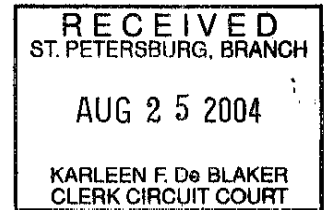


**IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA**  
**PROBATE DIVISION**  
**File No. 90-2908GD-003**



**IN Re: THE GUARDIANSHIP OF  
THERESA MARIE SCHIAVO,  
Incapacitated.**

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**ROBERT SCHINDLER, et al.,  
Petitioners,**

v.

**MICHAEL SCHIAVO,  
Respondent**

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**MOTION TO COMPEL AND FOR SANCTIONS AND**  
**MOTION FOR CONTINUANCE**

ROBERT and MARY SCHINDLER, by and through undersigned counsel pursuant to Fla.R.Civ.P. 1.380, hereby move this Court to set the deposition of Michael Schiavo for a date certain and for sanctions, upon the following grounds.

1. For the second time, Michael Schiavo has failed to appear for a duly-scheduled deposition, despite this Court's ruling from the bench on July 20 that such deposition could be had.
2. The first time, the excuse was that Mr. Schiavo would be represented by a new attorney in the case, who was not available on the scheduled date. The second time, the excuse was that the Court has not signed a written order

from the July 20 hearing.

3. Undersigned counsel has been trying for nearly two months to get the depositions of Michael Schiavo and Jodi Centonze and has received very little cooperation from the plethora of attorneys representing Mr. Schiavo, as reflected in this summary chronology of events:

- **July 6** – Anderson letter to George Felos, proposing three sets of dates – the latest being August 2 and 3 – for the depositions of Schiavo and Centonze. Scott Swope responds the following day, asking for clarification and postponement of all discovery, which is not acceptable.
- **July 8** – Swope wants to have a motion for protective order ruled on before depositions are taken. Counsel agree that the depositions will be taken on August 2 and 3, depending on the Court's ruling on the motion for protective order.
- **July 20:** Hearing on Schiavo's Motion for Protective Order. Court rules depositions may go forward and be videotaped. Draft order is circulated to Deborah Bushnell, who argued the motion. She wants to eliminate the Court's ruling, made in response to Bushnell's anxiety that Ken Connor would show up at the depositions, that only counsel of record as of the hearing may attend the deposition. Ultimately both sides send the Court a proposed order.

#### **Jodi Centonze deposition**

- **August 2:** Deposition of Centonze / Schiavo (notice served 7/26/04)

Phone call received preceding Friday, July 30, 2004 from Dan Grieco, announcing his appearance for Centonze and 1) he just learned of the deposition, 2) her mother is sick, and 3) she has no babysitter. By agreement, counsel stipulate to continue her subpoena to August 16 as the new deposition date for Centonze.

- **August 16:** Deposition of Centonze (notice served 8/5/04)

Letter received August 11 from Grieco that deponent's mother has less than two weeks to live. Emergency hearing at 4 p.m. same day: 1) deponent's mother is dying, 2) deponent has no time to prepare, and 3) hurricane evacuation has disrupted everyone's work schedule. Emergency hearing on same date at 4 p.m. results in Court-ordered deposition date of September 2, 2004.

- **September 2:** Deposition of Centonze (notice served 8/5/04 and 8/17/04)

**Michael Schiavo**

- **August 2 & 3:** Deposition of Schiavo (continuation)(on joint notice of 7/26)

Letter received preceding Friday, July 30, from Hamden Baskin, Esq., at 3:30 p.m., announcing his appearance in the case and unavailability on August 2 and 3 and taking issue with the form of the notice. Counsel subsequently stipulate to August 16 for Schiavo's deposition, after conclusion of Centonze deposition and continuing on August 17, in the afternoon. Subsequently, Baskin states Schiavo's work schedule prevents those dates, so counsel stipulate to August 23 as the new date for Schiavo's deposition.

- **August 23:** Deposition of Schiavo (notice served 8/5/04)

Letter received from Hamden Baskin at 4:45 p.m. on Friday, August 20, that because Judge Greer has not signed the order from the July 20 hearing, Schiavo will not be appearing.

4. Given this history, Petitioners have very little confidence Centonze will appear for deposition as scheduled or that Schiavo will ever appear, absent coercion from this Court.
5. Upon information and belief, undersigned counsel believes Schiavo's

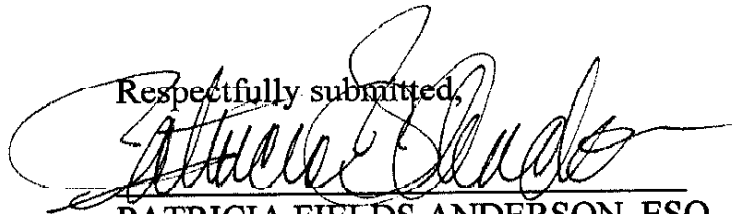
counsel are engaging in a coordinated effort among themselves and with Mr. Grieco at stonewalling on this discovery, in an effort to delay the depositions until after the Florida Supreme Court decides *Bush v. Schiavo*, the oral argument for which is set for Tuesday, August 31, 2004. Upon further information and belief, undersigned counsel believes Schiavo's counsel are engaging in a coordinated effort among themselves and with Mr. Grieco to delay these depositions in order to prevent their use at a summary judgment hearing presently set for September 13 in this cause.

6. The type of stalling and delay tactics described above are prejudicing Petitioners and prejudicing the orderly administration of justice and should be condemned by this Court.
7. Respondent Schiavo should not be permitted to reap the advantage of such conduct. Certainly no summary judgment hearing should be entertained by the Court until Petitioners have obtained these depositions and discovery is completed. "Generally, it is an abuse of discretion for a trial court to grant summary judgment where the opposing party has not had the opportunity to complete discovery." *Crowell v. Kauffman*, 845 So.2d 325, 327 (Fla. 2d DCA 2003).
8. Beyond the issue of the completion of discovery, however, is the issue of

stonewalling and the appropriate sanction by the Court. Schiavo should not be permitted to set any matter for hearing before the Court, whether filed by him or the Petitioners, until Petitioners have obtained these depositions. For these reasons, Petitioners request a **continuance** of the hearings set on Petitioners' papers on September 3 and September 13, 2004 and preclude any further hearings set by Respondent until these depositions are had.

WHEREFORE Petitioners request this Court a) to set a date certain for the deposition of Michael Schiavo, b) to continue the hearings now set for September 3 and September 13 and to strike Respondent's notices of hearings for those dates, c) to enter an order prohibiting Respondent from setting any further matters for hearing until the depositions of Schiavo and Centonze are completed, d) to award the cost of preparing this motion, and e) for such other and further relief as to the Court seems just and proper.

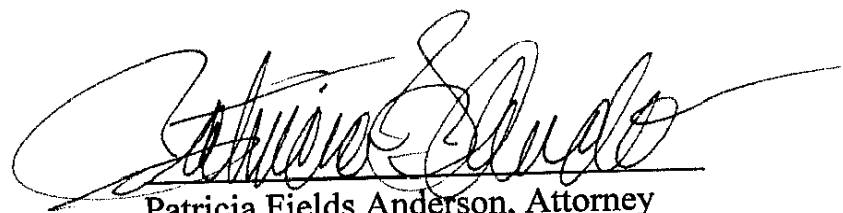
Respectfully submitted,



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Attorneys for Robert & Mary Schindler

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished this 25  
day of August, 2004 to:

  
Patricia Fields Anderson, Attorney