

IN THE CIRCUIT COURT FOR THE 15TH JUDICIAL DISTRICT
IN AND FOR PALM BEACH COUNTY, FLORIDA

Robert A. Poczatek	)	
	)	
Plaintiff	)	Case No.
	)	
vs.	)	
	)	
	)	
John Murray Poczatek,	)	
Defendant.	)	
_____ /	)	

VERIFIED COMPLAINT

1. This is an action brought by Plaintiff Robert A. Poczatek ("Plaintiff" or "Robert") against Defendant John Murray Poczatek ("Defendant" or "John") for defamation per se, intentional interference with testamentary expectancy, intentional infliction of emotional distress, negligent infliction of emotional distress, fraud, conversion, breach of fiduciary duty, tortious interference with familial relations, civil conspiracy, unjust enrichment, exploitation of a vulnerable adult, civil assault, and prima facie tort arising out of Defendant's decades-long campaign of physical abuse, verbal terror, financial exploitation, and systematic isolation of Plaintiff from his elderly mother, Eileen G. Poczatek ("Eileen" or "the Mother"), for the purpose of misappropriating and diverting the Mother's considerable assets and depriving Plaintiff of his familial relationships, inheritance, and dignity.

2. Defendant has wielded his position as holder of a power of attorney over the mother, an elderly, vulnerable woman of advanced age who resides at 1 Water Club Way, North Palm Beach, Florida, not as a fiduciary shield for her protection, but as a

sword to isolate, control, and financially plunder. By falsely and maliciously accusing Plaintiff of stealing approximately \$200,000.00 worth of jewelry from the Mother, jewelry that Defendant himself removed from the Mother's apartment, Defendant has defamed Plaintiff, destroyed Plaintiff's relationship with his Mother, and laid the groundwork for the wholesale diversion of the Mother's estate for Defendant's exclusive personal benefit.

3. Defendant's wrongful conduct is not an isolated incident but rather the culmination of a lifetime of extreme and outrageous behavior, including years of ritualized physical beatings during Plaintiff's childhood, financial exploitation of Plaintiff's labor over a seventeen-year career, theft of Plaintiff's personal property, fraudulent manipulation of family business transactions, and death threats issued by Defendant and his son, Tyler Poczatek, that forced Plaintiff to flee for his physical safety. The toll on Plaintiff has been catastrophic: heart failure requiring the surgical implantation of a pacemaker, psychiatric hospitalizations, diagnosed post-traumatic stress disorder, loss of his marriage and home, homelessness, and a present state of permanent disability.

4. By this Verified Complaint, Plaintiff seeks compensatory damages, special damages, injunctive relief, and all other relief this Court deems just and proper.

THE PARTIES

5. Plaintiff, Robert A. Poczatek, is a natural person, a resident and citizen of the State of Florida, currently residing in Palm Beach County, Florida. Plaintiff is the youngest of four brothers born to Frank M. Poczatek (deceased) and Eileen G.

Poczatek. Plaintiff has been adjudicated disabled and currently receives Social Security disability benefits and Medicare.

6. Defendant, John Murray Poczatek, is a natural person, upon information and belief, a resident and citizen of the State of Florida. Defendant is the eldest surviving brother of Plaintiff. Defendant holds a power of attorney over the person and/or estate of Eileen G. Poczatek, the parties' elderly Mother.

7. Non-party Eileen G. Poczatek is the Mother of Plaintiff and Defendant. She is an elderly woman of advanced age who resides at 1 Water Club Way, North Palm Beach, Palm Beach County, Florida. She is financially well-off, possessing substantial assets including real property, personal property, and financial accounts. Upon information and belief, she is a vulnerable adult within the meaning of Florida law due to her advanced age and the control exercised over her by Defendant through the power of attorney.

8. Non-party Tyler Poczatek is the adult son of Defendant. Upon information and belief, Tyler Poczatek resides rent-free in Eileen G. Poczatek's apartment at 1 Water Club Way, North Palm Beach, Florida. Tyler Poczatek has been identified as a co-conspirator in Defendant's threats against Plaintiff's life and in the scheme to isolate Plaintiff from the Mother, although he is not named as a defendant at this time.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action pursuant to Fla. Const. art. V, § 5(b) and Fla. Stat. § 26.012, as the amount in controversy exceeds the jurisdictional minimum, and the claims raised herein involve torts

committed within the State of Florida, rights arising under the laws of the State of Florida, and the protection of a vulnerable adult residing within this jurisdiction.

10. This Court has personal jurisdiction over Defendant, who, upon information and belief, resides in the State of Florida, conducts substantial and continuous business activities within the State of Florida, and committed tortious acts within the State of Florida giving rise to Plaintiff's claims.

11. Venue is proper in Palm Beach County because the cause of action accrued in Palm Beach County, the acts and omissions giving rise to Plaintiff's claims occurred in Palm Beach County, Defendant committed tortious acts within Palm Beach County, and the Mother resides in Palm Beach County.

GENERAL ALLEGATIONS

12. Plaintiff Robert A. Poczatek was the youngest of four brothers raised in the household of Frank M. Poczatek and Eileen G. Poczatek. As a child, Plaintiff was identified as having special needs and numerous learning disabilities, including significant difficulties with reading and writing that persist to this day. Plaintiff required assistive devices, including a Franklin Dictionary Speak & Spell in his youth and, presently, a smartphone with voice-to-text capability and an OrCam reading device, to manage basic literacy tasks.

13. Despite the family's outward appearance of affluence, a large, prominent home and successful business enterprises, the interior of the Poczatek household was a crucible of violence, intimidation, and emotional cruelty directed at Plaintiff. Plaintiff was regularly subjected to screaming so violent and intense that it left him trembling, hiding, and in a persistent state of fear.

14. Defendant John Murray Poczatek was the primary architect of Plaintiff's childhood torment. Defendant instituted a ritualized program of physical abuse against Plaintiff that he openly and proudly referred to as "Tuesday and Thursday beating days." On these designated days, each and every week, Defendant would physically beat Plaintiff without provocation and without justification, regardless of Plaintiff's behavior. This regime of scheduled violence continued for years throughout Plaintiff's formative childhood.

15. Defendant's violence was not conducted in private shame. To the contrary, Defendant was so proud of his "Tuesday and Thursday beating days" that he would openly announce the schedule and, on multiple occasions, invited friends home from school for the specific purpose of watching him beat Plaintiff. On one such occasion, one of Defendant's friends, identified as "Michael," administered a "purple nurple" to Plaintiff so severe that Plaintiff's entire chest was black and blue for the duration of the summer. It was only after this particularly egregious injury became visible that the Tuesday and Thursday beating regime abated.

16. Defendant's abuse extended beyond the physical. Defendant would jump out of Plaintiff's childhood closet at night wearing Halloween masks, chasing the young Plaintiff from his bed, causing terror and psychological trauma. Plaintiff was repeatedly demeaned with the word "STUPID" and was treated as a "verbal and physical punching bag" within the household.

17. The cumulative effect of this childhood abuse was devastating. Plaintiff's younger years are largely blocked from his conscious memory as a coping mechanism

that mental health professionals recognize as a trauma response. Plaintiff developed depression, alienation, and feelings of profound isolation.

18. Defendant also exploited Plaintiff through the Family Business

19. The Poczatek family owned and operated several business entities, including All Island Truck Leasing Corp. and Poz Enterprise, in which family members held ownership interests. Plaintiff never worked for anyone other than the family business.

20. Upon information and belief, Defendant John Murray Poczatek decided he wanted to leave the family business. Before departing, Defendant orchestrated a transition designed to benefit himself at Plaintiff's expense.

21. Defendant then installed Plaintiff at his Oceanside work location, providing Plaintiff with his former office suite, his work desk, and newly printed business cards bearing Plaintiff's name with Defendant's former job title. Defendant instructed Plaintiff to "just ride the wave," stated that he did not like the way their father conducted business, and then departed, **absconding with approximately \$1,000,000.00 in borrowed funds from Sovereign Bank with him when he left for Florida.**

22. Plaintiff was left to manage All Island Truck Leasing Corp. During this period, Plaintiff was responsible for overseeing all daily operations, managing all sales, supervising a staff of approximately fifty (50) employees, and personally signing all employee paychecks every Friday. Plaintiff worked a minimum of fifty (50) hours per week, frequently six days per week, navigating the business through two separate New York recessions, managing four different corporate controllers, and serving as the on-call point of contact around the clock.

23. Upon information and belief, Defendant's personal fleet of Mack trucks located in Florida was improperly paid for out of the handwritten All Island Truck Leasing checkbook, despite those trucks having no connection to the All Island Truck Leasing business. This misuse of corporate funds by defendant, among other irregularities, ultimately attracted the attention of New York State investigators.

24. Defendant also improperly traded in Plaintiff's boat as a down payment on a larger vessel, essentially taking all of the equity in Plaintiff's boat, traded it in, and used the proceeds toward the purchase of a yacht that Defendant currently operates under the name "Reel Lucky." Plaintiff received no compensation for the equity in his vessel and has never been made whole for the conversion of this property.

25. Sovereign Bank demanded repayment of \$1,000,000 and specifically required Defendant to repay \$500,000 of that sum. Rather than satisfying this obligation from his own resources, Defendant improperly sold a piece of Oceanside property owned by Poz Enterprise, an entity in which every family member held an equal ownership interest. When it came time to distribute the proceeds of sale, Defendant shortchanged Plaintiff by \$100,000, and similarly shortchanged their brother Billy, their father, and their Mother by \$100,000 each. In this manner, Defendant effectively repaid only \$100,000 of the \$1,000,000 he had personally borrowed, using other family members' money to satisfy his own debt while retaining \$400,000 of proceeds that rightfully belonged to his family members.

Defendant's Fraudulent Division of Family Assets

26. Upon the death of Frank M. Poczatek, the family's patriarch, additional business properties required liquidation and distribution. After the sale of the main

property and building at 3480A Hampton Road, Defendant provided a check for over \$500,000, but directed that the check be issued in the name of Plaintiff's then-wife and deposited into her account, over Defendants objection. At the time, Plaintiff was suffering from emotional and nervous breakdown conditions and was hospitalized for these issues. Plaintiff's ex-wife, having received all of Plaintiff's money, subsequently divorced Plaintiff, retaining every penny.

27. With respect to the Westhampton Beach house owned by Poz Enterprise, Defendant sold the property and, when it came time to distribute proceeds, Defendant again shortchanged Plaintiff. Instead of providing Plaintiff with his rightful one-quarter share of the sale proceeds (there being four surviving family members after the father's death), Defendant contacted the entity handling the distribution and fabricated the claim that the proceeds were to be divided among five people rather than four. By adding a fictitious fifth share to the distribution, their father being deceased and, in his grave, Defendant reduced each legitimate heir's portion and pocketed the difference for himself.

28. In or around 2023, Plaintiff was residing in Delray Beach, Florida, and visiting his Mother approximately twice per month at her residence at 1 Water Club Way, North Palm Beach, Florida. At this time, Defendant held a power of attorney over the Mother and her affairs.

29. Acting under the authority of his power of attorney, Defendant removed all of the Mother's jewelry from her apartment and transported it to another location, ostensibly to have it "evaluated and appraised." Upon information and belief, the

jewelry collection was valued at approximately \$200,000 and included, among other items, the Mother's engagement ring.

30. Plaintiff subsequently learned that after Defendant removed the jewelry, Defendant was going around falsely accusing plaintiff of stealing the Mother's jewelry to friends, and family members.

31. Defendant's accusation that plaintiff stole the mother's jewelry was knowingly and intentionally false. Defendant knew that he himself had removed the jewelry from the Mother's apartment. Defendant knew that Plaintiff had not stolen the jewelry. Defendant fabricated and published this false accusation for the express purposes of: (a) alienating Plaintiff from the Mother; (b) destroying Plaintiff's reputation with family members and others; (c) providing a pretext to deny Plaintiff access to the Mother; and (d) facilitating Defendant's own scheme to misappropriate the Mother's assets, including the jewelry itself or the proceeds of any insurance claim filed in connection with its purported theft.

32. Upon information and belief, Defendant published these false and defamatory accusations to the Mother, Eileen G. Poczatek, and to other family members, including but not limited to their brother Billy (Bill Poczatek), Billy's wife Rachel, and other persons within the family and social circle, for the purpose of destroying Plaintiff's reputation and character and isolating Plaintiff from all familial support.

33. The defamatory accusations constitute defamation per se under Florida law, as they impute to Plaintiff the commission of a crime, namely, grand theft of property

valued at approximately \$200,000, and are of such a nature as to injure Plaintiff in his reputation and standing without the necessity of proving special damages.

34. Following the false accusations, Defendant and his son Tyler Poczatek issued death threats against Plaintiff. Tyler Poczatek threatened Plaintiff's life if Plaintiff ever returned to the Mother's apartment. Defendant sent threatening text messages to Plaintiff, stating, upon information and belief, that Defendant "knows where [Plaintiff] lives" and is "coming for" Plaintiff, and threatening to "wipe [Plaintiff] off the planet."

35. In the aftermath of these threats, Plaintiff reported the matter to the North Palm Beach Police Department. Plaintiff attempted to visit the Mother's apartment accompanied by police officers but was denied entry. Plaintiff filed for an Order of Protection against Defendant in the Delray Beach Court system. However, due to the immediacy of the threat to his safety, Plaintiff was forced to flee the area and did not properly follow up the proceedings.

36. Upon information and belief, Defendant and/or Tyler Poczatek subsequently staged the replacement of the Mother's engagement ring back into her apartment after Plaintiff had already reported the theft to the North Palm Beach Police Department and requested an investigation. This staged replacement constitutes further evidence of Defendant's consciousness of guilt, his manipulation of evidence, and his intent to frame Plaintiff for a crime Defendant himself orchestrated.

37. Since the jewelry incident and the threats described above, Defendant has effectively barred Plaintiff from any access to or visitation with his elderly Mother. As of the filing of this Complaint, Plaintiff has seen his Mother only once in

approximately the past three years, a single occasion when their brother Billy's wife, Rachel, brought the Mother to Plaintiff's son's graduation party approximately one year ago.

38. Plaintiff formerly visited his Mother twice per month at her North Palm Beach residence. Defendant's threats and false accusations brought this visitation to a complete halt. Defendant has wielded his power of attorney not to protect the Mother but to isolate her from Plaintiff, thereby severing the natural bond between mother and son and depriving both Plaintiff and the Mother of the comfort of each other's company during the Mother's advanced years.

39. On or about January 23, 2026, Plaintiff's brother Billy and his wife Rachel were visiting the area on vacation. A family gathering was organized at Billy's daughter's apartment in Boca Raton, Florida, at which the Mother was present. Plaintiff received no prior notice of this gathering. Instead, Plaintiff received a last-moment phone call while the event was already almost over and leaving Plaintiff with no reasonable opportunity to attend.

40. As of the date of this Complaint, due to Defendants fraudulent, false and deceptive actions, every single member of Plaintiff's family has been estranged from him.

41. The Mother, Eileen G. Poczatek, is financially very well off, possessing substantial assets that include, upon information and belief, real property, personal property, financial accounts, and other valuable holdings. Plaintiff, as the Mother's son, has a reasonable and legitimate expectation of inheritance from the Mother's estate.

42. Upon information and belief, Defendant is currently selling off the Mother's assets. Given Defendant's well-documented history of shortchanging Plaintiff on every single family financial transaction, from the sale of business properties to the distribution of the father's death inheritance, Plaintiff has a reasonable and well-founded belief that Defendant is engaged in an active scheme to misappropriate, divert, and dissipate the Mother's assets for his own personal benefit, to the detriment of Plaintiff and other rightful beneficiaries.

43. Defendant's installation of his son Tyler as a rent-free occupant of the Mother's apartment, a person with a criminal history who has never been employed, and who serves as Defendant's enforcer by threatening Plaintiff's life further evidences the depth and sophistication of Defendant's control over the Mother's person and assets.

44. Defendant should be removed from his position as holder of the power of attorney over the Mother, and the management of the Mother's affairs should be placed in the hands of a qualified, independent legal or fiduciary professional to ensure the protection of the Mother's interests and the preservation of her estate for its rightful beneficiaries.

45. As a direct and proximate result of Defendant's lifetime of abuse and the specific tortious conduct described herein, Plaintiff has suffered and continues to suffer the following injuries and damages, including but not limited to:

- A. Plaintiff suffered heart failure caused by the overwhelming stress inflicted by Defendant and the family, necessitating multiple hospitalizations, several heart surgeries and procedures, and the surgical implantation of a pacemaker. Plaintiff's cardiac condition is permanent and ongoing.

- B. Plaintiff has been diagnosed with post-traumatic stress disorder ("PTSD") directly attributable to the abuse and trauma inflicted by Defendant. Plaintiff suffers from persistent nightmares, daily crying fits, depression, hopelessness, despair, anxiety, nervous breakdown episodes, and intrusive memories of the horrible experiences he endured. These symptoms occur at all hours of the day and night, without warning, and are debilitating.
- C. Plaintiff has been hospitalized on multiple occasions for emotional and nervous breakdown conditions. Plaintiff has been enrolled in numerous mental health and treatment programs. Plaintiff has undergone sleep studies and extensive psychiatric treatment. Plaintiff has been placed in mental institutions as a result of the psychological trauma inflicted by Defendant.
- D. Plaintiff has been adjudicated disabled by the State of Florida and the Social Security Administration. Plaintiff now receives monthly government disability payments and Medicare coverage. Plaintiff's disability is permanent.
- E. Plaintiff has been deprived of his relationship with his elderly Mother for approximately three years and counting, a loss that is immeasurable and irreparable.

COUNT I — DEFAMATION PER SE

46. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

47. In or around September 2023, and continuing thereafter through today, Defendant made false and defamatory statements of fact to third parties, including but not

limited to Eileen G. Poczatek (the Mother), Bill Poczatek (brother), Rachel Poczatek (sister-in-law), and other family members and acquaintances, accusing Plaintiff of stealing approximately \$200,000 worth of jewelry from the Mother's apartment at 1 Water Club Way, North Palm Beach, Florida.

48. Defendant's statements were false. Plaintiff did not steal the Mother's jewelry. Defendant himself removed the jewelry from the Mother's apartment, purportedly for evaluation and appraisal, and thereafter fabricated the accusation against Plaintiff.

49. Defendant knew that his statements were false, or acted with reckless disregard for the truth or falsity of his statements, at the time he published them. Defendant knew that he was the person who had removed the jewelry from the Mother's apartment. Defendant had no good-faith basis to accuse Plaintiff of theft.

50. Defendant's false statements were published to third parties, meaning they were communicated to persons other than Plaintiff, including but not limited to the Mother, family members, and upon information and belief, other persons in the community.

51. Defendant's false statements constitute defamation per se because they impute to Plaintiff the commission of a criminal offense namely, grand theft of property valued at approximately \$200,000, a felony under Florida law. See Fla. Stat. § 812.014(2)(a)(1) (defining grand theft of the first degree for property valued at \$100,000 or more). Under Florida law, a statement imputing a criminal offense to the plaintiff constitutes defamation per se, and damages are presumed without the necessity of proof of special damages.

52. Defendant made the defamatory statements with actual malice, meaning Defendant knew the statements were false and published them with the intent to harm

Plaintiff. Defendant's malicious intent is further evidenced by the fact that, upon information and belief, Defendant and/or his son Tyler subsequently staged the replacement of the Mother's engagement ring in her apartment after Plaintiff had requested a police investigation into the theft conduct demonstrating both consciousness of guilt and an intent to manipulate the narrative at Plaintiff's expense.

53. Defendant's defamatory statements were made with the specific intent to: (a) alienate Plaintiff from the Mother; (b) destroy Plaintiff's reputation within the family and broader community; (c) create a pretext for denying Plaintiff access to the Mother; and (d) facilitate Defendant's own misappropriation of the Mother's assets.

54. As a direct and proximate result of Defendant's defamatory statements, Plaintiff has suffered the following damages: destruction of his reputation within his family; complete estrangement from his Mother and all siblings; severe emotional distress, including exacerbation of his PTSD, depression, anxiety, daily crying fits, and nightmares; physical harm including the triggering of cardiac episodes, heart failure, and complications related to his pacemaker; and loss of his testamentary expectancy from the Mother's estate.

55. Defendant's conduct was willful, wanton, malicious, and outrageous,

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

a. Compensatory damages in an amount to be determined at trial, including presumed damages as permitted under Florida law for defamation per se, for the destruction of Plaintiff's reputation, the loss of his familial relationships, and the severe emotional and physical harm proximately caused by Defendant's false and malicious accusations of criminal conduct;

- b. Special damages in an amount to be determined at trial, including but not limited to medical expenses incurred for cardiac treatment, psychiatric care, hospitalizations, and ongoing treatment necessitated by the emotional and physical toll of Defendant's defamatory statements, as well as the loss of Plaintiff's testamentary expectancy from the Mother's estate;
- c. Injunctive relief requiring Defendant to cease and desist from making any further false and defamatory statements about Plaintiff to any person, including but not limited to the Mother, family members, and members of the community;
- d. Injunctive relief requiring Defendant to retract his false accusations to each person to whom they were published;
- e. Prejudgment and post-judgment interest as permitted by law;
- f. Costs of this action; and
- g. Such other and further relief as this Court deems just and proper.

COUNT II — DEFAMATION PER QUOD

56. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

57. In addition to the specific accusation of jewelry theft, Defendant has, over the course of many years and continuing through the present, made and published additional false and defamatory statements concerning Plaintiff to third parties, including but not limited to statements designed to portray Plaintiff as incompetent, dishonest, untrustworthy, and unworthy of contact with the Mother.

58. Upon information and belief, Defendant has communicated false statements to the Mother and other family members that have had the effect of turning them against Plaintiff, destroying Plaintiff's familial relationships, and causing the Mother to believe that Plaintiff is a thief, a criminal, and a person from whom she must be protected, none of which are true.

59. These additional defamatory statements were false, were published to third parties, and were made with knowledge of their falsity or with reckless disregard for their truth or falsity, or, alternatively, with negligence as to their truth or falsity.

60. As a direct and proximate result of Defendant's defamatory statements, Plaintiff has suffered special damages including, but not limited to, the loss of his relationship with his Mother, the loss of expected inheritance, medical expenses arising from the physical and emotional consequences of the defamation, and other pecuniary losses.

61. Defendant's conduct was willful, wanton, malicious, and outrageous, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the harm to Plaintiff's reputation, the destruction of his familial relationships, and the severe emotional and physical harm proximately caused by Defendant's false and defamatory statements;
- b. Special damages in an amount to be determined at trial, including but not limited to the loss of Plaintiff's relationship with his Mother, the loss of expected inheritance,

medical expenses arising from the physical and emotional consequences of the defamation including cardiac treatment, psychiatric hospitalizations, and ongoing care, and other pecuniary losses directly and proximately caused by the defamatory statements;

- c. Injunctive relief requiring Defendant to cease and desist from making any further false and defamatory statements about Plaintiff to any person;
- d. Prejudgment and post-judgment interest as permitted by law;
- e. Costs of this action; and
- f. Such other and further relief as this Court deems just and proper.

COUNT III — INTENTIONAL INTERFERENCE WITH TESTAMENTARY EXPECTANCY

62. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

63. Plaintiff has a reasonable expectation of receiving a substantial inheritance from the estate of his Mother, Eileen G. Poczatek. The Mother is financially well-off, possessing significant assets, and Plaintiff, as one of her surviving children, has a legitimate expectation of sharing in the distribution of those assets upon the Mother's death.

64. Defendant, who holds a power of attorney over the Mother, has engaged in a pattern of tortious conduct designed to interfere with and ultimately destroy Plaintiff's testamentary expectancy. Florida courts recognize the tort of intentional interference with an expectancy of inheritance as an independent cause of action.

65. Defendant's conduct constituting intentional interference with Plaintiff's testamentary expectancy includes, but is not limited to:

- a. First, Defendant has falsely accused Plaintiff of stealing \$200,000 worth of jewelry from the Mother, publishing these false accusations to the Mother and others for the express purpose of poisoning the Mother's relationship with Plaintiff and influencing the Mother to exclude Plaintiff from her estate or reduce his share thereof.
- b. Second, Defendant has systematically isolated Plaintiff from the Mother, denying him access and visitation for approximately three years, thereby preventing Plaintiff from maintaining a natural and loving relationship with his Mother and ensuring that Defendant maintains exclusive influence over the Mother's testamentary and financial decisions.
- c. Third, Defendant has installed his son Tyler as a rent-free occupant of the Mother's apartment, where Tyler serves as a physical barrier to Plaintiff's access and has issued death threats against Plaintiff to prevent him from visiting.
- d. Fourth, upon information and belief, Defendant is currently selling off the Mother's assets and, consistent with his demonstrated pattern of shortchanging Plaintiff on every family financial transaction, is positioning himself to divert, misappropriate, or dissipate those assets for his own benefit before the Mother's death, thereby reducing or eliminating the estate from which Plaintiff would otherwise inherit.

- e. Fifth, Defendant has, upon information and belief, exerted undue influence over the Mother to modify, or cause the Mother to modify, her testamentary instruments (including but not limited to her will, trust, beneficiary designations, and/or other estate planning documents) in a manner that reduces or eliminates Plaintiff's share, or that grants Defendant disproportionate control or benefit.

66. Defendant's conduct was intentional, willful, and malicious. Defendant acted with the specific intent to deprive Plaintiff of his rightful expectancy of inheritance.

67. As a direct and proximate result of Defendant's tortious interference, Plaintiff has been and will be deprived of his inheritance or a substantial portion thereof, the exact amount of which will be proven at trial but which, upon information and belief, amounts to several million dollars.

68. The adequate remedy at law namely, a will contest after the Mother's death, is not available to Plaintiff because Defendant's conduct has effectively prevented Plaintiff from having any relationship with the Mother, has given Defendant exclusive control over the Mother's person and estate during her lifetime, and may result in the dissipation of assets such that an insufficient estate remains at the time of the Mother's death.

69. Defendant's conduct was willful, wanton, malicious, and outrageous.

WHEREFORE Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the loss or diminution of Plaintiff's testamentary expectancy from the estate of Eileen G. Poczatek, which upon information and belief amounts to several million dollars;
- b. Imposition of a constructive trust over any assets, proceeds, or benefits that Defendant has obtained or will obtain from the Mother's estate, whether through inter vivos transfers, testamentary instruments, or otherwise, to the extent such assets, proceeds, or benefits were procured through Defendant's tortious interference;
- c. Injunctive relief ordering Defendant to provide a full and complete accounting of all of the Mother's assets, including but not limited to real property, personal property, financial accounts, jewelry, and any assets sold, transferred, or otherwise disposed of by Defendant during the period in which he has held the power of attorney;
- d. Injunctive relief enjoining Defendant from selling, transferring, encumbering, dissipating, or otherwise disposing of any of the Mother's assets pending resolution of this action;
- e. Injunctive relief removing Defendant from his position as holder of the power of attorney over Eileen G. Poczatek and appointing a qualified, independent fiduciary or legal professional to manage the Mother's affairs and protect the interests of all rightful beneficiaries;
- f. Injunctive relief requiring Defendant and Tyler Poczatek to permit Plaintiff reasonable and regular access to and visitation with the Mother;

- g. Prejudgment and post-judgment interest as permitted by law;
- h. Costs of this action; and
- i. Such other and further relief as this Court deems just and proper

COUNT IV — TORTIOUS INTERFERENCE WITH FAMILIAL RELATIONS

70. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

71. Plaintiff had an existing, natural, and protected familial relationship with his Mother, Eileen G. Poczatek, the fundamental bond between a parent and child which Plaintiff maintained through regular visits approximately twice per month prior to Defendant's tortious interference.

72. Defendant knew of and was fully aware of the existence of this relationship between Plaintiff and the Mother.

73. Defendant engaged in intentional, willful, and unjustified conduct designed to and having the effect of disrupting and destroying the familial relationship between Plaintiff and the Mother. Such conduct includes, without limitation: falsely accusing Plaintiff of stealing the Mother's jewelry; communicating these false accusations to the Mother; issuing threats of physical violence and death against Plaintiff to prevent him from visiting the Mother; wielding the power of attorney as a tool to deny Plaintiff access to the Mother; installing Tyler Poczatek in the Mother's apartment as an enforcer to physically prevent Plaintiff from visiting; and failing and refusing to facilitate or

permit any reasonable visitation between Plaintiff and the Mother over a period of approximately three years.

74. Defendant's interference was not privileged and was not justified by any legitimate concern for the Mother's welfare. To the contrary, Defendant's interference was motivated by malice, greed, and a desire to isolate the Mother so as to maintain exclusive control over her person and estate.

75. As a direct and proximate result of Defendant's tortious interference, Plaintiff has been deprived of his relationship with his Mother for approximately three years, has suffered severe emotional distress, and has been denied the comfort, love, and companionship of his Mother during what may be the remaining years of her life. This deprivation is incalculable in monetary terms and constitutes irreparable harm.

76. Defendant's conduct was willful, wanton, malicious, and outrageous, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the loss of Plaintiff's relationship with his Mother, Eileen G. Poczatek, including damages for the severe emotional distress, mental anguish, loss of companionship, loss of love and comfort, and deprivation of the natural bond between parent and child caused by Defendant's willful and malicious interference over a period of approximately three years and continuing;

- b. Injunctive relief requiring Defendant to immediately cease all interference with Plaintiff's relationship with his Mother and to permit Plaintiff reasonable, regular, and unimpeded access to and visitation with the Mother at her residence or at a neutral location;
- c. Injunctive relief prohibiting Defendant from communicating any false statements about Plaintiff to the Mother or to other family members for the purpose of alienating them from Plaintiff;
- d. Injunctive relief removing Defendant from his position as holder of the power of attorney over the Mother, or in the alternative, imposing court-supervised conditions upon the exercise of the power of attorney to ensure that Defendant does not use his authority to deny Plaintiff access to the Mother;
- e. Prejudgment and post-judgment interest as permitted by law;
- f. Costs of this action; and
- g. Such other and further relief as this Court deems just and proper.

COUNT V — INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

77. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

78. Defendant has engaged in a lifelong pattern of extreme and outrageous conduct directed at Plaintiff that transcends all bounds of human decency and is utterly intolerable in a civilized society.

79. Defendant's extreme and outrageous conduct includes, but is not limited to, the following acts, each of which independently and collectively satisfies the standard for outrageousness:

80. Defendant subjected Plaintiff to years of ritualized physical abuse during childhood, openly and proudly referred to as "Tuesday and Thursday beating days," during which Defendant would beat Plaintiff on a scheduled, bi-weekly basis regardless of Plaintiff's behavior, and invited friends to witness and participate in the violence against a defenseless child with known learning disabilities and special needs.

81. Defendant terrorized Plaintiff as a child by jumping out of closets at night wearing Halloween masks, chasing the child from his bed, and creating an environment of constant fear and psychological torment within Plaintiff's own home.

82. Defendant subjected Plaintiff to a brutal verbal assault in or around 2023, accusing Plaintiff of stealing the Mother's jewelry an accusation Defendant knew to be false and that was so violent in intensity that it left Plaintiff "literally shaking and shitting myself", causing Plaintiff's heart to flutter "out of control" and inducing immediate chest pain and panic attacks.

83. Defendant and his son Tyler issued death threats against Plaintiff, with Defendant texting that he "knows where [Plaintiff] lives" and is "coming for" him, and threatening to "wipe [Plaintiff] off the planet," and Tyler threatening Plaintiff's life if he ever returned to the Mother's apartment. These threats were credible given Defendant's documented lifetime of violence against Plaintiff.

84. Defendant systematically isolated Plaintiff from his elderly Mother for approximately three years, denying him the fundamental human connection between parent and child during a period when Plaintiff believed his Mother might soon pass and wished to be by her side.

85. Defendant acted intentionally and deliberately in engaging in the above-described conduct, or, alternatively, acted with reckless disregard as to the probability that his conduct would cause severe emotional distress to Plaintiff.

86. The cumulative and ongoing nature of Defendant's conduct, spanning over fifty-five (55) years and escalating from childhood physical abuse to present-day financial exploitation, defamation, death threats, and familial alienation, renders the totality of Defendant's behavior particularly extreme and outrageous. The relationship between the parties as brothers amplifies the egregiousness of the conduct, as Plaintiff was a vulnerable person who could not escape the familial relationship and who was subjected to Defendant's abuse from earliest childhood through the present day.

87. As a direct and proximate result of Defendant's extreme and outrageous conduct, Plaintiff has suffered severe emotional distress, including but not limited to: post-traumatic stress disorder, daily crying fits, nightmares, depression, hopelessness, despair, anxiety, nervous breakdowns, psychiatric hospitalizations, and enrollment in mental health and chemical dependency programs.

88. Plaintiff's severe emotional distress has manifested in serious and objectively verifiable physical consequences, including: heart failure, multiple cardiac surgeries and procedures, the surgical implantation of a permanent pacemaker, dehydration, nervous shaking, complete exhaustion, sleepless nights, and permanent disability.

89. Defendant's conduct was willful, wanton, malicious, and outrageous.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the severe emotional distress suffered by Plaintiff as a direct and proximate result of Defendant's extreme and outrageous conduct, including but not limited to damages for post-traumatic stress disorder, depression, anxiety, daily crying fits, nightmares, hopelessness, despair, nervous breakdowns, psychiatric hospitalizations, and enrollment in mental health and treatment programs;
- b. Compensatory damages for the physical injuries and medical expenses proximately caused by Defendant's conduct, including but not limited to heart failure, multiple cardiac surgeries and procedures, the surgical implantation of a permanent pacemaker, dehydration, nervous shaking, complete exhaustion, and permanent disability;
- c. Compensatory damages for lost earning capacity and income resulting from Plaintiff's permanent disability caused by Defendant's extreme and outrageous conduct;
- d. Special damages for past and future medical expenses, including cardiac care, psychiatric treatment, hospitalizations, mental health programs, sleep studies, and all related treatment necessitated by Defendant's conduct;
- e. Injunctive relief requiring Defendant to cease all contact with Plaintiff except through counsel and to cease all threatening, intimidating, and harassing behavior directed at Plaintiff;
- f. Prejudgment and post-judgment interest as permitted by law;

g. Costs of this action; and

h. Such other and further relief as this Court deems just and proper.

COUNT VI — NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

90. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

91. In the alternative to Count V, Defendant owed Plaintiff a duty of care arising from the familial relationship between the parties, the special relationship created by Defendant's assumption of the power of attorney over their shared Mother, and the general duty not to engage in conduct that foreseeably causes severe emotional harm to another.

92. Defendant breached his duty of care to Plaintiff by, among other things: making false accusations of criminal conduct against Plaintiff without investigation or basis; failing to provide Plaintiff with reasonable access to the Mother; failing to protect Plaintiff's interests as a beneficiary of the Mother's estate; using his position of power and control to exclude Plaintiff from family affairs and gatherings; and engaging in threatening and intimidating behavior.

93. Defendant's conduct was negligent in that a reasonable person in Defendant's position would have known that falsely accusing a brother of stealing \$200,000 in jewelry, issuing death threats, isolating him from his elderly Mother, and engaging in a pattern of financial exploitation would foreseeably cause severe emotional distress.

94. As a direct and proximate result of Defendant's negligence, Plaintiff suffered severe emotional distress accompanied by physical manifestations, including

but not limited to heart failure, cardiac surgeries, pacemaker implantation, PTSD, depression, anxiety, daily crying fits, nightmares, nervous breakdowns, psychiatric hospitalizations, and permanent disability.

95. Plaintiff's emotional distress is severe, genuine, and accompanied by objectively verifiable physical injury, satisfying the impact rule or, in the alternative, the manifestation of physical symptoms arising from the emotional distress caused by Defendant's negligence.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the severe emotional distress and accompanying physical manifestations suffered by Plaintiff as a direct and proximate result of Defendant's negligent conduct, including but not limited to damages for heart failure, cardiac surgeries, pacemaker implantation, post-traumatic stress disorder, depression, anxiety, daily crying fits, nightmares, nervous breakdowns, psychiatric hospitalizations, and permanent disability;
- b. Special damages for past and future medical expenses, including all costs of cardiac care, psychiatric treatment, hospitalizations, mental health programs, and related treatment necessitated by Defendant's negligent conduct;
- c. Compensatory damages for lost earning capacity and income resulting from Plaintiff's permanent disability proximately caused by Defendant's negligence;
- d. Prejudgment and post-judgment interest as permitted by law;
- e. Costs of this action; and
- f. Such other and further relief as this Court deems just and proper.

COUNT VII — FRAUD

96. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

97. Defendant has engaged in multiple acts of fraud against Plaintiff, each constituting an independent basis for liability and damages.

98. Defendant made a false representation of material fact to the Mother and to other third parties by stating that Plaintiff stole approximately \$200,000 worth of jewelry from the Mother's apartment. This statement was false because Defendant himself removed the jewelry from the apartment for evaluation and appraisal.

99. Defendant knew at the time he made this representation that it was false, as he was the person who had removed the jewelry.

100. Defendant made this false representation with the intent to deceive the Mother and others, and to induce the Mother to: turn against Plaintiff; deny Plaintiff access to her and her home; exclude or reduce Plaintiff from her testamentary plan; and entrust Defendant with even greater control over her assets.

101. The Mother and other family members reasonably relied on Defendant's false representation, given Defendant's position of authority as the holder of the power of attorney.

102. As a direct and proximate result of the Mother's and others' reliance on Defendant's false representation, Plaintiff suffered damages including the loss of his relationship with his Mother, the loss of his reputation, severe emotional distress, and threatened loss of his testamentary expectancy.

103. With respect to the sale of the Oceanside property owned by Poz Enterprise, Defendant represented to Plaintiff and other family members that the proceeds would be divided fairly among all owners. Instead, Defendant shortchanged Plaintiff by \$100,000 (and similarly shortchanged Billy, the father, and the Mother) to satisfy Defendant's personal debt to Sovereign Bank.

104. With respect to the sale of the Westhampton Beach house owned by Poz Enterprise, Defendant represented or caused it to be represented to the distribution entity that the proceeds were to be divided among five recipients rather than the four surviving family members. This representation was knowingly false the father was deceased and was made for the purpose of reducing each legitimate heir's share and pocketing the surplus.

105. In each of the foregoing transactions, Defendant made knowingly false representations of material fact, with the intent to deceive Plaintiff and induce his reliance, Plaintiff reasonably relied on Defendant's representations (including by relying on Defendant's superior position of knowledge and authority within the family), and Plaintiff suffered substantial damages as a direct result.

106. Defendant's fraud was willful, deliberate, and part of a systematic pattern of financial exploitation of Plaintiff, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for all losses proximately caused by Defendant's multiple acts of fraud, including but not limited to: the \$100,000 shortchanged from Plaintiff's rightful share of the Oceanside property sale

proceeds; the value of Plaintiff's fraudulently reduced share of the Westhampton Beach house sale proceeds resulting from Defendant's fabrication of a five-way rather than four-way distribution; the loss of Plaintiff's relationship with his Mother caused by Defendant's false accusation of jewelry theft; and the threatened loss of Plaintiff's testamentary expectancy;

b. Special damages for the value of all financial losses suffered by Plaintiff as a result of Defendant's fraudulent conduct in connection with the family business transactions, including the misappropriation of proceeds from the Oceanside property, the Westhampton Beach property, and the property at 3480A Hampton Road;

c. Compensatory damages for the severe emotional distress, reputational harm, and physical injury proximately caused by Defendant's fraudulent false accusation of jewelry theft;

d. Imposition of a constructive trust over any assets, proceeds, or property obtained by Defendant through fraud;

e. An order requiring Defendant to provide a full and complete accounting of all family business transactions in which Defendant exercised control over the distribution of proceeds, including but not limited to the sales of the Oceanside property, the Westhampton Beach house, and the property at 3480A Hampton Road;

f. Rescission or reformation of any transactions procured through Defendant's fraud, to the extent applicable;

g. Prejudgment and post-judgment interest as permitted by law;

h. Costs of this action; and

i. Such other and further relief as this Court deems just and proper.

COUNT VIII — BREACH OF FIDUCIARY DUTY

107. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

108. By virtue of his role as holder of the power of attorney over Eileen G. Poczatek, the Mother of both parties, Defendant owes fiduciary duties to the Mother, including the duty of loyalty, the duty of care, the duty to act in the Mother's best interests, and the duty to deal fairly with all beneficiaries and interested parties.

109. As a co-equal child of the Mother, Plaintiff is a person whose interests Defendant, as the Mother's fiduciary, is bound to consider and protect. Defendant's fiduciary duties extend to refraining from conduct that would unjustly deprive Plaintiff of his rights and interests as one of the Mother's children and as a potential beneficiary of her estate.

110. Additionally, Defendant owed fiduciary duties to Plaintiff by virtue of their shared ownership interests in Poz Enterprise and their roles in the family businesses, including All Island Truck Leasing Corp. In family business arrangements where one family member exercises control over financial decisions affecting other family members, a fiduciary relationship arises.

111. Defendant breached his fiduciary duties in the following respects, among others:

112. As holder of the Mother's power of attorney, Defendant has: used his position to isolate the Mother from Plaintiff; falsely accused Plaintiff of stealing the Mother's jewelry to alienate mother from son; permitted his son Tyler to reside rent-

free in the Mother's apartment while denying Plaintiff any access; upon information and belief, sold or is selling the Mother's assets without adequate accounting or fair distribution; upon information and belief, failed to act in the Mother's best interests by prioritizing his own financial gain; and upon information and belief, exerted undue influence over the Mother to modify her estate plan to Defendant's benefit and Plaintiff's detriment.

113. In the family business context, Defendant: shortchanged Plaintiff on the distribution of proceeds from the sale of the Oceanside property; fraudulently divided the Westhampton Beach house proceeds by five rather than four; converted Plaintiff's boat for his own personal use and subsequently traded the equity into his own yacht; directed that Plaintiff's share of the 3480A Hampton Road sale proceeds be placed in Plaintiff's then-wife's name at a time when Plaintiff was hospitalized; and refused to allow Plaintiff to use family-owned vacant properties while permitting his own children to do so.

114. As a direct and proximate result of Defendant's breaches of fiduciary duty, Plaintiff has suffered substantial damages, including financial losses from the misappropriation and maldistribution of family assets, the threatened or actual loss of his testamentary expectancy, the loss of his relationship with his Mother, and severe emotional distress.

115. Defendant's breaches of fiduciary duty were willful, deliberate, and undertaken in bad faith for Defendant's personal enrichment.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for all losses proximately caused by Defendant's breaches of fiduciary duty, including but not limited to the financial losses from the misappropriation and maldistribution of family business assets, the conversion of Plaintiff's boat equity, the threatened or actual loss of Plaintiff's testamentary expectancy, the loss of Plaintiff's relationship with his Mother, and the severe emotional distress caused by Defendant's willful and bad-faith misconduct;
- b. An order removing Defendant from his position as holder of the power of attorney over Eileen G. Poczatek and appointing a qualified, independent fiduciary or legal professional to manage the Mother's financial and personal affairs;
- c. An order requiring Defendant to provide a full and complete accounting of all actions taken by Defendant in his capacity as holder of the power of attorney over the Mother, including all transactions involving the Mother's assets, all dispositions of the Mother's property, and all expenditures made from the Mother's accounts;
- d. Imposition of a constructive trust over any assets, proceeds, or benefits obtained by Defendant or his family members, including Tyler Poczatek, through Defendant's breaches of fiduciary duty;
- e. Injunctive relief enjoining Defendant from selling, transferring, encumbering, dissipating, or otherwise disposing of any of the Mother's assets pending resolution of this action and the appointment of an independent fiduciary;
- f. Disgorgement of all profits, benefits, and compensation obtained by Defendant through his breaches of fiduciary duty;

- g. An order requiring Tyler Poczatek to vacate the Mother's apartment at 1 Water Club Way, North Palm Beach, Florida, to the extent his rent-free occupancy constitutes a breach of Defendant's fiduciary duty to the Mother and a misuse of the Mother's assets;
- h. Prejudgment and post-judgment interest as permitted by law;
- i. Costs of this action; and
- j. Such other and further relief as this Court deems just and proper.

COUNT IX — CIVIL ASSAULT

116. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

117. In or around 2023, and continuing thereafter, Defendant intentionally placed Plaintiff in reasonable apprehension of imminent harmful or offensive contact by issuing threats of death and serious bodily harm against Plaintiff. Specifically, Defendant communicated to Plaintiff, by text message and other means, that Defendant "knows where [Plaintiff] lives" and is "coming for" Plaintiff, and threatened to "wipe [Plaintiff] off the planet."

118. Additionally, Defendant's son Tyler Poczatek, acting in concert with and at the direction or encouragement of Defendant, threatened Plaintiff's life if Plaintiff ever returned to the Mother's apartment.

119. Given Defendant's documented lifetime of violent physical attacks against Plaintiff including the "Tuesday and Thursday beating days," the numerous brutal beatings, and the violent verbal assaults that left Plaintiff trembling, Plaintiff had an objectively reasonable basis to believe that Defendant's threats were genuine and that

Defendant intended to carry them out. Plaintiff took the threats literally because, as Plaintiff stated, "I have had a lifetime of his violent attacks."

120. As a direct and proximate result of Defendant's assault, Plaintiff was placed in imminent fear for his life and safety, was forced to: report the threats to the North Palm Beach Police Department; request police patrols around his residence; acquire a guard dog for personal protection; file for an Order of Protection in the Delray Beach courthouse; and ultimately flee the area for his safety.

121. Plaintiff suffered severe emotional distress, exacerbation of his cardiac condition, panic attacks, sleepless nights, dehydration, nervous shaking, complete exhaustion, and further deterioration of his already compromised mental and physical health as a direct result of Defendant's threats.

122. Defendant's conduct was willful, wanton, malicious, and outrageous, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the severe emotional distress, fear, and apprehension of imminent bodily harm caused by Defendant's death threats, including but not limited to damages for exacerbation of Plaintiff's cardiac condition, panic attacks, sleepless nights, dehydration, nervous shaking, complete exhaustion, and further deterioration of Plaintiff's mental and physical health;
- b. Special damages for expenses incurred by Plaintiff in response to Defendant's threats, including but not limited to the cost of acquiring a guard dog for personal protection, costs associated with filing for an Order of Protection, costs associated with reporting to

the North Palm Beach Police Department, and costs of relocating and fleeing the area for Plaintiff's physical safety;

c. Injunctive relief in the form of a permanent injunction prohibiting Defendant and his son Tyler Poczatek from threatening, intimidating, harassing, or making any direct or indirect contact with Plaintiff except through counsel;

d. Prejudgment and post-judgment interest as permitted by law;

e. Costs of this action; and

f. Such other and further relief as this Court deems just and proper

COUNT X— CIVIL CONSPIRACY

123. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

124. Defendant, together with his son Tyler Poczatek and, upon information and belief, other persons known and unknown, entered into an agreement, combination, or understanding to engage in the tortious and unlawful conduct described herein, including but not limited to: the false accusation of Plaintiff for jewelry theft; the issuance of death threats to prevent Plaintiff from visiting the Mother; the isolation of the Mother from Plaintiff; the exploitation of the Mother's assets; and the interference with Plaintiff's testamentary expectancy.

125. In furtherance of this conspiracy, Defendant and Tyler Poczatek committed overt acts including: Defendant's removal of the Mother's jewelry and subsequent false accusation against Plaintiff; Defendant's issuance of threatening text messages to Plaintiff; Tyler's issuance of death threats against Plaintiff; Tyler's occupation of the Mother's apartment as a physical barrier to Plaintiff's access; and, upon information

and belief, the staged replacement of the Mother's engagement ring in her apartment after Plaintiff reported the theft to police.

126. As a direct and proximate result of the conspiracy and the overt acts committed in furtherance thereof, Plaintiff has suffered all of the damages set forth above, including but not limited to the loss of his relationship with his Mother, the loss of his testamentary expectancy, severe emotional distress, physical injury, and reputational harm.

127. Defendant's participation in the conspiracy was willful, wanton, malicious, and outrageous, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for all damages suffered by Plaintiff as a direct and proximate result of the conspiracy between Defendant and Tyler Poczatek, and upon information and belief other persons known and unknown, including but not limited to damages for the loss of Plaintiff's relationship with his Mother, the loss of Plaintiff's testamentary expectancy, severe emotional distress, physical injury including cardiac complications, and reputational harm;
- b. Joint and several liability for all damages arising from the overt acts committed in furtherance of the conspiracy, including but not limited to the false accusation of jewelry theft, the death threats issued by both Defendant and Tyler Poczatek, the isolation of the Mother from Plaintiff, the staged replacement of the Mother's engagement ring, and the exploitation of the Mother's assets;

- c. Injunctive relief enjoining Defendant and all co-conspirators from engaging in any further acts in furtherance of the conspiracy, including but not limited to acts designed to isolate Plaintiff from his Mother, dissipate the Mother's assets, or interfere with Plaintiff's testamentary expectancy;
- d. An order requiring a full and complete accounting of all of the Mother's assets and all transactions undertaken by Defendant and Tyler Poczatek involving the Mother's person, property, or estate;
- e. Prejudgment and post-judgment interest as permitted by law;
- f. Costs of this action; and
- g. Such other and further relief as this Court deems just and proper.

COUNT XI — PRIMA FACIE TORT

128. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in Paragraphs 1 through 45 as though fully set forth herein.

129. To the extent that any of Defendant's conduct described herein is found not to constitute an independently actionable tort under the specific causes of action set forth above, Plaintiff brings this Count as an additional and alternative claim for prima facie tort.

130. Defendant engaged in a course of intentional and deliberate conduct directed at Plaintiff, spanning over fifty-five (55) years, that was calculated to cause and did cause substantial harm to Plaintiff. This course of conduct includes, without limitation: the ritualized physical abuse during childhood; the financial exploitation through the family businesses; the theft of Plaintiff's personal property; the use of

Plaintiff as a scapegoat in federal proceedings; the false accusations of criminal conduct; the death threats; the isolation from the Mother; and the ongoing scheme to dissipate the Mother's estate.

131. Defendant's conduct was not justified by any legitimate purpose or interest. To the contrary, Defendant's sole motivation was malice, greed, and a desire to dominate, control, and exploit Plaintiff.

132. As a direct and proximate result of Defendant's intentional, malicious, and unjustified course of conduct, Plaintiff has suffered special damages including: the value of the converted boat and fishing equipment; shortchanged proceeds from multiple family business transactions; lost income and earning capacity; medical expenses for cardiac care, psychiatric treatment, and ongoing disability; the diminution or loss of his testamentary expectancy; and other pecuniary losses.

133. Defendant's conduct was willful, wanton, malicious, and outrageous.

WHEREFORE, Plaintiff Robert A. Poczatek respectfully demands judgment against Defendant John Murray Poczatek as follows:

- a. Compensatory damages in an amount to be determined at trial for the full extent of harm caused by Defendant's intentional, malicious, and unjustified course of conduct spanning over fifty-five years;
- b. Special damages in an amount to be determined at trial, including but not limited to: the fair market value of Plaintiff's converted boat and fishing equipment; the \$100,000 shortchanged from the Oceanside property distribution; the value of Plaintiff's reduced share of the Westhampton Beach house proceeds resulting from the fraudulent five-way division; lost income and earning capacity over the course of Plaintiff's career and

continuing through his permanent disability; past and future medical expenses for cardiac care, psychiatric treatment, hospitalizations, pacemaker implantation, and ongoing disability-related care; the diminution or complete loss of Plaintiff's testamentary expectancy from the Mother's estate; and all other pecuniary losses directly and proximately caused by Defendant's conduct;

- c. Injunctive relief
- d. Prejudgment and post-judgment interest as permitted by law;
- e. Costs of this action; and
- f. Such other and further relief as this Court deems just and proper.

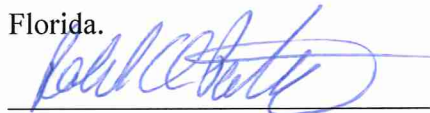
DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues and claims so triable.

VERIFICATION

I, Robert A. Poczatek, being duly sworn, depose and state as follows:

I am the Plaintiff in this action. I have read the foregoing Verified Complaint and know the contents thereof. The statements and allegations contained herein are true and correct to the best of my knowledge, information, and belief, except as to those matters stated upon information and belief, and as to those matters, I believe them to be true. I make this verification subject to the penalties of perjury under the laws of the State of Florida.



Robert A. Poczatek, Plaintiff

Respectfully submitted;

Neil Bryan Tygar, P.A.

By: /s/ Neil B. Tygar

Neil Tygar

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