

2011 WL 2726090 (Conn.Super.) (Trial Pleading)  
Superior Court of Connecticut,  
Judicial District of Stamford/Norwalk at Stamford.  
Fairfield County

Florence HAAS, Plaintiff,  
v.  
Arthur J. HAAS, Defendant.

No. FST CV05-4006216.  
February 17, 2011.

**Revised Third Amended Complaint**

The Plaintiff, Florence Haas, Linnea J. Levine, Esq., Juris No. 405238, Law Offices of Linnea J. Levine, Esq., 2009 Summer Street, Stamford, CT 06905, (203) 557-0850.

February 16, 2011.

Plaintiff, Florence Haas, by her attorneys, states for her Complaint herein:

*INTRODUCTION*

1. Plaintiff FLORENCE HAAS, is an individual residing at 117 Waterbury Avenue, Stamford, Connecticut, 06902.
2. Defendant, ARTHUR HAAS, is an individual residing at 103 Idlewood Drive, Stamford, Connecticut, 06905.
3. Defendant is a former Certified Public Accountant with a home office at 103 Idlewood Drive, Stamford, Connecticut.
4. Plaintiff FLORENCE HAAS is currently 87 years of age and is the mother of defendant ARTHUR HAAS.
5. Bernard D. Haas was the husband of the Plaintiff Florence Haas and the father of defendant Arthur Haas, as well as four other children including: daughters Rose E. Haas and Sarah R. Wells, and sons Philip L. Haas, who is deceased without issues, and Paul H. Haas, who is in St. Vincent's Group Home, Stamford, CT 06905.
6. Upon information and belief, Bernard Haas before his death on June 1, 1986, asked his son, Defendant Arthur Haas, to manage his mother's **finances** after his death, since Florence Haas had no **financial** knowledge or expertise. As part of said agreement, the Defendant was not promised any money in return for his management of plaintiff's **financial** affairs, or given permission to convert, borrow, or in any way use the plaintiff's assets to benefit himself.
7. As Plaintiff's son and her **financial** management advisor, the defendant has a confidential relationship with the Plaintiff.
8. Defendant's became Plaintiff's fiduciary when he accepted and took control of Plaintiff's investment accounts.
9. Plaintiff was aware of said agreement between her late husband and her son, the Defendant, and never personally intended or agreed to make any lifetime gifts to the Defendant in return for his management of her **financial** affairs.

10. Upon information and belief, the Defendant, without Plaintiff's consent or knowledge, placed his name as joint owner on Plaintiff's securities accounts, including but not limited to, A.G. Edwards & Sons, and Donaldson, Lufkin and Jenrette Securities Corporation, following the death of Plaintiff's husband.

11. The Defendant directed Plaintiff's investment account statements to be mailed to Defendant's residence located at 103 Idlewood Drive, Stamford, CT 06905

12. Defendant did not disclose to Plaintiff the amount and location of the Plaintiff's investment accounts controlled by Defendant.

13. Defendant repeatedly informed Plaintiff that she was "on extension", when he intentionally failed to prepare her tax returns for the tax years 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000.

14. Defendant did not reveal to Plaintiff that his license to practice as a Certified Public Accountant was revoked.

15. Plaintiff relying on Defendant's tax preparation training, experience, and his promises expected him to timely prepare and file her tax returns with the appropriate federal and state taxing authorities.

16. Plaintiff's intentional failure to file Plaintiff's tax returns directly resulted in the Internal Revenue Service's (I.R.S) seizure of \$70,462.00 from Plaintiff's Nutmeg accounts under Defendant's sole possession and control on September 19, 2000.

17. Defendant did not inform Plaintiff that the United States Internal Revenue Service ("IRS") seized funds from the investment funds in the sole possession and control of Plaintiff until he was subpoenaed to testify at the prejudgment remedy hearing for this action on September 26, 2005.

18. Defendant did not inform Plaintiff of the exact date and amount of the I.R.S. 2000 seizure of the \$70,462.00 until the first day of trial on August 19, 2008. when he presented to Plaintiff her Nutmeg **Financial** Securities **financial** statement showing the date and amount seized by the IRS from the account.

19. Defendant has failed to account for \$45,522.00 of Plaintiff's investments under defendant's sole possession and control.

20. Upon information and belief, Defendant, by his malfeasance, nonfeasance and intentional violation of his fiduciary duty to Plaintiff, secretly and wrongfully caused all of the **financial** account income to be reported for tax purposes as if he had received no income, and the Plaintiff Florence Haas had received all of the income without the allowed basis tax deductions.

21. Until August 21, 2008, Defendant possessed, concealed and did not disclose to Plaintiff the basis of sales Plaintiff's investments.

22. The IRS assessments of Plaintiff's taxes, interest and penalties of \$160,595.55, I.R.S. seizures of \$129,057.52 of Plaintiff's assets were generated by the failure to file Plaintiff's income tax returns for these years and the failure to report to the I.R.S. the sales basis of each transaction for these years.

23. Connecticut state tax, interest and penalty assessments in 2009 of \$40,923.98 for Plaintiff's tax years 1990,1991,1992,1993,1994 and 1995 as of 2009 were generated by the failure to file Plaintiff's Connecticut income tax returns for these years and the failure to report to the Connecticut Commissioner of Revenue the sales basis of each transaction for these years.

24. Plaintiff became completely impoverished as a result of the I.R.S. seizures of her property.

***FIRST COUNT: DEMAND FOR ACCOUNTING***

25. Plaintiff reiterates the allegations set forth in paragraphs 1 through 23 above.
26. Due to the advanced age and failing memory of the Plaintiff, she does not have the ability to access account information pertaining to any securities held in her name, or jointly therein.
27. Despite repeated requests to the Defendant for an accounting of her securities accounts, based on his management of her **financial** affairs, the Defendant failed to respond..
28. The Plaintiff, as a result, has been unable to ascertain any information regarding what securities she holds/held, the balances of said accounts, and what actions the Defendant has taken in respect to said securities in his management role.
29. In order to assess the scope of the Defendant's actions in regard to his wrongful management of the Plaintiff's **financial** affairs, the Plaintiff seeks an order demanding the Defendant provide her with an accounting of any and all security accounts held in Plaintiff's name or jointly in Plaintiff's and Defendant's name.

***SECOND COUNT: FRAUD***

30. Plaintiff Florence Haas, reiterates the allegations set forth in paragraphs 1 through 28 above.
31. The Defendant's act of wrongfully placing his name as joint owner on the Plaintiff's securities, without the Plaintiff's consent, constituted fraud upon the Plaintiff.
32. Defendant concealed from Plaintiff the IRS.seized \$70, 462.00 of Plaintiff's investment funds under Defendant's sole control.
33. Defendant concealed from Plaintiff the \$45,522.00. was converted from her investment accounts under Defendant's sole possession and control.
34. Defendant, for the sole purpose of avoiding a lawsuit, did not respond to requests by Plaintiff and her attorney in 2001 for truthful facts and **financial** information which would have permitted Plaintiff to mitigate her damages.
35. Defendant's fraud totally impoverished Plaintiff with the result that she has no resources to bring a lawsuit against Defendant.
36. The Defendant's continuous silence and concealment of the sources and location of Plaintiff's investment accounts from the Plaintiff, further constituted fraud upon the Plaintiff.
37. Said acts taken by the Defendant, were deceptive practices, resorted to with intent to deprive the Plaintiff of her rights and do her injury.
38. The Defendant's acts and omissions, were intended to and did harm Plaintiff, for Defendant's own benefit.

***THIRD COUNT: CONSTRUCTIVE FRAUD***

39. Plaintiff, Florence Haas, here reiterates the allegations set forth in paragraphs 1 through 37 above.
40. Defendant, as Plaintiff's son and purported "certified public accountant" established a confidential relationship with Plaintiff beginning in 1986 when he took complete possession and control of Plaintiff's investment account.

41. Defendant has failed to account for \$45,522.00 of Plaintiff's investments under Defendant's sole possession and control.

42. Defendant's multiple violations of his fiduciary duty to Plaintiff include:

a. Defendant wrongfully placing his name as joint owner of her securities account;

b. Defendant fraudulently withheld, converted, and applied Plaintiff's accounts, for his own use and personal benefit.

c. Defendant wrongfully appropriating the income and proceeds of Plaintiff's securities by not filing Plaintiff's income tax returns for tax years 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999 and 2000

d. In December Of 2005, Plaintiff's **financial** records under Defendant's sole possession and control were negligently or purposefully destroyed by a fire in Defendant's home office possibly caused by "smoking materials".

e. Defendant for the sole purpose of avoiding being sued by Plaintiff intentionally did not respond to requests, by Plaintiff and her attorneys for proper accounting required to timely resolve the tax assessment levies and seizures of Plaintiff's **financial** accounts until 2008.

43. The Defendant's fraudulent conversion of the Plaintiff's securities, caused injury to the Plaintiff by depriving her of assets rightfully belonging to her.

44. The Defendant's fraudulent conversion of the Plaintiff's securities, also caused injury to the Plaintiff, by resulting in enormous tax penalties, including the placement of a lien on Plaintiff's property and the garnishment of her wages.

45. Defendant's misrepresentations and concealment of his bad acts are the direct cause of Plaintiff's impoverishment.

#### ***FOURTH COUNT: PUNITIVE DAMAGES***

46. Plaintiff here reiterates the allegations set forth in paragraphs 1 through 13.

47. The wrongful acts and omissions of Arthur Haas alleged above were willful, wanton, intentional, and calculated to take wrongful advantage of his aged mother and the relationship of affection and trust between them, as mother and son.

48. The wrongful acts and omissions of Defendant alleged above, intentionally and willfully disregarded the expressed intention of his father, Bernard Haas, that he take care of his mother, Florence Haas, **financially** and hold and use the subject securities for her comfort and benefit.

49. The wrongful acts and omissions of Defendant cruelly, wantonly and intentionally. exposed Plaintiff to huge tax penalties, causing harm and distress to the Plaintiff, by depriving her of the **financial** means necessary to maintain a suitable quality of life in her **elderly** years and leading to her current state of impoverishment.

50. The wrongful acts and omissions of Defendant cruelly, wantonly, and intentionally caused harm and distress to Plaintiff and deprived her of equitable distribution of her estate among her children upon her death.

I, Linnea J. Levine, the subscribing authority, hereby certify that I have personal knowledge as to the **financial** responsibility of the Plaintiff and deem it sufficient to pay the costs in this action.

THE PLAINTIFF, FLORENCE HAAS

By .....

Linnea J. Levine, Esq., Juris No. 405238

Law Offices of Linnea J. Levine, Esq.

2009 Summer Street

Stamford, CT 06905

(203) 557-0850

***PRAYER FOR RELIEF***

**FIRST COUNT: DEMAND FOR ACCOUNTING**

WHEREFORE, the Plaintiff claims by way of equitable relief:

(A) An accounting, by an independent Certified Public Accountant with no prior or present relationship with son, of all transactions involving securities held in the Plaintiff's name and in the joint names of she and the Defendant Arthur Haas, including but not limited to:

(1) The account number of each securities account involved in any such transaction, and the name or names in which such accounts were held.

(2) The name, address and phone number of each securities brokerage company or any other individual or company in which each of the foregoing accounts was held, and identify each transaction or transactions handled by each.

(A) The name, address and phone number of each representative of each such company who handled each such transaction.

(3) State when, how and by whom the Defendant's name was placed on securities accounts with that of the Plaintiff;

(4) Identify each security which was sold, the price for which it was sold, by whom it was sold, the net amount of the proceeds of each such sale, what was done with the proceeds, and where the proceeds are now; and,

(5) Identify and state the location of any securities remaining in the joint names of the Defendant and Plaintiff,

(B) Judgment against the Defendant for the amount found due on such accounting.

***SECOND COUNT: FRAUD***

WHEREFORE, the Plaintiff respectfully requests judgment awarding her damages against the Defendant in an amount equal to the amount by which the Defendant defrauded mother as may be determined by the Court after the full accounting demanded above.

***THIRD COUNT: CONSTRUCTIVE FRAUD***

WHEREFORE, the Plaintiff respectfully requests judgment against the Defendant in an amount equal to the amount by which Defendant impoverished his mother as a direct result of his misrepresentations, negligence and fraudulent concealment of the violation of fiduciary duties he owed to Plaintiff.

***FOURTH COUNT: PUNITIVE DAMAGES***

WHEREFORE, the Plaintiff respectfully demands judgment against the Defendant, Arthur Haas, awarding her punitive damages commensurate with the Defendant's intentional wrongful acts and harm to Plaintiff.

Respectfully Submitted,

<<signature>>

Linnea J. Levine, Esq., Juris No. 405238

Attorney for the Plaintiff

Law Offices of Linnea J. Levine, Esq.

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