

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

DEC - 2 2009

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
v.)
)
The Estate of Bryan David Roark,)
Defendant.)

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

Case No. CJ 2009-10905

**EMERGENCY APPLICATION FOR ORDER REGARDING DISBURSEMENT OF
NECESSARY EXPENSES AND REASONABLE ATTORNEY'S FEES FOR
INTERVENOR WITH COURT APPROVAL**

COMES NOW Christiana K. Roark ("Intervenor") and respectfully makes application to the Court for the entry of an Order allowing Intervenor interim reasonable and necessary monthly living expenses as set forth herein. In support of this Application, Intervenor shows the Court as follows:

1. Bryan Roark died on October 24, 2009. Intervenor is the widow of Bryan Roark.
2. Intervenor is a schoolteacher with no outside source of income other than her compensation as a schoolteacher. Intervenor has two (2) dependent children¹, Chad Ryan Roark and Craig Bryan Roark. Both dependents attend East Central University in Ada, Oklahoma on a full-time basis. Chad Roark is currently residing with Intervenor. Intervenor's sons currently have no outside source of income and are entirely dependent upon Intervenor for support.

¹ See, IRS Publication 501 ("Exemptions, Standard Deduction, and Filing Information"); 36 O.S. §4101.1(A) ("The term 'dependent' is...her child twenty-one years or older who is attending an education institution and relying upon the insured employee or member for financial support.").

3. On November 4, 2009 Plaintiff, Oklahoma Department of Securities, brought this action against the "Estate of Bryan Roark²".

4. On November 4, 2009 the Court entered an Order Freezing Assets and Appointing Receiver (the "Freeze Order"). The Freeze Order enjoins Intervenor and family members and others from dispersing any funds subject to the Freeze Order. The Freeze Order effectively destroys the ability of Intervenor to manage her personal affairs, tend to the needs of her family and otherwise maintain any personal freedom. The only revenue source remaining of the Intervenor is her monthly salary of \$2,308.19, which is wholly insufficient to care for her needs and the needs of her children. Further, out of that monthly salary, Intervenor must pay COBRA medical expenses of \$475.00.

5. This Emergency Application is necessitated by the fact that bills of the Intervenor are coming due shortly, or are past due. Further, the back surgery of the son of Intervenor requires an upfront payment of \$4,500, which must be paid forthwith to avoid delays in surgery and resultant additional expenses for deductible costs if the surgery is undertaken after yearend. Although counsel for the Intervenor and Plaintiff, Oklahoma Department of Securities, have attempted to come to an agreement with respect to reasonable allowances, the parties have been unable to come to agreement.

6. Intervenor has fully cooperated with the Oklahoma Department of Securities and the Receiver appointed in this case. In that regard, Intervenor has turned over to such persons the following items found by Intervenor after the death of David Roark:

- a. personal laptop computer of Bryan Roark;
- b. two files of business records of Bryan Roark; and

² No such entity existed as of December 1, 2009.

c. approximately one hundred (100) ten ounce bars of silver purchased by David Roark, along with miscellaneous gold coins and objects.

7. In addition, Intervenor has turned over to her counsel cash in the amount of \$98,400.00 that she found after the death of her husband. Such funds constitute all of the cash located by Intervenor after the death of Mr. Roark. Counsel is currently holding all of said moneys in its law firm trust account for safekeeping.

8. Intervenor, directly and through her counsel, is in regular contact with the Receiver to address the various assets of the Receivership and their maintenance and disposition, including cattle, farm equipment, vehicles, and various other real and personal properties. Intervenor has agreed to allow counsel for the Receiver to file a probate proceeding in the appropriate county for her deceased husband, Bryan Roark, and to be sworn in as the personal representative of the Estate of Bryan Roark.

9. Intervenor and her dependent children are dependent upon this Receivership for support, care and maintenance during the administration of the Receivership. The Receivership is amply able to provide an allowance to Intervenor and her dependent children for their support, care, and maintenance to the extent of \$4,614.02 per month, which is a reasonable amount for that purpose according to such persons' circumstances and accustomed mode of life.

10. The Receiver appointed by the Court, Douglas L. Jackson, has agreed to assume responsibility for taxes, insurance and utility payments attributable to the properties under its control.

11. Attached hereto as Exhibit 1 is an itemized estimated Monthly Budget, setting for the estimated net out-of-pocket expenses incurred and to be incurred by Intervenor for herself and her sons.

12. Attached hereto as Exhibit 2 is an itemized statement of one-time medical, funeral and home repair expenses for which Intervenor is obligated to pay, for which Intervenor requests authorization from the Court for payment by the Receiver.

WHEREFORE, premises considered, Intervenor respectfully requests that the Court enter an Order directing an immediate disbursement from the Receiver to her of \$14,602.59 for one time expenses heretofore incurred, and for interim monthly expenses of \$4,614.02, pending further order of the Court.

Respectfully Submitted,

DUNN SWAN & CUNNINGHAM

By:



Clell I. Cunningham III, OBA #2093
2800 Oklahoma Tower
210 Park Avenue
Oklahoma City, Oklahoma 73102
(405) 235-8318

Attorneys for Intervenor

CERTIFICATE OF SERVICE

The undersigned certifies that on the 2 day of December, 2009, a true and correct copy of the above and foregoing Emergency Application for Order Regarding Disbursement was hand delivered to:

Oklahoma Department of Securities
Jennifer Shaw
120 North Robinson, Suite 860
Oklahoma City, OK 73102

Douglas L. Jackson
Gongoll Jackson Law Firm
Post Office Box 1549
Enid, OK 73702



BASIC BUDGET WORKSHEET FOR CHRISTY, CHAD AND CRAIG ROARK

| | |
|--|-------------------|
| Total Monthly Gross Income (Christy Only) | \$2,308.19 |
| -Taxes, Health Ins. & Other Payroll Deductions (COBRA) | \$475.00 |
| -Savings, 401K, etc. | \$ 0.00 |
| = Total Monthly 'Spensible' Income | \$1,833.19 |

| | Monthly Payments |
|---|-----------------------------|
| Housing Expenses (Christy and Craig Residence Only) | |
| Rent or Mtg. | \$0.00 |
| Utilities (water, gas, trash, electric) | \$0 |
| Insurance (set \$ aside each month if paid annually) | \$0 |
| Repairs (set \$ aside for future expenses) | \$0 |
| Taxes (set \$ aside if paid annually) | \$0 |
| = Total | \$0 |
| Car Expenses (3 vehicles only) | |
| Loan Payment(s) | \$0.00 |
| Gas | \$600.00 |
| Insurance (set aside if paid annually) | \$125.00 |
| Maintenance & Repairs (set \$ aside for future expenses) | \$75.00 |
| = Total | \$800.00 |
| Debts | |
| Creditor #1 Discover Card 2191 Balance \$4,200.00 | \$100.00 |
| Creditor #2 Visa Card 1516 Balance \$ 2,064.35 | \$65.00 |
| Creditor #3 Visa Card 1614 Balance \$ 217.49 | \$20.00 |
| Creditor #4 _____ Balance _____ | |
| = Total | \$185.00 |
| Miscellaneous | |
| (Set \$ aside each month for annual expenses, such as Ins.) | |
| Church Tithes & Offerings | \$0.00 |
| Other Charitable Contributions | \$0.00 |

EXHIBIT 1

| | |
|---|-------------------|
| Groceries, Lunches, Meals Out | \$1,500.00 |
| Life Insurance (Christy only) | \$0 |
| School Supplies | \$200.00 |
| Medical Bills and CoPays | \$100.00 |
| Prescription Medicines | \$267.21 |
| Pet Supplies & Vet Exams | \$20.00 |
| Cable Television, Internet Access | \$130.00 |
| Club Dues (Homeowner's Assoc., Fitness, etc...) | \$0.00 |
| Newspaper, Magazine Subscriptions | \$15.00 |
| Clothing | \$110.00 |
| Haircuts | \$20.00 |
| Gifts | \$0.00 |
| Cell Phones | \$300.00 |
| Personal miscellaneous expenses and allowance | \$300 |
| Legal Fees | \$2,500.00 |
| Other | \$ _____ |
| = Total | \$5,462.21 |

Monthly Expense Totals

| | |
|-------------------------|-------------------|
| Housing | \$0 |
| Car | \$800.00 |
| Debts | \$185.00 |
| Miscellaneous | \$5,462.21 |
| = Total Expenses | \$6,447.21 |

Monthly Surplus or Shortage

(Total Spendable Income *minus* Total Expenses)

[\$4,614.02]

One Time Expenses

| | |
|--|--------------------|
| Christy Emergency Room Visit | \$828.55 |
| Chad Back Surgery in December, 2009 | \$4,500.00 |
| Oklahoma Spine Hospital (Craig and Chad) | \$307.52 |
| Funeral Expenses | \$8,518.84 |
| Life Insurance Premium (Christy) | \$ 447.68 |
| = Total | \$14,602.59 |