

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. ~~16~~ \_\_\_\_\_

17-CV-00195 A

MARIA KOTROTSOU, as permanent judicial guardian for Myrto Papadomichelaki, )

Plaintiff, )

v. )

FEDERATION OF HELLENIC AMERICAN SOCIETIES OF NEW ENGLAND )

Defendant. )

and )

CITIZENS BANK )

Trustee Defendant. )

**VERIFIED COMPLAINT**

Plaintiff Maria Kotrotsou (“Ms. Kotrotsou”), as permanent judicial guardian for her 19-year old daughter, Myrto Papadomichelaki (“Myrto” or “Mirto”),<sup>1</sup> seeks to recover \$129,919 raised by the Federation of Hellenic American Societies of New England (“FHASNE”), in trust for Myrto, to pay Myrto’s medical and living expenses following a vicious attack upon Myrto in Greece (the “Trust Funds”). Despite demand, FHASNE has failed and refused to turn over the Trust Funds, depriving Myrto of needed care and supplies, in breach of trust, having defrauded the donors. In support hereof, Ms. Kotrotsou alleges as follows:

<sup>1</sup> A translation of Ms. Kotrotsou’s appointment as the permanent judicial guardian of Myrto Papadomichelaki, by Decision Number 567/2016 from the Hellenic Republic-Athens Court of First Instance dated April 15, 2016 is attached hereto as Exhibit 1.

## PARTIES

1. Ms. Kotrotsou is a Greek citizen residing at 2 Pallikaridi Street, Athens, Greece.
2. Myrto is a Greek citizen and is Ms. Kotrotsou's daughter. She also lives in Greece.
3. FHASNE is a Massachusetts nonprofit corporation with a principal place of business at 6 Manning Street, Burlington, MA 01803.
4. Trustee Defendant Citizens Bank of Massachusetts ("Citizens Bank") is a banking institution with a regular place of business in Middlesex County, Massachusetts.

## JURISDICTION AND VENUE

5. The claims set forth in this Complaint are within the general jurisdiction of the Superior Court.
6. Venue is proper in Middlesex County pursuant to M.G.L. c. 223, § 1.
7. This Court has personal jurisdiction over FHASNE and Trustee Defendant pursuant to M.G.L. c. 223A, § 3.

## FACTS

### FHASNE's Fundraising For Myrto

8. In the summer of 2012 then 15-year-old Myrto was brutally attacked on the Greek island of Paros. The event was summarized on FHASNE's fundraising website for Myrto as follows:

While walking on the beach she was violently assaulted, beaten and left for dead. As a result of this attack, she has suffered severe brain trauma and spinal injuries. She is unable to walk or talk and is currently nourished through feeding tubes. These tragic injuries have drastically changed her life forever.

See print out from the FHASNE fundraising website for Mirto is attached hereto as Exhibit 2, pg.

2.

9. One year after the attack, in approximately summer of 2013, Myrto was admitted to the Spaulding Rehabilitation Hospital in Boston for further medical treatment.

10. In approximately October 2013, a young woman, who was the daughter and granddaughter of past FHASNE presidents, expressed her and others' desire to help Myrto with her medical expenses. FHASNE agreed to assist the "Friends of Mirto", *i.e.*, a group of individuals that desired to raise money for Myrto, in their efforts to raise money to pay for expenses that Myrto would incur as a result of the attack.

11. On or about November 9, 2013, FHASNE set up an online fundraiser utilizing the Youcaring.com platform and identified the sole beneficiary of the fundraiser as Myrto. *See Exhibit 2.*

12. FHASNE opened a bank account at Citizens Bank, under FHASNE's name and specifying it as the "Mirto Fund." All online donations as well as donations by cash/check were deposited in the Citizens Bank FHASNE Mirto Fund account.

13. At the time the fundraising began, the goal was to raise \$25,000 for a speech machine called Tobii Speech Generating Device, which through the therapy she was receiving at the Spaulding Rehabilitation Hospital in Boston, would allow Myrto to communicate.

14. Donations quickly poured in for Myrto in a short time frame using the online platform. The \$25,000 goal was reached in a couple of days and yet the fundraiser continued.

15. According to the YouCaring.com website for "Friends of Mirto" organized by FHASNE, FHASNE raised \$71,192 on this website from over 2,000 donors to buy medical equipment for Myrto to improve the quality of her life. *See Exhibit 2.*

16. In addition, FHASNE sponsored a fundraising event for Myrto on December 7, 2013 at which an additional \$32,000 was raised from donors for Myrto's benefit.

17. All of the donors gave their money to FHASNE, in trust for Myrto, to be used for her exclusively, for her medical expenses and to improve her quality of life.

18. In all, according to FHASNE's 2013 tax return, \$129,919 was raised in less than two months for Myrto's medical care and treatment from the YouCaring.com website, the December fundraiser and other contributions. See redacted excerpt from FHASNE 2013 Tax Return, attached hereto as Exhibit 3.

**Myrto's Surgery at Boston Children's Hospital**

19. On or about November 21, 2013, Myrto's doctors recommended surgery for the insertion of a Baclofen Pump & Catheter, which is an implanted pump and catheter/tube that delivers the Baclofen drug from the pump to the fluid around the patient's spinal cord.

20. Myrto received the Baclofen surgery in early December, 2013.

21. The total amount of medical costs for the surgery for Myrto at Children's Hospital was \$119,214.64.

22. For an unknown reason, according to documents later send to Myrto's family from Children's, a \$40,747.72 discount was applied to the bill for the medical services provided by Children's, leaving a balance of \$77,969.92.

23. Myrto's mother, as guardian, intended on providing the medical invoice information for the Baclofen pump surgery to the Greek government for payment because, at that point, the Greek government had paid for all of Myrto's outstanding American hospital medical costs relating to the vicious attack upon Myrto including but not limited to Spaulding Rehabilitation Hospital and Massachusetts General Hospital charges.

24. Myrto's mother, through counsel, asked for the medical invoice information from Children's Hospital at least as early as January, 2014. At that time, no invoice was provided to Myrto's family by Children's Hospital.

25. Myrto's counsel then learned that FHASNE was seeking information from Children's Hospital to pay for the medical services directly.

26. Myrto's family did not want FHASNE to pay for the medical costs because the Greek government had already expressly stated it would cover Myrto's American medical costs. Myrto's family wanted to use the funds that were raised for costs that were not covered by the Greek government.

27. Because Children's Hospital refused to give Myrto's family the medical invoice information, Myrto's family could not submit the invoice information to the Greek government for payment as planned.

28. Despite the clear instructions from Myrto's family to the contrary, FHASNE submitted a check for \$50,607.27 from the Trust Funds, i.e., the Friends of Myrto Citizens Bank account, dated July 1, 2014 to Children's Hospital. Children's Hospital accepted that payment. Children's Hospital also accepted payment from third party Hellenic Cardiac Fund for \$27,710.77 on Myrto's account.

29. FHASNE was not authorized to transfer the \$50,607.27 from the Trust Funds to Children's Hospital.

30. Upon information and belief, if Children's Hospital had provided the medical billing information to Myrto's family as requested, the billing would have been submitted to the Greek government for payment. This would have permitted the \$50,607.27 improperly released

by FHASNE to remain in the account for the benefit of Myrto to be used for her later medical costs which would not likely be paid for by the Greek government.

#### **Myrto Returns to Greece**

31. On or about January 24, 2014, once her health condition stabilized, Myrto was transferred back to Greece.

32. She currently resides at ANIMUS Recovery and Rehabilitation Centre in Larissa, Greece.

#### **FHASNE Refuses To Release Funds To Myrto's Family For Her Medical Needs**

33. As of August 1, 2016, FHASNE had not distributed any of the Trust Funds to Myrto, her mother, Ms. Kotrotsou, nor any member of their family.

34. On August 9, 2016, Myrto, through her representatives, made demand upon FHASNE for the \$129,919 raised for her benefit. The August 9, 2016 Letter is attached hereto as *Exhibit 4*.

35. FHASNE did not respond to the August 9, 2016 letter.

36. On August 26, 2016, the August 9, 2016 letter was forwarded to FHASNE's last known attorney. That attorney, Dimitrios Ioannidis, responded on the same date that "the Federation was not interested in keeping the funds [raised for Myrto] but wants to simply comply with the purposes of the Fundraiser which were very specific. All [Myrto's family] needs to do is provide copies of medical bills or related expenses for past or future needs [for Myrto] for the funds to be distributed."

37. On September 12, 2016, Attorney Ioannidis confirmed that \$80,301.84 remained in the FHASNE account holding the Trust Funds, and stated that FHASNE "is willing to make disbursements consistent with the purposes of the fundraiser." Attorney Ioannidis further wrote:

“Please provide me with either medical bills not covered by insurance that Myrto may have, any proposals for medical equipment that she may need for her care, including the Tobii machine or other equipment.”

38. On October 20, 2016, Myrto’s family, through counsel, submitted a list of all of the medical equipment and medical services she required, with detailed backup of that information. The October 20, 2016 Letter is attached hereto as Exhibit 5.

39. On November 17, 2016, Attorney Ioannidis confirmed that FHASNE would disburse the funds for Myrto’s medical and other needs described in the October 20, 2016 letter. Attorney Ioannidis further demanded a “(a) a sworn affidavit from Myrto’s guardian that all the funds will be used exclusively for medical and other needs of Myrto as included in your correspondence and (b) a release of all claims against the Federation.”

40. A sworn affidavit from Myrto’s guardian as requested by FHASNE has been provided to FHASNE. Nevertheless, FHASNE has failed and refused to turn over the Trust Funds.

41. FHASNE is not entitled to a “release of all claims against FHASNE”.

42. Nevertheless, a release was conditionally provided to FHASNE as requested, even though it should not have been necessary, and FHASNE still has failed to release the Trust Funds.

43. To date, FHASNE has not distributed any of the Trust Funds to Myrto, nor Ms. Kotrotsou, nor any member of their family.

44. Ms. Kotrotsou is not aware of any liability insurance which would be available to satisfy a judgment against FHASNE.

**CAUSES OF ACTION**

**COUNT I: CONVERSION**

45. Ms. Kotrotsou hereby incorporates and re-alleges the paragraphs set forth above.

46. FHASNE has wrongfully exercised dominion over the Trust Funds, which were raised for the benefit of Myrto, and to which Myrto has an immediate right of possession.

47. As a direct and proximate result of FHASNE's actions, Myrto has been injured and has suffered, and will continue to suffer, substantial financial damages.

**COUNT II: CONSTRUCTIVE TRUST**

48. Ms. Kotrotsou hereby incorporates and re-alleges the paragraphs set forth above.

49. As set forth above and herein, FHASNE is in possession of sums in excess of \$129,919 which properly belong to Myrto.

50. Ms. Kotrotsou demands that this Court order a constructive trust on FHASNE's assets up to an amount of \$129,919 and requests this property be placed in a constructive trust for the benefit of Myrto.

**COUNT III: DECLARATORY RELIEF**

51. Ms. Kotrotsou hereby incorporates and re-alleges the paragraphs set forth above.

52. On information and belief, Citizens Bank is holding funds in FHASNE's name for the benefit of Myrto. These funds are properly the assets of the Myrto in the amount of at least \$129,919.

53. Ms. Kotrotsou demands that this court issue a declaratory judgment that all assets held by Citizen's Bank standing in the name of FHASNE for the benefit of Myrto, of at least the amount of \$129,919, are the legal and equitable property of Myrto and that this Court order Citizens Bank to pay over all such sums to Ms. Kotrotsou forthwith.



**COUNT IV - DEMAND FOR ACCOUNTING**

54. Ms. Kotrotsou hereby incorporates and re-alleges the paragraphs set forth above.

55. FHASNE held, managed, or expended funds for the benefit of Myrto.

56. Myrto is entitled to a full accounting of the funds held, managed and expended by FHASNE including an accounting of the whereabouts of all funds.

**COUNT V: VIOLATION OF M.G.L. C. 93A**

57. Ms. Kotrotsou repeats and incorporates herein by reference the allegations set forth in the foregoing paragraphs of this Complaint.

58. FHASNE's conduct, including but not limited to that described above, constitutes unfair and deceptive acts and practices in violation of G.L. c. 93A.

59. FHASNE's unfair and/or deceptive acts and practices were engaged in knowingly and willfully.

60. FHASNE's unfair and/or deceptive acts and practices occurred primarily and substantially in Massachusetts.

61. As a direct and proximate result of FHASNE's unfair and/or deceptive acts and practices, Myrto has been injured and suffered financial damages.

**PRAYERS FOR RELIEF**

**WHEREFORE**, Plaintiff Maria Kotrotsou, as permanent judicial guardian for Myrto Papadomichelaki requests that this Court:

- a. Enter Judgment for Plaintiff Maria Kotrotsou, as permanent judicial guardian for Myrto Papadomichelaki, against Federation of Hellenic American Societies of New England, in the amount of \$129,919 plus interest upon said judgment, together with costs of this action;
- b. Grant Plaintiff Maria Kotrotsou, as permanent judicial guardian for Myrto Papadomichelaki, a trustee attachment of all funds in the amount of \$129,919 held by Trustee Defendant Citizen's Bank of Massachusetts on behalf of Federation of Hellenic American Societies of New England and grant a short order of notice for

hearing on Plaintiff's Motion for Trustee Process, filed herewith; and

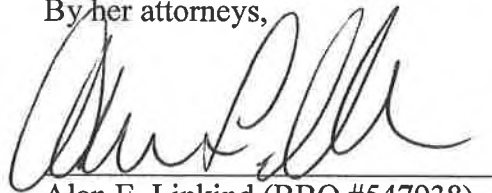
- c. Grant Plaintiff Maria Kotrotsou, as permanent judicial guardian for Myrto Papadomichelaki, such other relief as the Court deems just and proper.

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.**

Respectfully submitted,

Maria Kotrotsou, as permanent judicial guardian for  
Myrto Papadomichelaki

By her attorneys,



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Dated: January 19, 2017

VERIFICATIONS

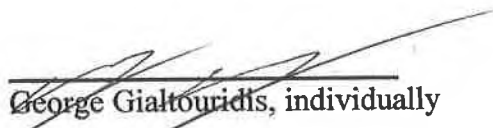
I, Maria Kotrotsou, as the permanent judicial guardian of Myrto Papadomichelaki, hereby verify that I have reviewed the foregoing Verified Complaint, and that the averments set forth therein are true to the best of my personal knowledge, information and belief.

Signed under the pains and penalties of perjury this 19 day of January, 2017.

  
\_\_\_\_\_  
Maria Kotrotsou, as the permanent judicial guardian of Myrto Papadomichelaki  
By George Gialtouridis, under Power of Attorney dated August 2, 2016, a copy of the Durable Power of Attorney is attached hereto as Exhibit 6

I, George Gialtouridis, hereby verify that I have reviewed the foregoing Verified Complaint, and that the averments set forth therein are true to the best of my personal knowledge, information and belief.

Signed under the pains and penalties of perjury this 19 day of January, 2017.

  
\_\_\_\_\_  
George Gialtouridis, individually

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