STATE OF MICHIGAN
IN THE PROBATE COURT FOR THE COUNTY OF ALLEGAN

In the matter of

File No. 15-59093-CA

ROSALENE ELIZABETH BURD,
_______________________________________/

SHOW CAUSE HEARING

BEFORE THE HONORABLE JOLENE CLEARWATER, PROBATE JUDGE

Allegan, Michigan - Thursday, October 9, 2025

APPEARANCES:

FOR CONSERVATOR: MS. TRACI KORNAK (P45468)
Traci M. Kornak PC
PO Box 452
Belmont, Michigan 49306
(616) 458-8000

TRANSCRIBED BY: Ms. Carley Dalke, CER 9355
Certified Electronic Recorder
(269) 673-0300

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Allegan, Michigan

Thursday, October 9, 2025- 11:47 a.m.

THE COURT: All right. Good morning.

MS. KORNAK: Good morning.

THE COURT: This is a session of the Allegan County Probate Court. We are on the record in file number 15 dash 5-9-0-9-3 dash CA. This is a conservatorship involving the adult respondent Rosalene Burd.

This is the date and time set for an adjourned show cause hearing with respect to a deficient account by the current conservator. If I could have those in the courtroom identify themselves for the record starting with you, Ms. Kornak.

MS. KORNAK: Traci Kornak.

THE COURT: Thank you. Also present is Ms. Bernal our Probate Register here at the Allegan County Probate Court.

Ms. Kornak, we are here today, you were last before the Court on September 4th with respect to a show cause for what the Court had deemed a deficient account. You had previously submitted your final account due to the fact that Ms. Burd passed away April of this year. There was some concerns with your account with respect to specifically documentation. There were some concerns about large money transfers that were unaccounted for. And so, the Court ordered that you submit some additional documentation.

When we were here on September 4^{th} the Court ordered that you amend your final account specifically to reflect an accurate account for the time period of May 1^{st} of 2024 through April 5^{th} of 2025 which was the date of death for Ms. Burd.

The Court also ordered that you include all financial statements throughout your accounting period and billing statements for all professional fees charged by yourself. That includes services and time spent for each charge. The Court ordered that all large withdrawals or transfers of funds be detailed on your account. And the Court also ordered that you appear on today's date after submitting your supplemental information so that the Court could review your amended account.

I did receive a copy of your amended account filed at 11:30. So I have to confess, Ms. Kornak, the Court did not have sufficient time to go through this in a detailed fashion. I believe, Ms. Bernal who is our register she does all the account hearings, and I would like to give her an opportunity to speak with respect to any concerns that she has.

As I indicated Ms. Bernal hadn't had a chance to review this at length, just she had about 20 minutes to look it over. Ms. Bernal, do you have continued concerns with respect to the final account?

MS. BERNAL: I do. I do need more time to look it over, to -- to make sure that we're able to process everything that's in it. But I did notice that the -- that there were no bills, receipts, anything like that provided for the large withdrawals.

So, there are bank statements, it's hard to track where, especially in 20 minutes, where every -- every withdrawal is going, but we'll see a withdrawal for $10,000.00 from the conservatorship account which is going into a personal account of the conservator which is concerning that the money is co-mingled in that way.

But there's no receipts provided for anything. So, we're seeing, like, in the bank statements where there's Amazon purchases or Costco purchases and it will be four or five times in one day. I don't know if those are all her expenses that she's dedicating. There's no way to track it.

So, what she has listed on the actual account showing expenses for, and I don't even have a copy of it there was only one copy provided, but -- but let's say it says medical. Well, there may be some medical expenses but it -- I can't track them on what was provided to me. It just says Costco and it'll -- it'll -- they'll be several, several in a -- I'm sorry, several expenses or several transactions even in one day. So, I'm not sure.

She had before mentioned that it was a trust account and that she was using it, I don't know, for other purposes, but if all those are for the -- for the ward or if they're for other people that's something we need to get to the bottom of. So, and I also noticed that it doesn't appear to be a trust account. It's not labeled as such.

THE COURT: All right. I do see what you are referencing to, Ms. Bernal. I did just open up to, I think it was attachment 3 that you submitted, Ms. Kornak.

MS. KORNAK: Can I?

THE COURT: Just one second.

MS. KORNAK: Oh, I'm sorry.

THE COURT: It's a -- it's a stack of bank statements.

MS. KORNAK: Sure.

THE COURT: From Lake Michigan Credit Union and it does say, statement of accounts. I'm just looking at the, what is this, this is November of 2024.

MS. KORNAK: Okay.

THE COURT: In just looking at it it does not say it's a trust account. It says it's a personal account. Or at least it reflects it on the statement for yourself and I, Ms. Bernal is referencing just -- this is just an example but on November 2nd there was one, two, three, three Amazon charges, there's a debit withdrawal, and then the second page just indicates Amazon Marketplace, Comcast, Amazon, Jet's Pizza, Amazon, Amazon, Walgreens, Amazon, Lowe's, Amazon, and there's a significant number of transactions on here. And I haven't been provided any receipts for that.

MS. KORNAK: If, if I may?

THE COURT: Yes.

MS. KORNAK: First of all, in exhibit 1 which has the detailed statement for services it shows all of the large withdrawals are reflected on the bills for fees which would reflect all that. And I provided --

THE COURT: So just to be clear, the large withdrawals are payments to yourself for your professional service?

MS. KORNAK: Anything, yes. I did -- We did go through and double check that. Any of the -- the only other check that was -- even checks that were written was like a 1019, 1319 which is the bond, but there was nothing more than that. So, if you take the -- So, that's where the large withdrawals are and I provided all -- All of the statements to make it easier. So those in the detailed bills, the payments are reflected in there.

The tab number 2 is the conservator account. When I switched two years prior, and I talked -- When I switched banks a couple years ago I went to Lake Michigan Credit Union, a conservator account was opened. All those statements are in tab 2.

Tab 3, and I -- and I appreciate you didn't have time to go through it, but I'm -- this will make it maybe easier. Tab 3 is Lake Michigan Credit Union will not allow a debit cards on conservator accounts or trust accounts. So, what they did was they set up this account that ends in 0-2-8-1. It is set up as, you'll see it's in tab -- it's in the tab 3 and at the top of that statement you'll see that it says, member savings and we designate it specifically in there Burd allowance which is money that went to the client for whatever use she wanted to use it for and she got allowance. That's accounted for in the accounting under ward allowance. That account is not tracked in the accounting because it was for whatever she wanted to use it for but I did watch what was -- what she was using it for.

Then Burd expenses is the account that the conservator would pull in the conservator and put it into this account into Burd expenses. So, none of the purchases, not one of these purchases, is personal of any nature. It's not co-mingled with any money of mine. It's simply the way that it had to be.

What -- the system I used before at Chemical Bank, Bank West, TCF, and then Huntington was the same way and in large part the expenses are tracked on the card directly. Every purchase that's in here, if I were to, for example, I'm looking at expenses in May and if you see, you know, Delta Dental was paid through there.

THE COURT: Well, let me ask you this, Ms. Kornak, I'm flipping to the last account you have from April.

MS. KORNAK: Yeah.

THE COURT: I'm looking at the Traci Michelle Kornak --

MS. KORNAK: Yes.

THE COURT: -- Burd expenses.

MS. KORNAK: Yes.

THE COURT: Now, she passed away on April 5th and the day she died it looks like she spent money on Amazon. And then there's several other transactions listed from April 6th which were redacted by yourself so the Court can't see what expenses were made after the date of her death.

MS. KORNAK: What the attorney that's handling the estate told me is, and Ms. Bernal, is it's the last -- the date of her death and she redacted everything after that amount because the Court needs the date of the last payment.

If -- almost all of, as much as I could for her, was ordered either through Costco or Amazon, clothes, different items that she needed, were all ordered on there. When you order, like Costco for example, they -- the order goes through, I get a receipt, and then when it's shipped is when the items are shipped is when that goes through. The same with Amazon.

So, when it looks like there's multiple purchases the same day that's not the case and I can print and reconcile if you want the receipts on that. But these accounts were used solely for Ms. Burd. There is no co-mingling in these accounts.

THE COURT: All right. Anything else you want to add with respect to that, Ms. Bernal? One second, Ms. Kornak.

MS. KORNAK: I'm sorry.

MS. BERNAL: I would have to review it. I don't even have a copy in front of me so it's really hard for me to track what we're, you know, reviewing step by step. So, I do need more time to review.

THE COURT: All right. So, what I am going to do, Ms. Kornak, is I'm going to let Ms. Bernal have some time to go over your final account. And I am going to direct that you submit receipts for these expenses as the Court is concerned that it does have your name on this account. I understand your explanation. I understand what you're saying. But the Court is going to need receipts to ensure those were actually items that were spent for the care of Ms. Burd.

Now, one additional thing, so I'm going to set -- I'm going to let Ms. Bernal schedule you for an account hearing with herself. She's going to review each of these things in your account with you and then she'll make a recommendation to me about whether we need to have an evidentiary hearing.

MS. KORNAK: I'm happy to do that, your Honor.

THE COURT: Now the only other issue, Ms. Kornak, that I am going to -- I am going to direct -- address this with you directly.

MS. KORNAK: Sure.

THE COURT: Now, the estates and protected individual's code does allow a conservator to charge reasonable professional fees. And I understand that Judge Buck had previously ordered that you be permitted to charge $200.00 per hour and I think 67 cents per mile.

Now, whether I agree with that decision or not is not relevant. That's something that my predecessor decided was reasonable.

What I am concerned with though in looking at your statement for services and costs is that essentially, Ms. Kornak, you were making a significant living off of Ms. Burd who in the Court's estimation an elderly woman managing her finances and you charged this woman nearly $100,000.00 over the course of one year.

I'm not certain that's reasonable. Especially in looking through what you have billed for. Some of these itemized expenses that you billed for were meeting with client and neuropsychiatrist, completing documentation, facilitating a procedure. That's not necessarily a conservator's role. That's something more akin of a guardian or a durable power of attorney or a patient advocate. So, I'm not certain these are -- this is a reasonable billing request for you.

So, I'm going to set this for a hearing specifically on your professional fees and I'm going to address the reasonableness of your fees and I'm going to go over your statement of services line by line. I'll give you an opportunity to argue to me or present evidence to me as to why these are reasonable fees.

MS. KORNAK: Sure.

THE COURT: But in the event that I find they are not I'm going to prevent you from charging the estate of Ms. Burd for your professional fees. Do you have any questions about that?

MS. KORNAK: No. I just have two comments on that.

THE COURT: Sure.

MS. KORNAK: Is the medical power of attorney and the coordination of those services was prescribed, and I understand what the Court's saying in terms of them being charged. In addition to that you can see that there's a significant amount that was still owed to me. There's a -- There was an outstanding balance.

So, when you want to go to -- and that was almost always the case and I worked with Ms. Burd and she approved each time that I took any fee and she knew that it was -- that it was -- that these were what they were. And often in what is outstanding even right now what would end up happening at the end of the year is significantly so if you look at -- I understand what the Court is saying.

However, if you look at and in prior years it's not, like, what was owed is -- is what was paid. What I billed, and there's an amount of 62 -- 66,000 that's outstanding. If the Court wants to look at the reasonableness of the fee and cut the fee down, you know, to what the Court thinks is reasonable at $100.00 an hour, which is whatever, it's still over 500 hours that was put in and it was in addition to all the other responsibilities I had because of the needs that she required in lining up the care. I think that the amount that was paid is reasonable and I defer to the Court on that. In addition to that --

THE COURT: Well, let me ask you this, Ms. Kornak.

MS. KORNAK: Yes.

THE COURT: Were you appointed as her legal guardian?

MS. KORNAK: No, I wasn't.

THE COURT: Did you have a durable power of attorney?

MS. KORNAK: Yes, I do.

THE COURT: Okay.

MS. KORNAK: And I have also --

THE COURT: So, you were ordered by the Court to charge $200.00 in the conservatorship file only. For your role as a conservator.

MS. KORNAK: Okay.

THE COURT: That did not encompass any DPOA or patient advocate designation. That's essentially something that you could have worked out with Mr. Burd but that's not an appropriate billing in a conservatorship.

MS. KORNAK: So. Then I understand what the Court's saying and I also have -- I'm trying to make it easier for the Court and to satisfy the Court on that. I have documentation from her medical doctor and scripts for the medical power of attorney and coordinating those services for her, and -- and I did do that.

So, I don't know if you want me to divide it out and it needs to be reflected differently but I do have the documentation in support of the medical doctor that was prescribing all of her services that was seen almost every 90 days for that. In addition to that she does -- did have a medical power of attorney and that that pre -- one that pre-existed and was -- there was also one during the term of it.

The recommendation that we got when we consulted -- when I consulted an attorney and the Probate Court in Kent was is that the having a guardianship wasn't the preferred method it was to allow her to -- to have her independence but still coordinate her needs, and that's all that was done.

And I understand the Court's concern but I am caught in a position where really the demands were more as time went on over the 10-year period, but if you look at even the accounting from the prior accounting and this one and the time that was involved it's -- I would say her last period was probably more, but those services aren't split out and I don't -- I mean, I've always put them together and not separated them out. So, I am happy --

THE COURT: Well, first I can't account -- I can't speak to what happened prior to me taking the bench.

MS. KORNAK: I understand that, your Honor.

THE COURT: That's water under the bridge, Ms. Kornak, and I can't go back --

MS. KORNAK: Sure.

THE COURT: -- and fix something that I had no control over.

MS. KORNAK: Okay.

THE COURT: What I can look at though are the accountings that come in now. And I am concerned. As a conservator, for example, I'm looking at March 19th of 2024 it says coms with pulmonologist, neuropsychiatrist, PCP coordination and care med and 02 issues. You billed her

$100.00 for that. You know, the day before you had, reconcile receipts for 2023 2024 accounting period, review explanation of benefits for medical farm bank reconciliation. You charged her $920.00 for that.

I see in here that there was an instant where you transported her to the emergency room and say with her for seven and a half hours and you charged her $1,500.00 for that. You know, I'm not certain that that's a reasonable billing, Ms. Kornak. Sitting with someone in an emergency room for eight hours is not a duty of a conservator.

MS. KORNAK: So, that would fall under the medical power. I document --

THE COURT: And that's not -- and that's not something you can bill for in the conservatorship. That's something that if you believe you're entitled to compensation would be filed as a creditor claim against Ms. Burd's estate.

MS. KORNAK: Or paid as the medical power of attorney.

THE COURT: If that's an agreement you had with Ms. Burd. That's not something that is part of the conservatorship. You were allowed by this Court to charge $200.00 an hour plus milage for your duty as a fiduciary, a conservator.

MS. KORNAK: Correct. So, I guess, what I'm asking then is do you want that -- Do you want that part that's medical, or coordination, or giving the care on that, do you want that part separated out?

THE COURT: Yes.

MS. KORNAK: And put under the MPOA. And then separating out the fees and how they were charged?

THE COURT: That's not something that you can charge Ms. Burd for in her conservatorship, is stuff, is things that are outside the scope of your duties as a conservator.

MS. KORNAK: Well, wouldn't it be under fees and services that were provided to her and a part of her accounting in there?

THE COURT: Let me give you an example, Ms. Kornak. If you're appointed as conservator and you're also providing home healthcare for the person, and so you're spending eight hours a week in the home providing home healthcare, but you're allowed to charge in your role as a conservator but you only spend a half an hour paying bills, making sure rents paid, things of that nature. You can only bill for the role as the conservator. You cannot bill under the conservatorship for your time spent as a home health aide.

And in this case, I'm seeing a lot of charges to Ms. Burd for things that fall outside of the scope of your role as a conservator. You know, if there was a payment plan you entered into with Ms. Burd, as I indicated, that's to be billed separately and a claim against her estate. That's not something you can charge as a conservator. It's outside the scope of the Court's order and it's not a reasonable expense. Does that make sense?

MS. KORNAK: I'm just trying to dot.

THE COURT: What -- What time you spent --

MS. KORNAK: So.

THE COURT: What time you spent acting as a fiduciary, managing her assets and her finances.

MS. KORNAK: Correct.

THE COURT: You have been ordered by this Court you can bill for $200.00 an hour plus milage.

MS. KORNAK: Okay. Got it.

THE COURT: Things that are outside the scope of your role as a fiduciary are not eligible for reimbursement at $200.00 in this file.

MS. KORNAK: So then, would it be helpful to the Court then, if I went through what the detailed statements are in the period and just separate out what the conservator part is?

THE COURT: Yes, that would be very helpful.

MS. KORNAK: And resubmit that? I'm trying -- I -- it's a totally different than how it's been done and I completely respect the Court and where the Court is coming from. So, if I do that, I can also get that to Ms. Bernal and that might shape that part of it out.

I can also get, I believe, so like after 2020 is essentially, and as time went on, is almost a lot of what, like, her needs that she would need, you know, Depends, pads, whatever, you know, provide -- caregiver's were saying she needed as much as I could I ordered, like I said, from Amazon, I think I did Care Well or something like that before, but I would order those purchases, I can get, you know --

THE COURT: And receipts, but yes.

MS. KORNAK: Summaries from both of those.

THE COURT: Any receipts that you have need to be included --

MS. KORNAK: Sure.

THE COURT: -- so that when we review your account, we can ensure that those expenses were being made for the benefit of Ms. Burd.

MS. KORNAK: So, on the Cost-- so can -- is the Costco and the Amazon then if I get.

THE COURT: It needs to be an itemized receipt meaning I need to see --

MS. KORNAK: Yep. Yeah.

THE COURT: -- I need to see what you spent your money on.

MS. KORNAK: Yes.

THE COURT: It can't just be that you spent --

MS. KORNAK: Yeah, 100 percent.

THE COURT: -- had a charge. Yes.

MS. KORNAK: And then that's the start and if there's additional receipts that are needed, I'm happy to provide them. And I will say, yeah, some of what are -- the receipts. There's -- I don't have anything to hide it's just more work to do and she lost a significant amount of weight so like when I -- when we went through and double checked the numbers it's like say Amazon there was like say it was $300.00 then you'll see a bunch of credits. It was trying to get clothes for her because she kept losing weight. But I -- I kept -- That's not a problem. I'll just have to pull the summery and I'll get those from the account. But I understand what the Court's saying so if I separate that out it -- it will make it easier for the Court.

THE COURT: Yes.

MS. KORNAK: Different. Different for me but I'm happy to do it and I understand where -- I'm not being disrespectful at all. You can just.

THE COURT: Yes, I understand it.

MS. KORNAK: The advice and however I was told to do it was different and I will say, and I can get a letter from Lake Michigan, is in doing it the way they did I said I'm uncomfortable. They said that's how they do all of their conservator accounts and it is the same way with the trusts. So, what they do is set it up as a separate and you're tracking because you can't use a debit card you have to use checks for everything which, you know, I think I, you know, I don't even think I wrote 10 checks a year for her. So, what I.

THE COURT: Well, any additional, any receipts.

MS. KORNAK: Sure.

THE COURT: Any documentation that you have to support your account.

MS. KORNAK: I can do that.

THE COURT: Make sure that you submit that and I'm going to let Ms. Bernal schedule that hearing with you separately.

MS. KORNAK: Okay.

THE COURT: And then I will pick a date and we'll -- I'll give you some time to sort out your statement of service for your professional services but I will set -- I'm going to set it for a hearing on how much I'm going to allow you to charge for your professional services.

MS. KORNAK: Okay.

THE COURT: Just because your previous account, accounts, were allowed by the Court I can't go back and change those but I am going to review more carefully this last final account.

MS. KORNAK: I -- I understand, your Honor. And then I also can get the medical documentation and scripts for the services that were needed to be provided.

THE COURT: Okay.

MS. KORNAK: And I'll have an attorney, the attorney that's handling all the rest of it work with getting that part done.

THE COURT: All right.

MS. BERNAL: Are we putting dates on the record?

THE COURT: I didn't know if you wanted me to do that with your schedule?

MS. BERNAL: Two weeks, Thursday.

THE COURT: The 23rd? Does that work for you? What time do you have? Do you have a time?

MS. BERNAL: 10:00 a.m.

THE COURT: You have a --

MS. BERNAL: Do I have something?

THE COURT: You have a pretrial on a delinquency case that day.

MS. BERNAL: Okay.

THE COURT: Do you want to do 10:30?

MS. BERNAL: Let's do 11:00.

THE COURT: 11:00. All right. So, Ms. Kornak, this won't be in the courtroom this will be with Ms. Bernal. Do you want her in person or by zoom?

MS. BERNAL: By person.

MS. KORNAK: I think -- and I'm happy to come just to go through it. Like I said. It's if I was looking at something and how, the Court, like, what you're explaining to me and how you account and how I do and I think that if I explain it and go through it, I think it would be beneficial and I'm happy to come.

THE COURT: Okay. That will be --

MS. KORNAK: The only thing I don't have a signal.

THE COURT: -- that will be with Ms. Bernal. Here at the courthouse.

MS. KORNAK: Yep.

THE COURT: And she's -- and she'll sit down and review your accounts with you in person that day.

MS. KORNAK: 10, I'm sorry.

THE COURT: Eleven o'clock. So that's Thursday October 23^{rd}, that's two weeks from today. Thursday, October 23^{rd} at eleven o'clock in the morning. And if there remain concerns about issues then I'll, as I said, I'm going -- I'll talk to you after that, Ms. Bernal, if there remain concerns, I'll set the matter for a hearing to address your professional fees and if need be, an evidentiary hearing on the account.

MS. KORNAK: The only thing I want to say on the record because I don't have a signal. You can't get a signal once you come in here is, I will contact as soon as I get in the parking lot I'll come back in if -- if I have something else already scheduled on that date, on October 23rd at 11:00.

MS. BERNAL: You can connect to the public WiFi here.

MS. KORNAK: I don't know. We were both trying and I got an SOS.

THE COURT: It says, if you look on the WiFi it says Allegan County Open. It's an open WiFi network.

MS. KORNAK: I even tried turning it off and on and it's only does SOS. Hang on. Allegan Open. Okay, so join. Maybe if I can get in. Here is says I'm on, but it still says SOS.

MS. BERNAL: Try turning your WiFi off and back on after you've connected.

THE COURT: Okay. Well, I'm going to --

MS. KORNAK: Let's just set it for that.

THE COURT: I'm about 15 minutes late for a meeting that I can't use. So, what we're going to do is we're going to tentatively keep it on for the 23rd at eleven o'clock but if that doesn't work for you then call the Probate Court Office and Ms. Bernal can pick a different time --

MS. KORNAK: Okay.

THE COURT: -- to meet with you.

MS. KORNAK: I'll just come right back in.

THE COURT: Okay?

MS. KORNAK: Nope. I apologize for delaying the Court. Yeah, no problem.

THE COURT: Anything further then, before we adjourn today?

MS. KORNAK: No.

THE COURT: No? Okay. All right. If there's nothing further then we are adjourned. Thank you everyone.

MS. BERNAL: Thank you.

(At 12:14 p.m., proceedings concluded)

I certify that this transcript, consisting of 26 pages, is a complete, true, and correct transcript of the Show Cause Hearing and testimony taken in 15-59093-CA this on Thursday, October 9, 2025.

Date: October 17, 2025

Carley Dalke

Carley Dalke, CER-9355
Certified Electronic Recorder
48th Circuit Court
113 Chestnut Street
Allegan, Michigan 49010
(269) 673-0300