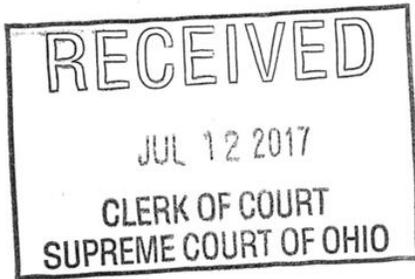


ORIGINAL



BEFORE THE SUPREME COURT OF OHIO
65 So. Front Street
Columbus, Ohio 43215

STATE OF OHIO, *ex rel* ROSANNA L. MILLER, etc.,

Relator



Case No. 17-0843

-vs-

JUDGE JAMES RAPP, ASSIGNED JUDGE, *et al.*,

Respondents

**MOTION TO DISMISS EMERGENCY PETITION FOR A WRIT OF PROHIBITION,
TRESPASS, AND MANDAMUS WITH INJUNCTIVE RELIEF BY AFFIDAVIT**

Comes now the Respondent, Bruce Comly French, Administrator, to move the Court to enter its Order dismissing this case.

This case is yet another attempt by Rosanna L. Miller to interfere with the orderly administration of the Probate Court of Logan County, Ohio, to administer an Estate. Controversy over a related trust has fueled the fire in this matter, as the Assigned Judge has attempted to resolve one matter at a time in a coherent manner.

A new twist in this matter is the discovery that the relator herein, Rosanna L. Miller, may, in fact, not be the Trustee of the Miller Living Trust as she claims. In order to resolve that matter, the respondent Bruce Comly French, Administrator with Will Annexed, has filed a declaratory judgment action against Rosanna L. Miller and her brother, James, in the Logan County Court's General Division (Case No. CV 17 06 0170, filed on June 28, 2017.) (See Attachment 1.) Following discovery and hearing, it is likely that the recently filed declaratory judgment action will result in a finding that Rosanna is not the trustee, and, thus, would not have standing to litigate this matter.

As the record in the Probate Court (Case No. 15-ES-254) reflects, every order entered in the trial court has been within the authority of the assigned judge and no order has been appealed in the ordinary course of law by Rosanna L. Miller to the Court of Appeals for Logan County (Third Appellate District), (See Docket as Attachment 2.).

In order for a writ of prohibition to be issued, it must the following test. First, the judge must be about to exercise judicial or quasi-judicial power; second, the exercise of power must be unauthorized by law; and finally, denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law. State *ex rel.* Bell v. Pfeiffer, 131 Ohio St. 3rd 114 (2012). The first arm of the test is fairly simple to meet and is conceded.

The second and third arms of the test can only be met by showing that the trial court "patently and unambiguously" lacks jurisdiction. Chesapeake Exploration, L.L.C. v. Oil & Gas Comm., 135 Ohio St. 3d 204 (2013) The question of what to do when there are alleged to be competing estate and trust issues, is to do exactly what the trial judge did in this circumstance: attempt to gather all necessary evidence to make an informed judgment. Woodrum v. Iles, 2003-Ohio-778 (Ct. App.)

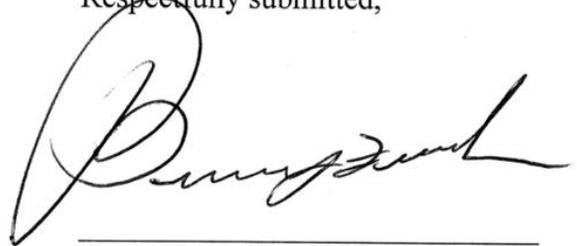
A significant limitation on the issuance of a writ of prohibition is the question of adequate remedies by law. State *ex rel.* Caskey v. Gano 135 Ohio St. 3rd 175 (293). Should there be remedies available by law, such as an appeal, or motions to intervene, the writ may not issue. State *ex rel.* Denton v. Bedinghaus, 98 Ohio St. 3d 298 (2003). This test is a comprehensive, strict test. Writs of prohibition are disfavored.

Relator's request for trespass relief is not an action or remedy subject to extraordinary relief.

Relator's request for mandamus relief is inapposite, in that no relief is requested herein which may be afforded by mandamus.

For the forgoing reasons, this respondent requests that the relator's petition be dismissed.

Respectfully submitted,



Bruce Comly French
Administrator With Will Annexed
Bar Registration Nos.:
OH 0005298; DC 231423; PA 22177
P.O. Box 839
Lima, OH 45802-0839
(419) 222-9134
(419) 222-9437 (facsimile)
bcfrenchesq@yahoo.com (e-mail)

IN THE COURT OF COMMON PLEAS OF LOGAN COUNTY, OHIO
GENERAL DIVISION
101 S. Main Street, Room 18
Bellefontaine, Ohio 43311

BRUCE COMLY FRENCH, *
Administrator with Will Annexed for the *
Estate of Clair R. Miller, being *
Case No. 15 ES 0254, Probate Court of *
Logan County, Ohio *
P.O.Box No. 839 *
Lima, Ohio 45802, *

Plaintiff, *

-vs- *

ROSEANNA MILLER *
10469 Westfall Drive *
Amanda, Ohio 43102 *

and *

JAMES MILLER *
1200 So. Main Street *
Bellefontaine, Ohio 43311 *

Defendants.

Case No. *CV 17 06 0170*

Hon. William Goslee
Judge

DECLARATORY JUDGEMENT ACTION TO DETERMINE TRUE TRUSTEE OF THE
CLAIR R. MILLER AND ELIZABETH A. MILLER LIVING TRUST

This is a declaratory judgement action pursuant to chapter 2721 of the Ohio Revised Code by the Administrator with Will Annexed of the Estate of Clair R. Miller, being case No. 15 ES 0254 before the Probate Court of this county, to determine who is the true trustee of the Clair R. and Elizabeth A. Miller Living Trust.

1. This Court has jurisdiction to consider this matter because the deceased's estate case is pending in this county.

2. This is an action under Chapter 2921 of the Ohio Revised code, providing for jurisdiction to determine legal rights and responsibilities in matter affecting, among other things, trust administration. This case is brought in this Court rather than the Probate Division because that Court does not appear to have jurisdiction in this matter.

3. The plaintiff is the Administrator with Will Annexed of the Estate of Clair R. Miller, being case No. 15 ES 0254, before the Probate Court of this county.

4. The defendants Roseanna Miller and James Miller are two children of the deceased who appear to have conflicting claims to being the Trustee of the Clair R. and Elizabeth A Miller Living Trust.

5. Attorney Steven Fansler of West Liberty, Ohio, also appears to have been a trustee of this Trust at some point in the past, but he has resigned this position.

6. The plaintiff Administrator, in that capacity, is attempting to undertake an inventory of the real and personal property of the Miller property in Logan County, Ohio. To date, this has

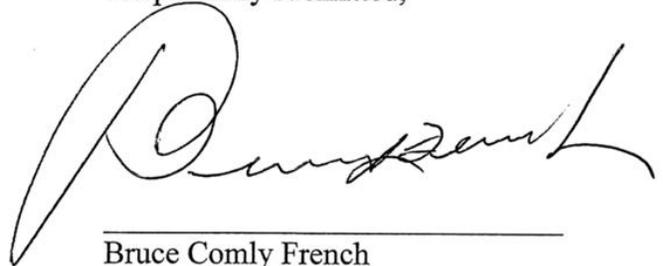
not occurred given Roseanna Miller's unwillingness to provide the keys to the subject realty.

Initially an inventory was to be had on May 26, 2017.

7. A rescheduled inspection and inventory was scheduled to be held on July 29th, 2017, but the Administrator was advised, on June 28, 2017, by counsel to Roseanna Miller that he had not seen the keys nor did he plan to attend the inspection.

WHEREFORE, your plaintiff seeks a declaration from this Court determining who is the lawful and true trustee of the Clair R. and Elizabeth A. Miller Living Trust.

Respectfully submitted,



Bruce Comly French
Administrator With Will Annexed
Bar Registration Nos.:
OH 0005298; DC 231423; PA 22177
P.O. Box 839
Lima, OH 45802-0839
(419) 222-9134
(419) 222-9437 (facsimile)
bcfrenchesq@yahoo.com (e-mail)

IN THE COURT OF COMMON PLEAS OF LOGAN COUNTY, OHIO
GENERAL DIVISION
101 S. Main Street, Room 18
Bellevue, Ohio 43311

BRUCE COMLY FRENCH, etc.,

*

*

Plaintiff,

*

*

-vs-

ROSEANNA MILLER, *et al.*,

*

*

Defendants,

*

*

Case No.

Hon. William Goslee
Judge

PRAECIPE TO THE CLERK

Please cause a copy of the summons and complaint in this matter to be served by personal service by a Sheriff or Deputy Sheriff as follows:

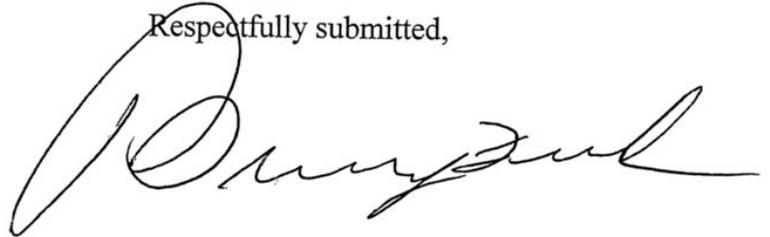
Upon the defendant Roseanna Miller by a Sheriff or Deputy Sheriff of Loraine County to:

Roseanna Miller
10469 Westfall Drive
Amanda, Ohio 43102

and upon the defendant James Miller, by a Sheriff or Deputy Sheriff of this county to:

James Miller
1200 So. Main Street
Bellefontaine, Ohio 43311

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce Comly French". The signature is fluid and cursive, with a large initial "B" and "C".

Bruce Comly French
Administrator With Will Annexed
Bar Registration Nos.:
OH 0005298; DC 231423; PA 22177
P.O. Box 839
Lima, OH 45802-0839
(419) 222-9134
(419) 222-9437 (facsimile)
bcfrenchesq@yahoo.com (e-mail)

**Bruce Comly French
Attorney at Law
200 ½ W. North Street
Lima, Ohio 45802-0839
419-222-9134
419-222-9437 (Fax)**

Facsimile Cover Sheet

DATE: *June 28, 2017*

FAX NO: *937-292-4175*

TO: *Logan County Common Pleas Court, General Division*

SUBJECT: *French v Miller*

PAGES:
(Including this one) 6

We are faxing over this Declaratory Judgement Action to determine True Trustee of the Clair R. and Elizabeth A. Miller Living Trust Filing. I have mailed out the original along with the filing fee today.

* * * Communication Result Report (Jun. 28. 2017 1:06PM) * * *

1)
2)

Date/Time: Jun. 28. 2017 1:04PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
1430	Memory TX	9372924175	P. 6	OK	

Reason for error

- E. 1) Hang up or line fail
- E. 3) No answer
- E. 5) Exceeded max. E-mail size

- E. 2) Busy
- E. 4) No facsimile connection
- E. 6) Destination does not support IP-Fax

Brace Comly French
 Attorney at Law
 200 1/2 W. North Street
 Lima, Ohio 45802-0839
 419-222-9134
 419-222-9437 (Fax)

Facsimile Cover Sheet

DATE: June 28, 2017
FAX NO: 937-292-4175
TO: Logan County Common Pleas Court, General Division
SUBJECT: French v Miller
PAGES:
 (Including this one) 6

We are fixing over this Declaratory Judgement Action to determine True Trustee of the Clair R. and Elizabeth A. Miller Living Trust Filing. I have mailed out the original along with the filing fee today.

Mella

BRUCE COMLY FRENCH 01-04
120 KING ARTHUR COURT
PO BOX 839
LIMA, OH 45802-0839

101-402/1214
06-28-17 20

12879

Pay to the Order of

Clerk of Courts

\$ 400.00

Dollars

Security Features are available only on this check.

ANZ AMERIKA SAMOA BANK
P.O. BOX 3730, FAIGO FAIGO
AMERICAN SAMOA 96799
French v. Miller

Samuel French

Show

⑆121404022⑆2879 171⑆107056⑆

CV 17 06 0170 FRENCH Adm, BRUCE COMLY VS. MILLER, ROSEANNA et al

Case Type	CIVIL (COMMON PLEAS)	Case Status:	Open
File Date:	06/29/2017	DCM Track:	
Action:	CIVIL	Status Date:	06/29/2017
Case Judge:	GOSLEE, JUDGE, WILLIAM T	Next Event:	

All Information	Party	Docket	Financial	Receipt
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Docket Information			
Date	Description	Docket Text	Amount Owed
06/29/2017	CIVIL COMPLAINT FILED. COMPUTER RESEARCH.	DECLARATORY JUDGEMENT ACTION FILED. COMPUTER RESEARCH.	\$31.00
06/29/2017	LEGAL AID, COMPUTER FUND FOR CLERK AND SPECIAL PROJECTS FUND FOR NEW CIVIL CASES	LEGAL AID, COMPUTER FUND FOR CLERK AND SPECIAL PROJECTS FUND FOR NEW CIVIL CASES Receipt: 94278 Date: 07/05/2017	\$246.00
06/29/2017	DEPOSIT RECEIVED	DEPOSIT RECEIVED Receipt: 94278 Date: 07/05/2017	\$154.00
06/29/2017	PRECIPE FOR	PRECIPE TO THE CLERK FILED FOR PERSONAL SERVICE BY THE LORAIN COUNTY SHERIFF UPON DEF ROSEANNA MILLER AND SERVICE BY THE LOGAN COUNTY SHERIFF UPON DEF JAMES MILLER FILED.	\$0.00
07/05/2017	SUMMONS ON COMPLAINT PREPARED AND ISSUED TO	SUMMONS ON COMPLAINT PREPARED WITH COPY OF COMPLAINT ATTACHED ISSUED TO THE LORAIN COUNTY SHERIFF FOR PERSONAL SERVICE UPON ROSEANNA MILLER. SENT BY REGULAR MAIL WITH CERT OF MAILING POSTMARK DATE JULY 5, 2017.	\$4.00
07/05/2017	SUMMONS ON COMPLAINT PREPARED AND ISSUED TO	SUMMONS ON COMPLAINT PREPARED WITH COPY OF COMPLAINT ATTACHED ISSUED TO THE LOGAN COUNTY SHERIFF FOR PERSONAL SERVICE UPON THE DEF JAMES MILLER.	\$4.00
07/05/2017	POSTAGE FEES	POSTAGE FEES	\$2.02
07/05/2017	COMPUTER FUND FEE	COMPUTER FUND FEE	\$2.00

CV 17 06 0170 FRENCH Adm, BRUCE COMLY VS. MILLER, ROSEANNA et al

Case Type	CIVIL (COMMON PLEAS)	Case Status:	Open
File Date:	06/29/2017	DCM Track:	
Action:	CIVIL	Status Date:	06/29/2017
Case Judge:	GOSLEE, JUDGE, WILLIAM T	Next Event:	

All Information	Party	Docket	Financial	Receipt
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Party Information

FRENCH, Adm, BRUCE COMLY - PLAINTIFF

Address WILL ANNEXED FOR THE ESTATE OF CLAIR R MILLER PO BOX NO 839 LIMA, OH 45802

Alias
EST MILLER, CLAIR R

[More Party Information](#)

MILLER, ROSEANNA - DEFENDANT

Address 10469 WESTFALL DRIVE AMANDA, OH 43102

Alias

[More Party Information](#)

MILLER, JAMES - DEFENDANT

Address 1200 S. MAIN STREET BELLEFONTAINE, OH 43311

Alias

[More Party Information](#)

Docket Information

Date	Description	Docket Text	Amount Owed
06/29/2017	CIVIL COMPLAINT FILED. COMPUTER RESEARCH.	DECLARATORY JUDGEMENT ACTION FILED. COMPUTER RESEARCH.	\$31.00
06/29/2017	LEGAL AID, COMPUTER FUND FOR CLERK AND SPECIAL PROJECTS FUND FOR NEW CIVIL CASES	LEGAL AID, COMPUTER FUND FOR CLERK AND SPECIAL PROJECTS FUND FOR NEW CIVIL CASES Receipt: 94278 Date: 07/05/2017	\$246.00
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07/05/2017	POSTAGE FEES	POSTAGE FEES	\$2.02
07/05/2017	COMPUTER FUND FEE	COMPUTER FUND FEE	\$2.00

Financial Summary

Cost Type	Amount Owed	Amount Paid	Amount Outstanding
Cost	\$289.02	\$246.00	\$43.02
	\$289.02	\$246.00	\$43.02

Money on Hold with the Court

Account	Amount Owed	Amount Paid	Amount Outstanding
Deposit	\$154.00	\$154.00	\$0.00
	\$154.00	\$154.00	\$0.00

Money on Deposit with the Court

Account	Deposit Amount	Balance
CLERK- DEPOSITS RECEIVED	\$154.00	\$154.00
	\$154.00	\$154.00

Receipts

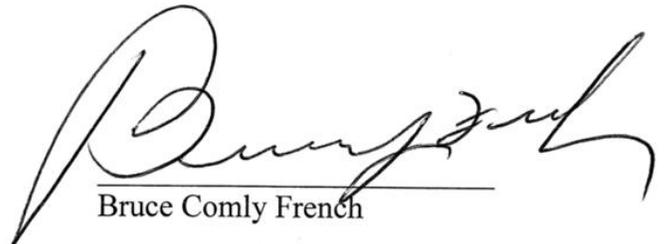
Receipt Number	Receipt Date	Received From	Payment Amount
94278	07/05/2017	BRUCE COMLY FRENCH	\$400.00
			\$400.00

CERTIFICATE OF SERVICE

I, Bruce Comly French, certify that I have caused a copy of the Motion to Dismiss
Emergency Petition for a Writ of Prohibition, Trespass, and Mandamus with Injunctive Relief by
Affidavit, to be sent this 6th day of July, 2017, by postage prepaid first class mail to:

Ms. Rosanna Miller
10469 Westfall Drive
Amanda, Ohio 43102

Judge James Rapp
140 No. Main Street
Bellefontaine, Ohio 43311



Bruce Comly French