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ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 05 2015

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Sherri R. Carter, Executive Officer/Clerk
By Stephen M. Smythe, Deputy

10 Attorneys for Defendants
MISCHELYNN SCARLATELLI, an individual and
11 beneficiary of the ISOM FAMILY TRUST dated
December 28, 2004; MISCHELYNN
12 SCARLATELLI, as successor trustee and
beneficiary of the ISOM FAMILY TRUST dated
13 October 10, 2013

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 DARCI S. ISOM, an individual, co-trustee
17 and beneficiary,

Case No. BC574246
Judge: Hon. Teresa Sanchez-Gordon

18 Plaintiff,

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION FOR
SANCTIONS AGAINST PLAINTIFF
DARCI S. ISOM AND HER ATTORNEY
RANDY C. WHALEY AND WHALEY
LAW FIRM PURSUANT TO CODE OF
CIVIL PROCEDURE SECTION 128.7**

19 v.

20 MISCHELYNN SCARLATELLI, an
individual and beneficiary of the ISOM
21 FAMILY TRUST dated December 28,
2004; MISCHELYNN SCARLATELLI, as
22 successor trustee and beneficiary of the
ISOM FAMILY TRUST dated October 10,
23 2013, and successor trustee for SHIRLEY
ISOM, settlor and trustee of the ISOM
24 FAMILY TRUST dated October 10, 2013;
SHIRLEY ISOM, settlor and trustee of the
25 ISOM FAMILY TRUST dated December
28, 2004 and settlor and trustee of the
26 ISOM FAMILY TRUST dated October 10,
2013 and DOES 1-25, inclusive,

Date: September 24, 2015
Time: 9:00 a.m.
Dept: D74
Judge: Teresa Sanchez-Gordon

Complaint filed: March 3, 2015

27 Defendants.
28

[PROPOSED] ORDER

1
2 Defendants' Motion for Sanctions Pursuant to *Code of Civil Procedure* Section 128.7 was
3 heard on September 24, 2015 at 9:00 a.m. Plaintiff Darci Isom appeared in pro per. Jerry R.
4 Dagrella of Dagrella Law Firm, PLC appeared on behalf of Defendants. Peter M. Bochnewich
5 appeared on behalf of interested parties Victoria Jo Isom and Cameron Troy Isom.

6 Having heard oral argument and read and considered all of the papers submitted in
7 connection with the Motion, the Court finds as follows:

8 1. The Complaint was filed on March 3, 2015 by Plaintiff Darci Isom, represented by
9 her attorney Randy C. Whaley and Whaley Law Firm. In the Complaint, Plaintiff alleges that
10 Defendant used dominance, undue influence, oppression and threat of harm to force Troy Isom to
11 execute the Isom Family Trust dated October 10, 2013 during a time that Mr. Isom lacked the
12 mental capacity to understand the document and the consequences of his actions.

13 2. On March 23, 2015, Defendant served Plaintiff with a motion for sanctions under
14 *Code of Civil Procedure* section 128.7. A motion for sanctions under Section 128.7 cannot be
15 filed until 21 days after it has been served. During this time, Plaintiff has the opportunity to
16 withdraw the complaint and avoid sanctions. Defendants strictly complied with the safe harbor
17 provisions of Section 128.7(c)(1) by serving the motion on March 23, 2015 and filing it more
18 than 21 days later on April 15, 2015. Plaintiff made a deliberate choice not to withdraw the
19 Complaint during the safe harbor period.

20 3. By presenting to the court, whether by signing, filing, submitting, or later
21 advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney is
22 certifying that to the best of the person's knowledge, information, and belief, formed after an
23 inquiry reasonable under the circumstances that the pleading is not being presented primarily for
24 an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the
25 cost of litigation, and that the claims, defenses, and other legal contentions therein are warranted
26 by existing law or by a nonfrivolous argument for the extension, modification, or reversal of
27 existing law or the establishment of new law. (CCP 128.7(b)(1)-(2).) The attorney or party
28 presenting a pleading or other paper to the court certifies that, to the best of that person's

1 knowledge and belief “formed after an inquiry reasonable under the circumstances,” the
2 allegations and other factual contentions have evidentiary support or, “if specifically so identified,
3 are likely to have evidentiary support after a reasonable opportunity for further investigation or
4 discovery.” (CCP 128.7(b)(3).)

5 4. The Court finds that Defendant’s Motion for Sanctions presents abundant evidence
6 that proves the allegations in Plaintiff’s Complaint are lacking in evidentiary support and are not
7 likely to have evidentiary support after a reasonable opportunity for further investigation or
8 discovery, and further that Plaintiff’s Complaint was presented for an improper purpose.
9 Defendant’s Motion consists of 20 declarations, including three from Mr. Isom’s doctors, another
10 three from Mr. Isom’s lawyers, and over a dozen from Mr. Isom’s family and closest friends. The
11 Court finds there is abundant evidence proving the following:

12 a. Troy Isom was in full possession of his mental faculties when he executed
13 the Isom Family Trust dated October 10, 2013. (See Declaration of Manjusha Gupta, M.D., ¶ 2;
14 Declaration of David Patterson, M.D., ¶¶ 2-3; Declaration of Elmer Pineda, M.D., ¶ 2; *see also*,
15 Declaration of Lynn Isom, ¶¶ 3, 6; Declaration of Seth Boldman, ¶¶ 3, 7; Declaration of Melanie
16 Boldman, ¶¶ 2, 5; Declaration of Helen Dominguez, ¶¶ 3, 6, 7; Declaration of Lea Hernandez, ¶
17 4; Declaration of Jeanne Sterba, ¶¶ 2, 3; Declaration of Mark Sterba, ¶¶ 2-4; Declaration of
18 George Cole, ¶ 3; Declaration of Celia Chu, ¶ 3; Declaration of Perry Chu, ¶ 3; Declaration of
19 Kelli Welsh, ¶ 7; Declaration of Bill Zehender, ¶¶ 5-6.)

20 b. Defendant was not involved in Troy Isom’s estate planning decisions. (See
21 Declaration of Suzanne Graves, ¶¶ 5-7; Declaration of Mary Ireland, ¶¶ 3-5; Declaration of Jerry
22 R. Dagrella, ¶¶ 3-4; Declaration of Mischelynn Scarlatelli, ¶ 7.)

23 c. Troy Isom was not a victim of financial or physical elder abuse.
24 (Declaration of Mischelynn Scarlatelli, ¶ 7; Declaration of Manjusha Gupta, M.D., ¶ 2;
25 Declaration of David Patterson, M.D., ¶¶ 2-3; Declaration of Elmer Pineda, M.D., ¶ 2;
26 Declaration of Lynn Isom, ¶ 5; Declaration of Seth Boldman, ¶ 7; Declaration of Melanie
27 Boldman, ¶ 5; Declaration of Helen Dominguez, ¶ 7; Declaration of George Cole, ¶ 4;

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1 Declaration of Celia Chu, ¶ 4; Declaration of Perry Chu, ¶ 4; Declaration of Kelli Welsh, ¶ 10;
2 Declaration of Bill Zehender, ¶ 6.)

3 Plaintiff made a deliberate choice not to oppose Defendants' Motion and, in so doing,
4 concedes the merits of Defendant's Motion.

5 **GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY ORDERED THAT:**

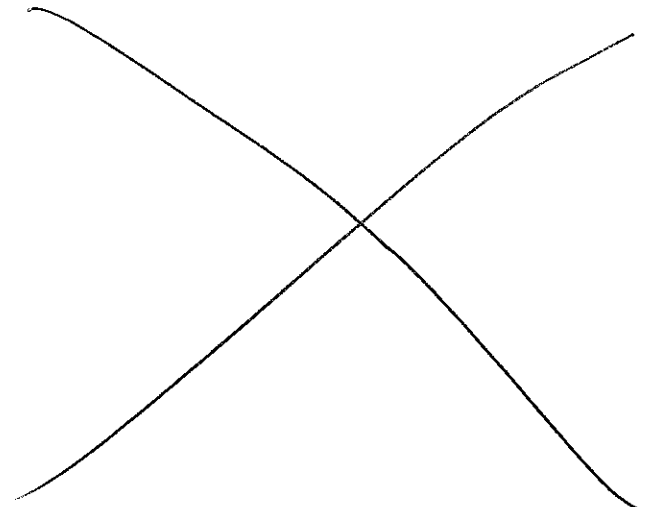
6 Defendants' Motion is granted on the basis that Plaintiff and her attorney violated Section
7 128.7(b)(3) by filing a complaint that contains allegations and factual contentions that are lacking
8 in evidentiary support and are not likely to have evidentiary support after a reasonable
9 opportunity for further investigation or discovery, and on the further basis that Plaintiff and her
10 attorney violated Section 128.7(b)(1) by filing a complaint for an improper purpose to harass
11 Defendant.

12 The Complaint herein is ordered stricken and dismissed with prejudice. Plaintiff Darci
13 Isom and her attorney of record, Randy C. Whaley and Whaley Law Firm, are hereby sanctioned
14 jointly and severally, and ordered to pay Defendants reasonable attorneys' fees and costs in the
15 amount of \$9,761.00. Such payment is to be made within thirty (30) calendar days from the date
16 of service of the Notice of Ruling.

17
18 Dated: OCT 05 2015

By: TERESA SANCHEZ-GORDON
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE

At the time of service I was over 18 years of age and not a party to this action. My business address is Dagrella Law Firm, 11801 Pierce St., Suite 200, Riverside, California 92503. On September 25, 2015, I served a copy of the following document(s):

[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION FOR SANCTIONS AGAINST PLAINTIFF DARCI S. ISOM AND HER ATTORNEY RANDY C. WHALEY AND WHALEY LAW FIRM PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 128.7

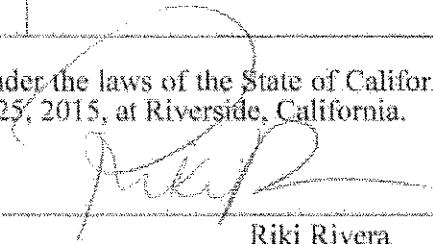
By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below (specify one):

Deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Riverside, California.

Randy C. Whaley WHALEY LAW FIRM 339 Lila Lane El Cajon, CA 92021	For: Plaintiff Darci S. Isom
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 25, 2015, at Riverside, California.



Riki Rivera