

## Lawyers undo 'dollar sale' of vulnerable woman's home

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A happy Marianne Stearns in front of the only home she has ever known

Two attorneys have come to the rescue of a mentally challenged woman who, for a mere \$1, transferred her interest in the only home she has ever known.

Both Hyannis attorney Eric L. Levitt and Worcester lawyer Scott S. Sinrich count a recent trial victory on behalf of their client, Marianne Stearns, as one of the most satisfying accomplishments of their careers.

"She really didn't have the money to file a lawsuit," says Levitt, of Common Law Associates. "It seemed like a good case, but it wasn't a guaranteed win. Nobody was going to take it on a contingency, so I said I would do it."

Sinrich took satisfaction from the fact that the case was about assisting someone who needed help at the most basic level.

"My typical clients are fighting about money; that's what we're in court about — not about keeping a person from being homeless," says Sinrich, of Phillips, Silver, Talman, Aframe & Sinrich.

Kathleen Marini, the sister and legal guardian of Stearns, says she's thrilled that her sister can remain in her house.

"Scott and Eric were incredible," Marini says. "They have their place in heaven."

According to court records, Stearns, 56, has suffered for many years from various neurological, psychological and emotional problems.

"Her ability to understand is very limited," Sinrich says. "The family knew for 20 years that she needed someone to watch over her."



As a result, Stearns has lived in her mother's house under the care of various family members. Upon her mother's death, Stearns became a joint owner of the home by way of inheritance.

In December 2015, Stearns executed a quitclaim deed transferring the interest she had in the \$500,000 house in East Bridgewater to her nephew, Matthew Monteiro, a Brockton police officer. The deed was prepared at the request of Monteiro by now-retired Easton lawyer Lewis S. Victor. The attorney presented the deed for Stearns' signature at his law office and notarized the document himself.

Stearns would later claim that she only signed the deed because she was under the impression that Victor represented her and that the quitclaim deed was necessary to prevent the property from being taken for unpaid taxes.

In 2017, Monteiro commenced proceedings to evict Stearns.

Through a client in his bankruptcy practice, Levitt heard of Stearns' plight and decided to help, filing suit against Monteiro to set aside the quitclaim deed.

Sinrich subsequently joined the fray by filing a legal malpractice suit against Victor.

Levitt and Sinrich later decided that Sinrich would handle last month's civil trial on the claims against Monteiro in Plymouth Superior Court.

The lawyers' persistence and hard work finally paid off.

Following a four-day bench trial in January, Judge Brian S. Glenny entered judgment for Stearns on Feb 9, declaring the 2015 quitclaim deed null, void and rescinded.

In an unusual twist, rather than issuing separate findings, Glenny agreed to answer "yes" or "no" to specific questions proposed by the plaintiff. In those answers, the judge agreed that Stearns lacked the capacity to make legal decisions at the time she executed the quitclaim deed in December 2015 and that the deed was procured by undue influence. In addition, Glenny agreed that Monteiro held the property in constructive trust for the benefit of Stearns.

According to Sinrich, an admission by the defendant was a key to that result.

"Monteiro acknowledged [in deposition testimony] that he was deeded the property originally in 2009 based on his promise to take care of his aunt for her life," Sinrich says.

On the other hand, the judge answered "no" to questions on whether Stearns was entitled to restitution or damages for unjust enrichment.

While the legal malpractice case is still pending, attorney Victor has already paid a heavy price for his involvement in the matter. In 2019, the Board of Bar Overseers issued a public reprimand conditioned on Victor's immediate cessation of taking on new client matters and his agreement to close his law practice and assume retirement status no later than Dec. 31, 2019.

Among other violations, the BBO found that Victor violated Mass. R. Prof. C. 4.3 in facilitating Stearns' execution of the quitclaim deed.

"Although he knew that [Stearns] was not represented by counsel and reasonably should have known that she misunderstood his role in the matter, the respondent did not make reasonable efforts to correct [her] misunderstanding," the board wrote.

Sinrich says he doesn't believe that Victor acted maliciously.

"But it's clear from the BBO decision they were not happy with his actions," Sinrich says.

In the malpractice case, Sinrich says he is hoping to recover upwards of \$100,000 in attorneys' fees and costs incurred by his client in the quitclaim deed litigation.

"Eric Levitt did a lot of work without getting paid," Sinrich says. "I haven't been paid at all, but I couldn't abandon this woman."

Though Levitt says he never took the case with the expectation of being paid, he agrees that "it would be nice to get paid a little bit for the effort."

Monteiro is represented by Bruce S. Raphel. The West Bridgewater attorney declines to comment, citing ongoing litigation in the case.

Victor is represented in the legal malpractice case against him by J. William Chamberlain Jr. of Lynch & Lynch in South Easton. Chamberlain was unavailable for comment.



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