

## Disappeared

Most of my responses appear to have disappeared. Should we the people trust the eighteen (18) confirmed responses or the Motion and Order? The Motion and Order say -

## Motion

September 28, 2012 - (From B&K's Motion dated January 28, 2012)

"Upon information and belief, Defendant Anthony M. O'Connell has filed a response to the complaint, **which consisted of a one-page letter directed to the Clerk of the Court, and the filing of numerous documents and records containing his annotations.**"

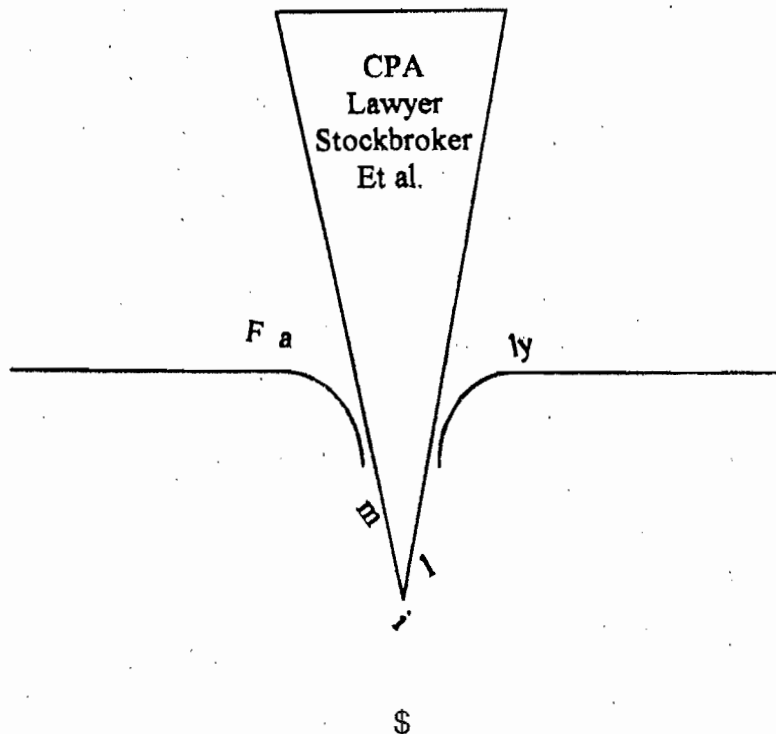
## Order

"January 25, 2013 - (From Judge Smith's Order dated January 25, 2013)

1. The material facts set forth in the Complaint filed by Plaintiff in this action are deemed to be admitted by Defendant Anthony M. O'Connell pursuant to Va. Sup. Ct. Rule 1:4(e);- **based on the failure of Defendant Anthony M. O'Connell to deny such facts in the responsive pleading filed by him, entitled "Response to Summons Served on September 8, 2012.**

.....

3. **Because there are no material facts in dispute** in this action and the facts alleged in the Complaint support the relief requested therein, summary judgment pursuant to Va. Sup. Ct. Rule. 3:20 on all counts alleged in Plaintiff's Complaint is appropriate."



**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

JEAN MARY O'CONNELL NADER, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ANTHONY MINER O'CONNELL, )  
 Individually and in his capacity as )  
 Trustee under a Land Trust Agreement )  
 Dated October 16, 1992 and as )  
 Trustee under the Last Will and )  
 Testament of Harold A. O'Connell, *et al.* )  
 )  
 Defendants. )

Case No. 2012-13064

**MOTION FOR TEMPORARY INJUNCTION**

COMES NOW the Plaintiff, Jean Mary O'Connell Nader, by counsel, and moves this Court pursuant to Va. Code § 8.01-629 for a temporary injunction for the purpose of continuing the term of the Land Trust pending a Final Order in this action. In support of her motion, Plaintiff states the following.

1. This is an action by which Plaintiff seeks to, *inter alia*, remove Defendant Anthony M. O'Connell as trustee under a Land Trust Agreement dated October 16, 1992 (the "Land Trust"). The beneficiaries under the Land Trust are Plaintiff and her siblings, Defendants Sheila O'Connell and Anthony M. O'Connell, individually.

2. As alleged in the Complaint, the Land Trust holds title to certain real property (the "Property") consisting of approximately 15 acres located near the Franconia area of Fairfax County, Virginia.

3. The terms of the Land Trust Agreement provide for the termination of the trust on October 16, 2012 and, upon the termination date, the trustee is directed to convey record title of the Property to the beneficiaries or sell the Property at a public sale.

4. A conveyance of the Property to the beneficiaries or a public sale of the Property before a Final Order has been entered in this case would result in irreparable harm to the Plaintiff, as a beneficiary of the Land Trust.

This is not true

5. As of the date of the filing of this Motion, Defendant Sheila O'Connell has been served with the Complaint and the time period for her to file an answer is pending. Upon information and belief, Defendant Anthony M. O'Connell has filed a response to the Complaint, which consisted of a one-page letter directed to the Clerk of Court, and the filing of numerous documents and records containing his annotations.

6. By his own admission, Defendant Anthony M. O'Connell, as trustee, has not paid the real estate taxes on the Property or sold the Property, contrary to the terms in the Land Trust agreement.

7. Under the circumstances, the likelihood of success on the merits and the balance of equities favor the Plaintiff.

8. It is in the public interest to allow the Trust to continue in order for Plaintiff to pursue a remedy that will allow for the orderly sale of the Property for the benefit of the beneficiaries of the Trust.

WHEREFORE, Plaintiff Jean O'Connell Nader, by counsel, respectfully requests the entry of an Order as follows:

- A. Providing injunctive relief in the form of continuing the term of the Land Trust until such time as a Final Order has been entered in this case;

- B. Enjoining Anthony M. O'Connell, as trustee under the Land Trust Agreement, from conveying record title of the Property to the beneficiaries or selling the Property at a public sale; and
- C. For all such further relief as this Court deems reasonable and appropriate.

JEAN MARY O'CONNELL NADER  
By Counsel

BLANKINGSHIP & KEITH, P. C.  
4020 University Drive  
Suite 300  
Fairfax, VA 22030  
(703) 691-1235  
FAX: (703) 691-3913

By: Elizabeth Chichester Morrogh  
Elizabeth Chichester Morrogh  
VSB No. 25112  
Counsel for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28<sup>th</sup> day of September, 2012, a true and correct copy of the foregoing Motion for Temporary Injunction was sent as follows:

By regular and electronic mail to:

Anthony Miner O'Connell  
439 S. Vista Del Rio  
Green Valley, AZ 85614

By regular mail to:

Sheila Ann O'Connell  
663 Granite Street  
Freeport, ME 04032

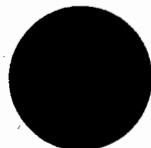
Elizabeth Chichester Morrogh  
Elizabeth Chichester Morrogh

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY



JEAN MARY O'CONNELL NADER, )  
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 Plaintiff, )  
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 v. )  
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 ANTHONY MINER O'CONNELL, )  
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 Individually and in his capacity as )  
 Trustee under a Land Trust Agreement )  
 Dated October 16, 1992 and as )  
 Trustee under the Last Will and )  
 Testament of Harold A. O'Connell, *et al.* )  
 )  
 Defendants. )

Case No. 2012-13064

**ORDER**

THIS CAUSE came on to be heard upon the motion of the Plaintiff, Jean Mary O'Connell Nader, by counsel, for summary judgment pursuant to Va. Sup. Ct. Rule 3:20; upon the reply to the motion filed by Sheila Ann O'Connell, *pro se*; and upon the argument of counsel; and

IT APPEARING TO THE COURT as follows:

This is not true

1. The material facts set forth in the Complaint filed by Plaintiff in this action are deemed to be admitted by Defendant Anthony M. O'Connell pursuant to Va. Sup. Ct. Rule 1:4(e), based on the failure of Defendant Anthony M. O'Connell to deny such facts in the responsive pleading filed by him, entitled "Response to Summons Served on September 8, 2012."

2. In her Answer to the Complaint and Reply to Motion for Summary Judgment, the remaining party-in-interest, Defendant Sheila Ann O'Connell, agrees with the facts set forth in the Complaint and the relief requested by Plaintiff.

This is not true

3. Because there are no material facts in dispute in this action and the facts alleged in the Complaint support the relief requested therein, summary judgment pursuant to Va. Sup. Ct. Rule 3:20 on all counts alleged in Plaintiff's Complaint is appropriate.

IT IS THEREFORE ORDERED:

A. That judgment in favor of Plaintiff Jean Mary O'Connell Nader as to Count I of the Complaint be, and hereby is, granted; that Anthony Miner O'Connell is hereby removed as trustee under the Land Trust Agreement dated October 16, 1992, pursuant to Va. Code § 64.2-1405 (formerly Va. Code § 26-48), effective immediately; and that all fees payable to Anthony Minor O'Connell under the terms of the Land Trust Agreement, including but not limited to, the trustee's compensation under paragraph 9.01, and all interest on advancements by the trustee to the trust for payment of real estate taxes pursuant to paragraph 9.03, are hereby disallowed and deemed forfeited;

B. That judgment in favor of Plaintiff Jean Mary O'Connell Nader as to Count II of the Complaint be, and hereby is, granted; that Anthony Minor O'Connell is hereby removed as trustee of the trust created under the Last Will and Testament of Harold A. O'Connell, pursuant to Va. Code § 64.2-759 (formerly Va. Code § 55-547.06), effective immediately;

C. That judgment in favor of Plaintiff as to Count III of the Complaint be, and hereby is, granted; that Plaintiff Jean Mary O'Connell Nader is hereby appointed as successor trustee under the Land Trust Agreement and as trustee of the trust under the Last Will and Testament of Harold A. O'Connell; that the term of the Land Trust Agreement is hereby

continued until further Order of this Court or until the real property held under the Land Trust is sold and final distribution of the net proceeds is made to the trust's beneficiaries, whichever occurs first; and that Plaintiff, as successor trustee under the Land Trust Agreement, shall proceed forthwith to sell the real property held by such trust as soon as reasonably practicable upon such terms and conditions as she deems appropriate and consistent with her fiduciary duties; and

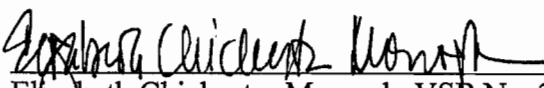
D. That Plaintiff is hereby awarded her reasonable attorney's fees and costs in this action in the amount of \$ 17,504.12<sup>DOE</sup>, to be paid from the Land Trust at such time as funds become available.

ENTERED this 25<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
JUDGE

I ASK FOR THIS:

BLANKINGSHIP & KEITH, P. C.  
4020 University Drive  
Suite 300  
Fairfax, VA 22030  
703-691-1235  
FAX: 703-691-3913

By:   
Elizabeth Chichester Morrogh, VSB No. 25112  
[BVMorrogh@bklawva.com](mailto:BVMorrogh@bklawva.com)  
Jennifer L. McCammon, VSB No. 77034  
[JMcCammon@bklawva.com](mailto:JMcCammon@bklawva.com)  
*Counsel for Plaintiff*

CPA  
Lawyer  
Stockbroker  
Et al.

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