into the Judge Traylor (Ret.) marriage by the Decedent. A community of acquets and gains was established in Franklin Parish between the Decedent and Judge Traylor (Ret.). The Decedent left both separate and community property, and substantial community debts. The community debts are believed to be secured with Decedent’s separate property.

4.

Judge Traylor (Ret.) claims a legal usufruct over all community property but has failed (refused) to provide an inventory listing all of the assets over which he claims a legal usufruct.

Judge Traylor (Ret.) also has failed to post any bond to secure the naked owners of the community property over which he claims a usufruct.

5.

Despite Judge Traylor's (Ret.) failure to provide the required inventory and bond he has continued *de facto* possession of all community property and continues to deprive the Independent Co-Administrators possession, control, and administration over the community property. Judge Traylor (Ret.) has not been recognized by this Court, or any other, as having any right to possession of the community property.

6.

Petitioners are lacking information as to the extent and nature of the Decedent's debts. Judge Traylor (Ret.) has retained possession and control over all of the Decedent's books and records, including bank records. Judge Traylor (Ret.) has resisted all efforts by the Administrators to obtain any records as to the Decedent's assets and debts.

7.

Petitioners owe a fiduciary duty to all creditors and heirs. To discharge that fiduciary duty Petitioners seek possession, control, and full authority over all of the Decedent's property, tangible or intangible, including the debts of the Decedent.

WHEREFORE, Petitioners pray the foregoing Motion for Turn-Over Order to be filed, served upon Judge Chet D. Traylor (Ret.), set for hearing and after due proceedings there be judgment in favor of Petitioners and against Judge Chet D. Traylor (Ret.) as follows:

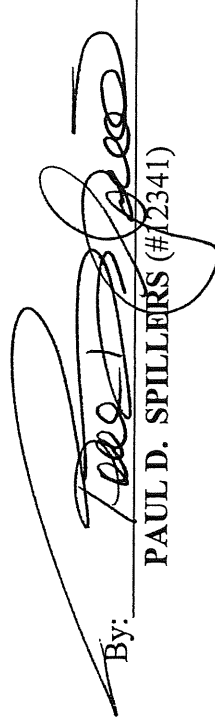
- 1) Judge Chet D. Traylor (Ret.) be ordered to turn-over and deliver to Petitioners possession of all property of the Decedent, including the Decedent's separate property, and the Decedent's community property, including not only the Decedent's one-half (1/2) interest but also the undivided one-half (1/2) interest claimed by Judge Chet D. Traylor (Ret.).
- 2) Judge Chet D. Traylor (Ret.) be ordered to turn-over and deliver to Petitioners possession of all books and records of the Decedent including, but not limited to, bank accounts, promissory notes, mortgages, tax returns, correspondence, contracts, wills, and any other document evidencing the Decedent's ownership or management of property, including both separate and community, owned by the Decedent and

debts owed by the Decedent.

- 3) All costs of Court and all delivery costs shall be imposed on Judge Chet D. Traylor (Ret.).

RESPECTFULLY SUBMITTED,

THEUS, GRISHAM, DAVIS & LEIGH, LLP  
1600 Lamy Lane  
P. O. Drawer 4768  
Monroe, Louisiana 71211-4768  
(318) 388-0100  
(318) 322-8813 - Fax

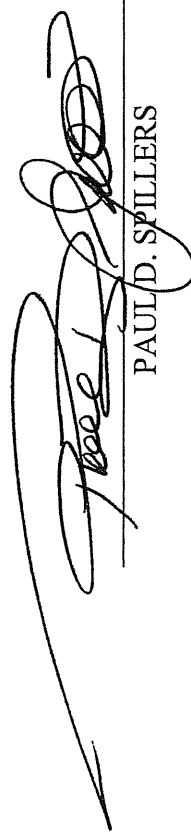
By:   
PAUL D. SPILLERS (#12341)

ATTORNEYS FOR FRED RYAN ELLINGTON  
AND NOBLE EDWARD ELLINGTON, III,  
INDEPENDENT CO-ADMINISTRATORS

### CERTIFICATE

I hereby certify that a copy of the above and foregoing Motion for Turn-Over Order has this day been mailed via U.S. Mail, postage prepaid, to Mr. Brady D. King, II, McNew, King, Mills, Burch & Landry, LLP, 2400 Forsythe Avenue, Suite 2, Monroe, Louisiana 71201 - Attorney for Judge Chet D. Traylor (Ret.); and to Mr. Samuel T. Singer, 6603 Main Street, Winnsboro, Louisiana 71295 - Attorney for Franklin State Bank.

Monroe, Louisiana, this 1<sup>st</sup> day of June, 2010.

  
PAUL D. SPILLERS

STATE OF LOUISIANA \*\* PARISH OF FRANKLIN

FIFTH JUDICIAL DISTRICT COURT

SUCCESSION OF  
PEGGY MARIE McDOWELL TRAYLOR

FILED: June 1 2010

PROBATE DOCKET NO.: 41,291

Alene May  
DEPUTY CLERK

**ORDER**

CONSIDERING the foregoing Motion for Turn-Over Order:

IT IS HEREBY ORDERED that JUDGE CHET D. TRAYLOR (RET.) show cause at \_\_\_\_\_ A.M. on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, in the Fifth Judicial District Court, Winnsboro, Franklin Parish, Louisiana, why Petitioners' Motion for Turn-Over Order should not be granted in its entirety.

Signed at Winnsboro, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
**DISTRICT JUDGE**  
Fifth Judicial District Court

PLEASE SERVE:

JUDGE CHET D. TRAYLOR (Ret.)  
Through his Attorney of Record,  
Mr. Brady D. King, II  
McNew, King, Mills, Burch & Landry, LLP  
2400 Forsythe Avenue, Suite 2  
Monroe, Louisiana 71201

STATE OF LOUISIANA \*\* PARISH OF FRANKLIN  
FIFTH JUDICIAL DISTRICT COURT  
3: 14

SUCCESSION OF  
PEGGY MARIE McDOWELL TRAYLOR

FILED June 1 2010  
CLERK OF COURT

PROBATE DOCKET NO.: 41,291

  
DEPUTY CLERK

**MEMORANDUM IN SUPPORT OF**  
**MOTION FOR TURN-OVER ORDER**

**I. Factual Background**

PEGGY MARIE McDOWELL ELLINGTON TRAYLOR (“Decedent”) died domiciled in Franklin Parish on August 22, 2009. The Decedent was married first to Noble Edward Ellington, II. Of that marriage two children were born: 1) NOBLE EDWARD ELLINGTON, III (“Noble”); and 2) FRED RYAN ELLINGTON (“Ryan”), both of whom are major domiciliaries of Franklin Parish, Louisiana. After the marriage to Noble Edward Ellington, II ended in divorce, the Decedent then married Judge Chet D. Traylor (Ret.) on or about November 11, 1997. A community of acquets and gains existed between the Decedent and Judge Chet D. Traylor (Ret.). The Decedent, however, brought into the marriage substantial separate property, much of which is believed to have been mortgaged during the marriage to secure community debts and used to purchase assets during her marriage to Judge Traylor (Ret.). No children were born of the Decedent’s marriage to Judge Chet D. Traylor (Ret.). The Decedent died intestate, survived by two children, Noble and Ryan, and a surviving spouse, Judge Taylor (Ret.). The two children, Noble and Ryan, applied for, and have been appointed by this Honorable Court, as Independent Co-Administrators of this succession proceeding by Order dated February 24, 2010. A search for the Decedent’s will is ongoing, but none has been located thus far by either Noble or Ryan.

Upon their appointment as Administrators, Petitioners began efforts to administer the estate by attempting to obtain possession of the Decedent’s property and collect the information necessary to prepare and file a Detailed Descriptive List. Petitioners sought information, in accordance with La. C.C.P., Art. 3136, needed to itemize all property, both separate and community, describe all debts of the Decedent and provide a listing of the fair market value of all property as of the date of death. Petitioners attempted, amicably, to gain information from Judge Traylor (Ret.)

about the Decedent's various bank accounts and other assets and liabilities. Exhibit "A" and Exhibit "B". Judge Traylor (Ret.), as acknowledged at Page 1 of his Memorandum in support of Motion to Quash, "*resisted production*" of this information. Petitioners, using other lawful means, then caused to be issued a *subpoena duces tecum* and records only deposition to Franklin State Bank for production of banking records pertaining to "Peggy Marie McDowell Traylor and/or Chet D. Traylor". Judge Traylor (Ret.) continued to "*resist production*" by filing the Motion to Quash that is set for hearing on June 14, 2010. Petitioners need not only bank records but possession of **all** of the Decedent's property together with **all** books and records.

**II. Petitioners have a fiduciary duty to obtain possession and control of all property belonging to the Decedent, including Judge Chet D. Traylor's (Ret.) undivided one-half (½) interest all community property.**

Upon being issued their Letters of Administration, a succession proceeding was created under Louisiana law in which the Petitioners have a **duty** to take possession, control, and full administration of all property belonging to the Decedent. La. C.C.P., Art. 3211 and 3221. The purpose of an administration of a Decedent's estate is to protect and safeguard all of the Decedent's property so that all of the Decedent's creditors are paid first and, if anything remains after payment of all debts, then the residual property is available for distribution **by the Court** to the heirs in accordance with their interest under our law. Petitioners have a fiduciary duty that is owed to creditors and heirs. La. C.C.P., Art. 3191, *Succession of Hearne*, 412 So. 2d 692, 700 (La. 2<sup>nd</sup> Cir. 1982), *writ denied* 415 So. 2d 215 ("A succession representative is a fiduciary. An executor owes his duties to legatees, creditors, and heirs."). Without possession the Administrators have no ability to carry out their duty to heirs and creditors.

The Petitioners' duty to take possession and control of all property extends not just to the Decedent's one-half (½) interest in the community property, **but also to the surviving spouse's interest in all community property.** *Prejean vs. First Mississippi Corporation, Inc.*, 506 So. 2d 885, 887-8 (La. 3<sup>rd</sup> Cir. 1987), *writ denied* 508 So. 2d 69 (1987). ("When a succession is under administration, the surviving spouse's undivided one-half (½) interest in the community is possessed by the Administrator and as such is under administration until the surviving spouse is placed in possession by Judgment of Possession"). The Petitioners having possession of all

community property is particularly critical where there are significant *community* debts that, as here, must be paid, and where the usufructuary has demonstrated an unwillingness to cooperate and has actively “resisted production” of basic financial data. Possession of all community property by the Administrators is even more urgent where, as here, there are community debts that are secured by the Decedent’s separate property and the usufructuary “resists production” and exhibits no cooperation with the Court appointed Administrators.

Here the Petitioners’ efforts to fulfill their fiduciary duties is, unfortunately, being met with active resistance by Judge Traylor (Ret.). The Petitioners’ duty to take possession, control, and administer all assets and pay all debts owed to creditors is, without lawful authority, being opposed by Judge Traylor (Ret.). Judge Traylor (Ret.) even *resists production* of information about the Decedent’s assets and debts. Judge Traylor (Ret.) currently has *de facto* possession and control over most of the community property and the Decedent’s books and records, including bank records. Judge Traylor’s (Ret.) lack of cooperation (Exhibits “A”, “B”, and “C”) caused the Administrators to seek information about the Decedent’s property and her debts by using a *subpoena duces tecum*. Now, through this Motion for Turn-Over Order, the Administrators seek not only information but possession of **all** property belonging to the Decedent. All of the Decedent’s assets and all of the Decedent’s books and records in the possession of Judge Chet D. Traylor (Ret.) are essential if the Administrators are to fulfill their fiduciary duty owed to all creditors and heirs. The Turn-Over Order should be granted so the lawful administration of this Succession can move forward.

### III. **Petitioners have a fiduciary duty to Decedent’s creditors. All debts must be paid.**

#### **Possession of the Decedent’s assets is required to pay the debts.**

Petitioners have a duty to pay all debts before any property owned by the Decedent may be distributed to any heirs. La. C.C., Art. 1415, et. seq.

The Petitioners believe the Decedent contracted substantial community debts during her marriage to Judge Traylor (Ret.). Petitioners believe that a substantial amount of their Mother’s separate property was used to secure these community debts. Thus, it is imperative that Petitioners obtain possession of all of the books and records pertaining to the debts, including notes, mortgages, etc. Only then can the debts be paid in accordance with our law and with a proper allocation and accounting be made for all of the debts. Without the necessary books and records Petitioners will be unable to fulfill their fundamental fiduciary duty to creditors and heirs. The Administrators do

have a clear and unmistakable fiduciary duty that is owed to all creditors and heirs. La. C.C.P., Art. 3191, *Succession of Hearne*, 412 So. 2d 692, 700 (La. 2<sup>nd</sup> Cir. 1982) *writ denied* 415 So. 2d 215 (“A succession representative is a fiduciary. An Executor owes his duties to legatees, creditors, and heirs”).

In this proceeding, Judge Traylor (Ret.) has, unfortunately, consistently resisted all amicable efforts of the Petitioners to obtain any of the financial records pertaining to the Decedent’s debts. This lack of cooperation by Judge Traylor (Ret.) places Petitioners into a position where they must seek court authorization for a Turn-Over Order that includes not only assets but also debts and obligations owed by the Decedent. This Motion for Turn-Over Order should be granted so that an orderly administration of the succession proceeding may then go forward.

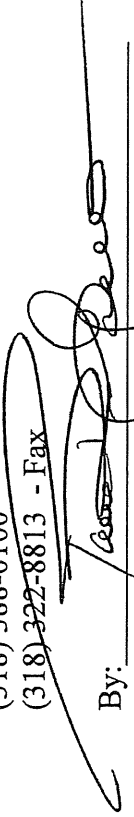
#### IV. CONCLUSION

Petitioners, the Independent Co-Administrators of this succession proceeding, have a fiduciary duty to obtain possession and control of all property belonging to the Decedent, including Judge Traylor’s (Ret.) undivided one-half (½) interest of the community property. Judge Traylor (Ret.) has resisted all good faith efforts by the Administrators to amicably obtain possession and control of all the property and has resisted efforts to obtain any information about the property. Judge Traylor (Ret.) has “resisted production” of various books and records, including banking records, that are needed in order to prepare and file the Detailed Descriptive List and to pay, or make provisions for payment of, all debts. Petitioners need not only banking records but all other books and records pertaining to the Decedent’s assets and debts. For these reasons Petitioners earnestly seek an Order from this Honorable Court directing and ordering Judge Traylor (Ret.) to turn-over all assets within his possession, or under his control, comprising the estate of the Decedent including, but not limited to, all of the Decedent’s separate property, all community property, including Judge Traylor’s (Ret.) undivided one-half (½) interest. Further, the Order should direct Judge Traylor (Ret.) to turn over all books and records pertaining to the Decedent’s property and any debts or obligations owed by the Decedent. All costs of Court and all delivery costs should be imposed on Judge Traylor (Ret.).



RESPECTFULLY SUBMITTED,

THEUS, GRISHAM, DAVIS & LEIGH, LLP  
1600 Lamy Lane  
P. O. Drawer 4768  
Monroe, Louisiana 71211-4768  
(318) 388-0100  
(318) ~~322-8813~~ - Fax


By:   
PAUL D. SPILLERS (#12341)

ATTORNEYS FOR FRED RYAN ELLINGTON  
AND NOBLE EDWARD ELLINGTON, III,  
INDEPENDENT CO-ADMINISTRATORS

**CERTIFICATE**

I hereby certify that a copy of the above and foregoing Memorandum has this day been mailed via U.S. Mail, postage prepaid, to Mr. Brady D. King, II, McNew, King, Mills, Burch & Landry, LLP, 2400 Forsythe Avenue, Suite 2, Monroe, Louisiana 71201 - Attorney for Judge Chet D. Traylor (Ret.); and to Mr. Samuel T. Singer, 6603 Main Street, Winnsboro, Louisiana 71295 - Attorney for Franklin State Bank.

Monroe, Louisiana, this 1<sup>st</sup> day of June, 2010.

  
PAUL D. SPILLERS

# EXHIBIT "A"

LAW OFFICES

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TELEPHONE (318) 388-0100

**MONROE, LOUISIANA 71211-4768**

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KAY S. RECTOR\*

JOHN C. THEUS (1893-1936)  
ORIN M. GRISHAM (1898-1944)  
RONALD L. DAVIS (1922-1959)  
JOHN C. THEUS, JR. (1924-1972)  
EDWIN K. THEUS (1929-1974)  
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- PROFESSIONAL LAW CORPORATION -  
OF COUNSEL

\*ALSO LICENSED TO PRACTICE IN TEXAS  
\*ALSO LICENSED TO PRACTICE IN  
MISSISSIPPI

**VIA FAX NO.: 361-3141**  
**AND U.S. MAIL**

Mr. Brady King, II  
McNew, King, Mills, Burch & Landry, LLP  
2400 Forsythe Avenue, Suite 2  
Monroe, Louisiana 71201

**Re: Succession of Peggy Marie McDowell Traylor**  
**Probate Docket No.: 41,291**  
**5<sup>th</sup> JDC - Franklin Parish, Louisiana**

Dear Brady:

As I advised in my letter to you dated April 7, 2010, Mrs. Traylor maintained bank accounts at Franklin State Bank in Winnsboro. My clients need to review various financial records in connection with the preparation and filing of a Detailed Descriptive List in the succession proceeding. The Bank has asked that a Customer Authorization signed by Judge Traylor (Ret.) be provided or, alternatively, a subpoena be issued for the production of those records. Accordingly, I am forwarding to you a Customer Authorization to be considered by Judge Traylor (Ret.).

I would appreciate you presenting this authorization to your client for consideration.

If I do not have the Authorization signed, notarized and returned to me no later than April 26, at 5:00 P.M. I will then proceed with the issuance of the subpoena.

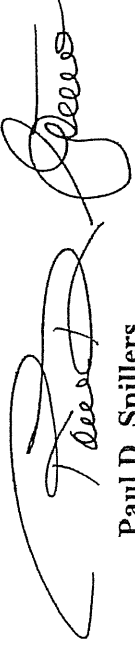
Brady, upon receipt and review should there be questions, please call.

Mr. Brady King, II  
April 20, 2010  
Page 2

With kind regards, we remain

Yours very truly,

THEUS, GRISHAM, DAVIS & LEIGH, L.L.P.

A handwritten signature in black ink, appearing to read "Paul D. Spillers". The signature is written in a cursive style with a large initial "P" and a long horizontal stroke at the end.

Paul D. Spillers

PDS/mm  
enclosure

STATE OF LOUISIANA \*\* PARISH OF FRANKLIN  
FIFTH JUDICIAL DISTRICT COURT

SUCCESSION OF  
PEGGY MARIE McDOWELL TRAYLOR

FILED: \_\_\_\_\_

PROBATE DOCKET NO.: 41,291

\_\_\_\_\_  
DEPUTY CLERK

CUSTOMER AUTHORIZATION PURSUANT  
TO LA. R.S. 6:333E

STATE OF LOUISIANA:

PARISH OF \_\_\_\_\_:

BE IT KNOWN that before me, the undersigned Notary Public, this day came and appeared CHET D. TRAYLOR who, after being first duly sworn did depose and declare as follows:

1.

I am the surviving spouse of Peggy Marie McDowell Traylor, Decedent.

2.

For many years Peggy Marie McDowell Traylor and I maintained various accounts at Franklin State Bank, Winnsboro, Louisiana.

3.

Noble Edward Ellington, III and Fred Ryan Ellington, Independent Co-Administrators of the Succession of Peggy Marie McDowell Traylor have requested that Franklin State Bank provide to them copies of our financial records including, but not limited to, checking accounts, savings accounts, certificates of deposits, promissory notes, and mortgages, beginning with August 1, 2006, through the current date.

4.

In accordance with the provisions of La. R.S. 6:333E I hereby authorize FRANKLIN STATE BANK to provide copies of the above-described financial records to Paul D. Spillers, Attorney of Record for Noble Edward Ellington, III, and Fred Ryan Ellington, Independent Co-Administrators of the Succession of Peggy Marie McDowell Traylor, provided that the Co-Administrators shall bear all costs and fees charged by Franklin State Bank for this service.

\_\_\_\_\_  
CHET D. TRAYLOR

\_\_\_\_\_ , 2010.  
SWORN TO AND SUBSCRIBED before me, Notary, on this the \_\_\_\_ day of

\_\_\_\_\_  
NOTARY PUBLIC

Printed Name: \_\_\_\_\_  
Notary No./Bar Roll No.: \_\_\_\_\_

Theus, Grisham, Davis & Leigh  
1600 Lamy Lane  
Monroe, LA 71201  
(318) 388-0100  
Fax: (318) 322-8813

# fax transmittal

to: Mr. Brady King  
McNew, King, Mills, Burch & Landry, LLP

fax: 361-3141

from: Paul D. Spillers



date: April 20, 2010

re: Succession of Peggy Marie McDowell Traylor

our file #: 3464.100186 - Ellington

pages: 5 (Including cover sheet)

## NOTES:

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fax transmittal

to: Mr. Brady King  
 McNew, King, Mills, Burch & Landry, LLP

fax: 361-3141

from: Paul D. Spillers 

date: April 20, 2010

re: Succession of Peggy Marie McDowell Traylor

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NOTES:

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May 3, 2010

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MISSISSIPPI

Mr. Brady D. King, II

McNew, King, Mills, Burch & Landry, LLP

2400 Forsythe Avenue, Suite 2

Monroe, Louisiana 71201

Re: Succession of Peggy Marie McDowell Traylor  
Probate Docket No.: 41,291

5<sup>th</sup> JDC - Franklin Parish, Louisiana

Dear Brady:

My clients, as administrators, have a responsibility for insuring payment of all succession debts and obligations. Of course, lacking financial records my clients are currently not knowledgeable of all of the succession's debts and obligations. Access to financial information and records will, hopefully, illuminate the extent of both succession assets and succession debts. If you can provide this information it would be very helpful, and appreciated.

My clients are aware that their mother carried into the marriage significant separate property. During the marriage the community acquired property and also incurred obligations. My clients would like to liquidate, or otherwise provide for the liquidation, all community debts and obligations. My clients are currently aware of no separate obligations. Would your client contribute his ½ of the community obligations? As an alternative your client could borrow sufficient funds to liquidate his ½ of all community obligations.

Brady, please review and let me have the benefit of your thoughts regarding the liquidation of community obligations.

FILE

COPY



Mr. Brady King, II  
May 3, 2010  
Page 2

With kindest regards, we remain

Yours very truly,

THEUS, GRISHAM, DAVIS & LEIGH, L.L.P.

**Paul D. Spillers**

PDS/mm

bcc Mr. Noble Edward Ellington, III

Mr. Fred Ryan Ellington

N:\PDS - Clients (MM)\Ellington, Noble & Ryan\Succession of Peggy McDowell Traylor\Correspondence\King,006.wpd

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March 16, 2010

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JAMES M. EDWARDS  
MARCY L. ALLEN#  
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MISSISSIPPI

Mr. Brady King  
McNew, King, Mills, Burch & Landry, LLP  
2400 Forsythe Avenue, Suite 2  
Monroe, Louisiana 71201

Re: Succession of Peggy Marie McDowell Traylor  
Probate Docket No.: 41,291  
5<sup>th</sup> JDC - Franklin Parish, Louisiana

Dear Brady:  
  
my clients.

I have your letter to me dated March 11, 2010, and have reviewed its contents with

My clients appreciate the cooperation of you and Judge Traylor (Ret.) by advising the utilities were turned off at the Winnsboro home. My clients contacted the utility companies to maintain service. Your cooperation is appreciated.

If I understand correctly, your client has changed his mind and will not provide an inventory of the items (community assets) over which he claims a legal usufruct. My clients are disappointed. They suggest that he reconsider and, within ten (10) days of the date of this letter, provide a detail inventory of all items of succession property he considers to constitute community property and over which he claims a legal usufruct. The inventory should be a detailed itemization (both description and valuation). My clients are busily engaged in accumulating the data necessary to prepare and file a Detailed Descriptive List ("DDL") as they are required to do by Article 3137 of the Code of Civil Procedure. However, this DDL is no substitute for the inventory my clients suggest be prepared and filed by your client. Your proposal for my clients to submit a "preliminary inventory list" for your client's review and approval is not acceptable. My clients suggest Judge Traylor (Ret.) file his own inventory.

F I L E C O P Y

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My clients did change the locks on the camp at Lake Bruin. None of Judge Traylor's (Ret.) separate property remains in the camp. Any community property located therein will be delivered at such time he prepares and files the inventory suggested by my clients.

My clients did remove jewelry from the Winnsboro home. The jewelry, including the Rolex watch, is Mrs. Traylor's separate property. Many items of jewelry were brought by Mrs. Traylor into the marriage. Some items, including the watch, were gifts from Judge Traylor (Ret.) to Mrs. Traylor and, thus, are Mrs. Traylor's separate property. We disagree with your contention that gifts made by a husband to a wife are community property. Gifts by one spouse to the other is the Donee spouse's separate property.

My clients understand there to be several items of property, both separate and community, located in the New Orleans condo. Request is made for my clients to have access to the condo for the purpose of compiling an itemized list of property belonging to the succession. Please provide me with convenient dates for my clients to have access.

Brady, my clients desire Judge Traylor's (Ret.) cooperation as they attempt to fulfill their duties as Administrators of their Mother's succession proceeding. I am available to work with you and your client to find ways and means to conclude the administration efficiently and amicably.

With kind regards, we remain

Yours very truly,

THEUS, GRISHAM, DAVIS & LEIGH, L.L.P.

**Paul D. Spillers**

PDS/mm

bcc Mr. Noble Edward Ellington, III

Mr. Fred Ryan Ellington

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