

COPY

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

TIMOTHY KELLY,)
)
Plaintiff,)
)
v.)
)
BETH BHATNAGAR, SARAH YOUNG)
ELLEN WOOLAVER,)
BILL KELLY, CAROLE KELLY,)
PATRICK MCCURDY,)
MICHAEL MCCURDY,)
KATHERINE ANN MCCURDY-IVEY,)
And UNKNOWN DESCENDANTS OF)
WILLIAM SCRUGGS, SR. d. 1859;)
SARAH W. SCRUGGS d. 1856;)
SARAH SCRUGGS d. 1849; and)
RACHEL WALDRON d. 1851,)
)
Defendants.)

DOCKET NO: 22-0824-IV

FILED
2022 JUN 10 AM 11:22
CLERK & MASTER
DAVIDSON CO CHANCERY CT
11:24 AM

MOTION FOR SERVICE OF PROCESS BY PUBLICATION

COMES NOW Plaintiff Timothy Kelly, by and through his attorney of record Sean R. Aiello and the Law Firm of Schell & Oglesby, LLC hereby filing this Motion for Service of Process by Publication, moving this Court for an order to permit service of process upon the Unknown Descendants of William Scruggs, Sr. d. 1859, Sarah W. Scruggs d. 1856, Sarah Scruggs d. 1849, and Rachel Waldron d. 1851 pursuant to Tenn. Code Ann. § 21-1-203 and 204. In support of the same, Plaintiff would show as follows:

1. The underlying action in this case concerns a request to declassify the "Scruggs Cemetery" located inside Map and Parcel No. 158 00 0 034.00 as a cemetery under Tenn. Code Ann. § 46-4-103 and for an order transferring interest in the same to him for incorporation into the

surrounding parcel of real property. In said suit, Plaintiff named all interested parties whom, to his knowledge were descendants of those individuals alleged to be buried in the Scruggs Cemetery. Specifically, Plaintiff identified the following surviving descendants of (1) Scruggs, William, Sr. "Died Feb. 4, 1859 aged about 75 years" {Box Tomb}; (2) Scruggs, Sarah W. "Wife of Williams Scruggs, Sr. Born Dec. 16, 1978, Died May 20, 1956, Age 56 years 5 months & 4 days" {Box Tomb}; (3) Scruggs, Sarah "Wife of JM Scruggs, Jr., Born March 10, 1824, Died May 21, 1949" {Tall spire with top broken off}; (4) Waldron, Rachel "Born October 26, 1984, Died May 26, 1851":

- a. Beth Bhatnagar
173 Los Robles Dr.
Burlingame, CA 94010
- b. Sarah Young
6015 Wellesley Way
Brentwood, TN 37027
- c. Ellen Woolaver
154 Main St. West
Grimsley, Ontario L3M1S3 Canada
- d. Patrick Daniel McCurdy
10555 W Jewell Ave Apt. 10-201
Denver, CO 80232
- e. Michael James McCurdy
5230 39th Dr. Apt. 6F
Woodside, NY 11377
- f. Katherine Ann McCurdy-Ivey
3809 Whiffletree Ct.
Plano, TX 75023
- g. Bill Kelly
2810 Blackwater Drive
Murfreesboro TN 37128
- h. Carole Kelly

415 6th Ave.
Columbia, TN 38491

Although this list includes all known descendants, it is possible there are other unknown descendants requiring notice of these proceedings.

2. Tenn. Code Ann. § 21-1-103 permits individuals to be served by publication “[w]hen the name of the defendant is unknown and cannot be ascertained upon diligent inquiry.” In this particular case, as an effort of due caution Plaintiff believes service through publication may be required to ensure unknown descendants are duly notified of these proceedings. Said service is expressly contemplated under Tenn. Code Ann. § 34-4-103(b).

3. As required, in support of this *Motion*, Plaintiff includes these identified facts necessitating service through publication in supporting affidavit form. **Exhibit A, Affidavit.**

WHEREFORE Plaintiff requests as follows:


1. Following hearing the Court issue an order of service by publication serving Unknown Descendants of William Scruggs, Sr. d. 1859, Sarah W. Scruggs d. 1856, Sarah Scruggs d. 1849, and Rachel Waldron d. 1851;

2. The Court set this matter for hearing on July 8, 2022; and

3. Any and all such additional relief to which Plaintiff may be entitled.

Respectfully submitted,

SCHELL & OGLESBY, LLC


SEAN R. AIELLO, BPR 34568
509 New Highway 96 W., Ste. 201
Franklin, TN 37064
(615) 550-2800
saiello@franklin.legal

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing document has been served via U.S. Mail:

- a. Beth Bhatnagar
173 Los Robles Dr.
Burlingame, CA 94010

- b. Sarah Young
6015 Wellesley Way
Brentwood, TN 37027

- c. Ellen Woolaver
154 Main St. West
Grimsley, Ontario L3M1S3 Canada

- d. Patrick Daniel McCurdy
10555 W Jewell Ave Apt. 10-201
Denver, CO 80232

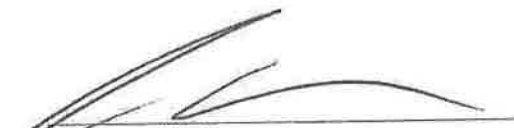
- e. Michael James McCurdy
5230 39th Dr. Apt. 6F
Woodside, NY 11377

- f. Katherine Ann McCurdy-Ivey
3809 Whiffletree Ct.
Plano, TX 75023

- g. Bill Kelly
2810 Blackwater Drive
Murfreesboro TN 37128

- h. Carole Kelly
415 6th Ave.
Columbia, TN 38491

This the 10 day of June 2022.


Sean R. Aiello

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Plaintiff,)
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v.) **DOCKET NO:**
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ELLEN WOOLAVER,)
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And **UNKNOWN DESCENDANTS OF**)
WILLIAM SCRUGGS, SR. d. 1859;)
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SARAH SCRUGGS d. 1849; and)
RACHEL WALDRON d. 1851,)
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Defendants.)

Tenn. Code Ann. §21-1-203 Affidavit

STATE OF TENNESSEE)
COUNTY OF WILLIAMSON)

I, Sean R. Aiello, having been first duly sworn, state as follows:

1. I am an attorney licensed to practice law in the State of Tennessee.
2. I represent the Plaintiff, Timothy Kelly, in this action.
3. I have personal knowledge of the matters set forth herein.
4. Among other identified defendants there are named Unknown Descendants of

William Scruggs, Sr. d. 1859, Sarah W. Scruggs d. 1856, Sarah Scruggs d. 1849, and Rachel Waldron d. 1851 who may require notice of these proceedings.



5. The only feasible manner way to notify these Unknown Descendants of these proceedings is to publish an Order in a local newspaper.

FURTHER affiant saith not.



SEAN R. AIELLO

Sworn to and subscribed before me this 9th day of June 2022.

My Commission Expires: 11/27/22



NOTARY PUBLIC

