

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS**  
**\_\_\_ Division**

**SUSAN TERRY BORNÉ, ELIZABETH TERRY FOTI,  
MARY CATHERINE DRENNAN, LEONARD JOHN  
DRENNAN III, MARGARET YATSEVITCH AND  
MICHAEL YATSEVITCH, as and on behalf of  
the Heirs of ADOLPHINE FLETCHER TERRY  
and MARY FLETCHER DRENNAN**

**PLAINTIFFS**

**Vs.**

**Case No: 60CV-21-\_\_\_\_\_**

**CITY OF LITTLE ROCK, ARKANSAS and the  
ARKANSAS MUSEUM OF FINE ARTS F/K/A  
THE ARKANSAS ARTS CENTER, and the  
ARKANSAS MUSEUM OF FINE ARTS  
FOUNDATION, A/K/A  
ARKANSAS ARTS CENTER FOUNDATION**

**DEFENDANTS**

**COMPLAINT**

Come the Plaintiffs, Susan Terry Borné, Elizabeth Terry Foti, Mary Catherine Drennan, Leonard John Drennan III, Margaret Yatsevitch and Michael Yatsevitch, as and on behalf of the heirs of Adolphine Fletcher Terry and Mary Fletcher Drennan, both deceased, and for their cause of action against the Defendants, City of Little Rock, Arkansas, the Arkansas Museum of Fine Arts, formerly known as the Arkansas Arts Center, and the Arkansas Museum of Fine Arts Foundation, formerly known as the Arkansas Arts Center Foundation, state:

### *Parties*

1. The Plaintiff, Susan Terry Borné, is an adult citizen and resident of the City of Little Rock, Pulaski County, Arkansas. She is a granddaughter of Adolphine Fletcher Terry, deceased.

2. The Plaintiff, Elizabeth Terry Foti, is an adult citizen and resident of the City of Little Rock, Pulaski County, Arkansas. She is also a granddaughter of Adolphine Fletcher Terry, deceased.

3. The Plaintiff, Mary Catherine Drennan, is an adult citizen and resident of Lutherville, Maryland. She is a granddaughter of Mary Fletcher Drennan, deceased.

4. The Plaintiff, Leonard John Drennan III, is an adult citizen and resident of Westminster, Maryland. He is a grandson of Mary Fletcher Drennan, deceased.

5. The Plaintiff, Margaret Yatsevitch, is an adult citizen and resident of Cornish, New Hampshire. She is a granddaughter of Mary Fletcher Drennan, deceased.

6. The Plaintiff, Michael Yatsevitch, is an adult citizen and resident of Cornish, New Hampshire. He is a grandson of Mary Fletcher Drennan, deceased.

7. The Plaintiffs are acting on behalf of themselves and also as representatives of the known surviving heirs of Adolphine Fletcher Terry, deceased, and Mary Fletcher Drennan, deceased, whose names and last known addresses are contained in the list attached to this Complaint as **Exhibit No. 1**. All of such persons have been notified of the filing of this Complaint.

8. The Defendant, City of Little Rock, Arkansas, is a municipal corporation organized and existing under the laws of the State of Arkansas, with its principal location in Pulaski County, Arkansas.

9. The Defendant, Arkansas Museum of Fine Arts (“the Museum”) is an institution originally created as the Museum of Fine Arts by the City of Little Rock, Arkansas, under Ordinance No. 11,111, and subsequently renamed the Arkansas Arts Center by Little Rock Ordinance Section 22-161 (1961 Code). The Arkansas Arts Center recently changed its name to the Arkansas Museum of Fine Arts, and is the successor entity to the Arkansas Arts Center. The Museum is currently temporarily located at 2510 Cantrell Road, Little Rock, Arkansas, but its permanent location is at 501 East Ninth Street, Little Rock, Arkansas 72202.<sup>1</sup>

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<sup>1</sup> Unless otherwise specified, references to “the Museum” in this Complaint shall include its predecessor, the Arkansas Arts Center.

10. The Arkansas Museum of Fine Arts Foundation (“the Foundation”) is a not-for-profit corporation that, according to the records of the Arkansas Secretary of State, was originally organized and existing under the laws of the State of Arkansas in 1972. The Arkansas Museum of Fine Arts Foundation also has the fictitious names of the Arkansas Art Museum, the Arkansas Arts Center and the Arkansas Museum of Art. It was formerly known as and is successor to the Arkansas Arts Center Foundation. The Foundation is currently temporarily located at 2510 Cantrell Road, Little Rock, Arkansas, but its permanent location is at 501 East Ninth Street, Little Rock, Arkansas 72202.<sup>2</sup> The registered agent for service of the Foundation is Laine Harber, whose registered address is 501 E. 9<sup>th</sup> Street, Little Rock, AR 72202.

### *Jurisdiction and Venue*

11. This Court has jurisdiction of the parties and subject matter of this case pursuant to Amendment 80 of the Constitution of Arkansas and Ark. Code Ann. §16-13-201(a).

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<sup>2</sup> Unless otherwise specified, references to “the Foundation” herein shall include the Arkansas Museum of Fine Arts Foundation and its predecessor, the Arkansas Arts Center Foundation.

12. Venue is proper in this Court pursuant to Ark. Code Ann. §16-60-101 because several of the Plaintiffs reside in Pulaski County, the Defendants are located in Pulaski County, and the real and personal property that are the subjects of this case are located in the City of Little Rock, Pulaski County, Arkansas.

### *Facts*

13. The property that is the subject of this case is Block Sixty-One (61) of the Original City of Little Rock, Arkansas, including all improvements located on said real property (unless the house located on the property is referred to separately as “the House”, the house and real property shall be collectively referred to herein as “the Property”).

14. On or about February 23, 1839, Albert Pike, a New Englander who had settled in Arkansas and become a leading lawyer and a major political figure in the State, purchased the Property from Chester Ashley, also a prominent lawyer and later a U.S. Senator, for the sum of \$1,500.00. The Property, located in what is now the historic Quapaw Quarter of Little Rock, was at that time, on the “outskirts” of the City.

15. In the following year, Pike caused to be constructed on the Property a two-story brick mansion. Located in a park-like setting on a city block of land, it is today widely-recognized as one of the most significant and impressive landmarks in the State of Arkansas; an excellent architectural example of the Greek Revival period; and was one of, if not the most, outstanding residences of its day.

16. The mansion has housed three of the most significant families in Arkansas history: those of the aforementioned Albert Pike, who became a General in the Confederate Army, established a national reputation as an attorney, and was one of the founders of the national Masonic fraternal organization; the family of Captain John Gould Fletcher, a member of the Capitol Guards during the Civil War and a successful cotton broker, a president of the German National Bank and the Arkansas Banking Association, a mayor of Little Rock and sheriff of Pulaski County, and his children, Adolphine Fletcher Terry, Terry John G. Fletcher, Jr., and Mary Fletcher Drennan, all of whom played significant roles in the history of Arkansas; and the family of David D. Terry, a United States Congressman from Arkansas.

17. Following the Civil War, Albert Pike did not return to Arkansas, and in 1871, Pike conveyed the Property to his daughter, Miss Lillian Pike. She leased the Property to the Arkansas Female College. In 1886, Lillian Pike deeded the Property to Miss Lou Krause.

18. In 1889, Captain John Gould Fletcher and his wife, Adolphine Krause Fletcher, sister of Miss Lou Krause, purchased the Property from Miss Krause. John Gould Fletcher died intestate in 1906, and was survived by his wife and their three children: Adolphine Fletcher, John Gould Fletcher, Jr., and Mary Fletcher. Adolphine Krause Fletcher died three years later, and the children inherited the Property.

19. John Gould Fletcher, Jr., became a renowned poet, receiving the Pulitzer Prize for Poetry in 1939, the first Southern poet to receive that award. He also published a history of the State of Arkansas in 1947, and was inducted into the National Institute of Arts and Letters. During the years he lived in Europe, he conveyed his interest in the Property to his sisters, Adolphine Fletcher Terry and Mary Fletcher Drennan, in equal shares. Later in his life, he returned to Arkansas and married Charlie May Simon, also an award-winning Arkansas writer and they lived at Johnswood, their home on the outskirts of Little Rock.

20. Adolphine Fletcher enrolled in Vassar College in New York state when she was 15, and graduated from that school in 1902, when few women had college degrees. She returned to Little Rock “ready to change the world, and she kept trying until her dying day to do it,” according to a friend, Judge Edwin Dunaway.

21. In 1910, Adolphine Fletcher married David D. Terry, a lawyer who began his political career as a member of the Arkansas General Assembly, and then served nine years in the United States Congress, where he was instrumental in establishing the present-day Arkansas River Navigation System. Today, one of the navigation dams on the River bears his name. He was also heavily involved in various civic endeavors, particularly in the Little Rock Boy’s Club.

22. Adolphine Fletcher Terry and her family resided on the Property for most of her life. She spent that life promoting causes to improve schools and libraries, the juvenile court system, affordable housing, women’s rights, and fighting racism; and she used the House as a center for conducting those activities.

23. During the Little Rock school desegregation crisis in the fall of 1957, resulting in the closure of the Little Rock high schools, Mrs. Terry organized the Women’s Emergency Committee to Open Our Schools, and hosted in the House meetings of women who opposed Governor Orville Faubus’ segregationist



positions, were instrumental in the recall of three segregationist members of the Little Rock School Board, and the reopening of the Little Rock schools. The names of the women who participated in those meetings are etched in the windows of the solarium which is adjacent to the room in the House in which the meetings occurred. (See Exhibit 8) While the vast majority of those women are now deceased, their children and grandchildren still proudly point to their ancestors' names on those windows.

24. That Adolphine Fletcher Terry, the daughter of a Confederate Captain, used a house built by a man who became a Confederate General to promote the cause of racial integration was not lost on many observers nationally as well as locally. In 1961, Adolphine was selected as one of the 100 most distinguished graduates of Vassar College on the occasion of its 100<sup>th</sup> anniversary. She was also selected by the national newspaper, USA Today, as one of the 100 outstanding women of the 20<sup>th</sup> Century, and she was named as one of Arkansas' 15 Most Significant Figures by the Arkansas Historical Association in 2000. In 1990, the Central Arkansas Library System dedicated its seventh branch library as the Adolphine Fletcher Terry Library in west Little Rock.

25. Mary Fletcher, the youngest daughter of John Gould Fletcher, was active in the suffrage movement in Arkansas, and was elected president of the Political Equality League in 1911. Her suffrage organization was less strident than others. Mary Fletcher maintained the decorum of a southern lady, stating “In the South, women do not find it necessary to fight for what we want.”

26. Mary Fletcher married a United States military officer, Leonard H. Drennan, in 1919, and moved to Washington. D.C. She had two children, Leonard H. Drennan, Jr. and Frances Drennan. The Drennans purchased Verdant Valley Farm in Maryland, which she operated until her death in 1982.

27. In addition to the historic significance of the House’s occupants, the Property is listed on the National Register of Historic Places; is a U.S. Historic District Contributing Property; and unfortunately, is on the Preserve Arkansas Most Endangered Places List for 2021 for the reasons set forth herein.

28. On or about the 19<sup>th</sup> day of August, 1964, the said Adolphine Fletcher Terry and Mary Fletcher Drennan executed a Deed (“the Deed”) granting and transferring the Property to the City of Little Rock for the use and benefit of the Arkansas Arts Center and its successors (now the Museum), subject to the reservation of a life estate in favor of both Adolphine Fletcher Terry and Mary

Fletcher Drennan, and also subject to the conditions set forth in the Deed. The Deed was filed for record on December 23, 1964, and the Deed is recorded in Book 901 at pages at pages 257-264 of the Records of Pulaski County, Arkansas. A copy of the Deed is attached hereto as **Exhibit No. 2**.

29. The purposes and conditions of the conveyance were contained in Paragraphs numbered 1 through 5 of the Deed, which provide in relevant part:

1. The Grantee shall, as nearly as possible, keep and maintain the said lands in their present condition, preserving, as far as possible, the trees thereon, and maintaining the home-place thereon in its present general architectural form; . . . .
2. Grantee shall use the said property exclusively for the advancement of the cultural, artistic, or educational interests of the community. This use may include, among other purposes, the display of the lands and the buildings to the public with or without the payment of a fee therefor. If a fee is charged, however, then the proceeds therefrom shall be used first to keep and maintain the said property and then for the further uses and purposes herein expressed. The uses of the lands and buildings may also include the holding of meetings and use of office space related to the cultural, artistic, or educational life of the community.
3. [The provisions of Condition No. 3 relate to the possible taking of the land, or a portion thereof, by eminent domain proceedings, and are not relevant to this proceeding.]

4. If the Grantee shall fail to comply with these conditions or uses, and in particular with the first condition above enumerated, ... then title to the said lands shall revert in an undivided one-half interest to the heirs of Adolphine Fletcher Terry and in an undivided one-half interest to the heirs of Mary Fletcher Drennan.
5. Failure by the reversioners, or by any of them, to take affirmative action to terminate the title of the Grantee upon any default hereunder shall not be construed as a waiver by the reversioners to take affirmative action to terminate the title of Grantee upon any further default hereunder.

30. On or about September 14, 1964, the Board of Trustees of the Arkansas Arts Center, at a regular monthly meeting of said Board on said date, adopted a Resolution stating in part:

BE IT RESOLVED, that the Board of Directors of the Arkansas Arts Center, ... being informed of the provisions of the Deed and the purposes and intent of the conveyance, does hereby advise the members of the Board of Directors of the City of Little Rock that it deems the contemplated gift to be not only a gracious and generous creation of a memorial to preserve for Little Rock and Arkansas a unique and invaluable historic site, but a dedication to the future cultural, artistic and educational progress of our community, and it therefore recommends to the said Board that it accept delivery of the Deed forthwith.

The said Resolution was filed for record and appears in Book 901 at page 265 of the Records of Pulaski County, Arkansas. A copy of such Resolution is attached to this Complaint as **Exhibit No. 3**.

31. The Deed was accepted by the City of Little Rock by Resolution No. 3,218 of the Board of Directors of the City of Little Rock dated October 5, 1964, with a “deep sense of appreciation and gratitude for their gift.” Resolution No. 3,218 is recorded in Book 901 at pages 266 to 274 of the Records of Pulaski County, Arkansas, and a copy thereof is attached hereto as **Exhibit No. 4**.

32. Adolphine Fletcher Terry died on July 25, 1976. On April 22, 1977, Mary Fletcher Drennan executed a document entitled “Surrender of Life Estate” in which she surrendered unto the City of Little Rock, Arkansas, the life estate reserved by her as Grantor in the Deed, provided that “this surrender of my life estate shall not modify or otherwise affect the reversionary rights reserved in the said Deed dated August 19, 1964.” A copy of the Surrender of Life Estate is attached to this Complaint as **Exhibit No. 5**.

33. The City of Little Rock accepted the Surrender of Life Estate by adoption of Resolution No. 5,726 on June 7, 1977, a copy of which is attached to this Complaint as **Exhibit No. 6**.

34. The Property was thereafter delivered to the City and to the Museum upon its acceptance of the Property by the City and Museum as described in Paragraphs 30 and 31, above, and the acceptance of the Surrender of Life Estate as described in Paragraph No. 33, above.

35. The Foundation was organized on November 22, 1972, for the primary purposes of assisting the Museum in the attainment of its goals, and supporting the operations of the Museum. The Foundation is the entity that owns property acquired by or donated to, or for the use of, the Museum, and solicits, holds, controls and expends funds and endowments contributed by members of the public, corporations, governmental agencies and other entities for the use and benefit of the Museum and its successors.

36. At or about the time of the transfer of possession of the Property to the City for the use and benefit of the Museum, the Foundation and persons interested in the use of the Property in accordance with the conditions set forth in the Deed, commenced a fund-raising program to fund an endowment for the maintenance and operation of the House and Property.

37. The purpose of the fund-raising program was to create an endowment fund, the income from which would be used for the operations of the House, including

salaries for a full-time curator and support staff; rental and shipping fees for temporary exhibits to be shown in the House; acquisitions for a permanent art collection; workshop and lecture expenses; payment of utilities, and for overall maintenance of the Property.

38. In or about 1985, a trust established under the Last Will and Testament of former Governor Winthrop Rockefeller (the Winthrop Rockefeller Trust) contributed the sum of One Million Dollars (\$1,000,000.00) as a 2 for 1 matching grant to the Foundation specifically for the use and benefit of the Property. Other significant contributions were made by members of the public and organizations, and an endowment in the approximate total amount of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) (“the Endowment”) was ultimately pledged and paid to the Foundation specifically for the use and benefit of the Property.

39. The Endowment funds entrusted to the Foundation for the maintenance and operation of the House and Property were “restricted” funds in that they were dedicated solely and exclusively for the operations and maintenance of the House and Property, and not for general operations.

40. The Foundation received the Endowment funds as a fiduciary trustee, and as such was and is responsible for the prudent investment, management and use of the funds for their intended purposes.

**Count 1  
Breach of Contract**

41. Plaintiffs restate and incorporate herein all of the allegations contained in the foregoing paragraphs.

42. After accepting the House and Property for the purposes and subject to the conditions set forth in the Deed, the said Property was used by the Museum as a Decorative Arts Museum (DAM) and for other miscellaneous purposes for a period of approximately 1985 to 2003. However, in or about 2003, the Museum closed the DAM, and designated the House as the “Terry House Community Gallery” which opened in approximately 2004. However, in recent years, the House has been closed to the public, and the Museum has completely ceased use of the Property exclusively for the advancement of the cultural, artistic, or educational interests of the community.



43. Further, the Defendants have failed to conduct any maintenance and repairs on and to the Property, and have allowed the Property to fall into disrepair.

Attached to this Complaint as **Exhibits 7 through 14** are photographs of portions of the exterior of the Property showing the rapidly deteriorating condition of the House and the carriage house on the Property. Plaintiffs have been unable to gain access to the interior of the House because it is locked, and Plaintiffs' requests for access to the interior have not been granted.

44. In September 2017, an assessment of the condition of the House was made by Mr. Tommy Jameson, an architect of Little Rock, Arkansas, at the request of the Arkansas Arts Center. Mr. Jameson estimated that costs in the amount of \$898,430.00 would be required to bring the Property to good condition. The 9/2017 Jameson Estimate is attached to this Complaint as **Exhibit No. 15**. On information and belief, the work described in the 9/2017 Jameson Estimate was not performed.

45. In June 2021, an assessment of the condition of the House was again made by Mr. Tommy Jameson, this time at the request of the City of Little Rock. Mr. Jameson estimated that costs in the amount of \$1,130,863.00 would be required to bring the Property to good condition. The 6/2021 Jameson Estimate is attached to

this Complaint as **Exhibit No. 16**. On information and belief, the work described in the 6/2021 Jameson Estimate was not performed.

46. In April 2020, two Proposals and cost estimates were prepared at the request of the Museum by Nabholz Construction Services for conducting work on the Property, including removal or trimming of a number of trees, and replacing or repairing the roof of the House and a gazebo.

47. The first estimate (Proposal 23-5268-20) dated April 1, 2020, was for removal or trimming of various large trees on the Property (one of which was a large oak tree hanging over the roof of the House), and was for the amount of \$5,890.00. The second estimate (Proposal 23-5269-20) dated April 1, 2020, was for removal and replacement of felt, shingles, copper valley metal and flashing and other materials for the roof of the House and a gazebo on the Property, and was in the amount of \$28,433.88. The Proposals are attached to this Complaint as **Exhibits 17 and 18**.

48. On information and belief, the work contemplated by both of the above described Nabholz Proposals was not performed. Subsequent to the dates of those Proposals, the oak tree hanging over the roof of the House struck the southwest chimney of the House, causing it to break into two sections, as shown in **Exhibit**

**No. 11.** The City of Little Rock has recently made repairs to the chimney to prevent it from falling onto and through the roof.

49. The Property has, through non-use and neglect, been subjected to extensive deterioration, which will accelerate with time and further neglect, and which will ultimately destroy the usefulness of the House as a place for the advancement of the cultural, artistic, or educational interests of the community, as contemplated by the conditions imposed upon the Deed from Mrs. Terry and Mrs. Drennan to the City of Little Rock, unless actions are taken to restore the Property.

50. The Defendants, and each of them, having accepted and utilized the Property subject to the terms and conditions of the Deed from Adolphine Fletcher Terry and Mary Fletcher Drennan, and being fully cognizant and aware of such terms and conditions, are bound thereby.

51. The Museum and the Foundation, at any time after discontinuing use of the Property, when the Property could have been restored for lower costs, could have informed the City of Little Rock and the Plaintiffs that the Museum and Foundation no longer had any plans for use for the Property. Instead, the Museum and Foundation retained the Property without using it and without expending funds necessary for its maintenance.

52. Since use of the Property was discontinued by the Museum, heirs of Adolphine Fletcher Terry or Mary Fletcher Drennan (“the Heirs”) have repeatedly inquired of the Museum and the Foundation regarding their intentions regarding future use of the Property and the condition of the House. The Heirs always received assurances that the Museum and the Foundation considered the Property to be important and useful to the Museum and the Foundation.

53. It was not until June 25, 2021, that representatives of the Museum and/or the Foundation advised heirs of Adolphine Fletcher Terry and Mary Fletcher Drennan that the Museum and Foundation had no further interest in or use for the Property, and would not invest any money in maintaining the Property.

54. The Defendants, and each of them, have failed and refused to comply with the provisions and conditions contained in the Deed dated September 19, 1964, to:

- (i) keep and maintain the said lands in their present condition, preserving, as far as possible, the trees thereon, and maintaining the home-place thereon in its present general architectural form; and
- (ii) use the said Property exclusively for the advancement of the cultural, artistic, or educational interests of the community.

55. As a result of their failure and refusal of the Defendants, and each of them, to perform, comply with and observe their obligations under the terms and conditions of the Deed, title to the Property shall revert in an undivided one-half interest to the heirs of Adolphine Fletcher Terry and in an undivided one-half interest to the heirs of Mary Fletcher Drennan, in accordance with the terms of the Deed.

56. As a further result of their failure of the Defendants, and each of them, to perform, comply with and observe their obligations under the terms and conditions of the Deed regarding the maintenance of the Property, a judgment should be granted against the Defendants, jointly and severally, in an amount that will be required to restore the Property to a good and sound condition in which it can be used for the advancement of the cultural, artistic, or educational interests of the community.

**Count 2.**  
**Accounting for Endowment**

57. Plaintiffs restate and incorporate herein all of the allegations contained in the foregoing paragraphs.

58. The Endowment of approximately \$1.5 million was created and provided to the Foundation specifically for the use and benefit of the Property following the gift of that Property by Adolphine Fletcher Terry and Mary Fletcher Drennan to the City of Little Rock for the use and benefit of the Arkansas Arts Center.

59. Donations to that Endowment were “restricted” in that they could only be used for the purposes of the donation – the operation and maintenance of the Property – and not for general operations of the Museum.

60. The Foundation is successor in interest to the Arkansas Arts Center Foundation, and is subject to the same obligations and liabilities of the Arkansas Arts Center and the Arkansas Arts Center Foundation relative to the Property, including the fiduciary obligations imposed on those entities relative to maintenance and use of the Property, and the investment, management and expenditure of the Endowment for the exclusive use and benefit of the Property.

61. The Museum and Foundation Defendants should be ordered and directed to account to the Court and Plaintiffs for all funds received by the Museum and Foundation, or any of them, donated by any person or entity at any time to the Endowment for the use and benefit of the Property or to any other fund or name for the same purpose.

62. In the event that the Court should find, as a result of such accounting or from other relevant evidence, that the Defendants expended any part of the Endowment, or expended other funds or property donated to the Museum or Foundation for the use and benefit of the Property (whether included in the Endowment or not), for purposes other than the use and maintenance of the Property, the Court should award Judgment in favor of the Plaintiffs of and from the Defendants in the amount so expended on such other purposes.

63. In the event that the Court should find, as a result of such accounting or from other relevant evidence, that the Defendants are holding any funds or other property donated to the Endowment, the Court should order and direct such Defendant to pay over and deliver such funds to the Plaintiffs.

**Count 3.  
Attorney Fees**

64. The Deed between Adolphine Fletcher Terry and Mary Fletcher Drennan, and the City of Little Rock for the use and benefit of the Museum constituted a contract within the terms and scope of Arkansas Code Ann. §16-22-308, which

provides that the Court may award a reasonable attorney fee to the prevailing party in matters involving breach of contract.

65. In addition, Ark. Code Ann. §28-73-1004 provides for an award of attorney's fees and expenses in cases involving the administration of a trust. The Endowment held and administered by the Museum and Foundation Defendants constitutes a trust, and the provisions of Ark. Code Ann. §28-73-1004 are applicable to the management of the Endowment and other funds donated to the Foundation for the use and benefit of the Property.

66. In the event that the Court renders judgment in favor of the Plaintiffs of and from the City of Little Rock, Arkansas, the Museum and/or the Foundation or any of them, Plaintiffs should be awarded reasonable attorney fees as a result of the breach of the conditions of the said Deed, and/or for breach of the terms of the Endowment, and all costs of this action.

**WHEREFORE**, The Plaintiffs, Susan Terry Borné, Elizabeth Terry Foti, Catherine Drennan, John Drennan, Margaret Yatsevitch and Michael Yatsevitch, as and on behalf of the heirs of Adolphine Fletcher Terry and Mary Fletcher Drennan, both deceased, pray that they be granted the following relief:



- (1) Enter Judgment in favor of the Plaintiffs and against the Defendants determining that, as a result of the failure of the Defendants, and each of them, to perform, comply with and observe their obligations under the terms and conditions of the Deed, title to the Property shall revert in an undivided one-half interest to the heirs of Adolphine Fletcher Terry and in an undivided one-half interest to the heirs of Mary Fletcher Drennan, in accordance with the terms of the Deed.
- (2) Enter Judgment in favor of the Plaintiffs of and from the Defendants for their breach of contract in an amount that will be required to restore the Property to a good and sound condition in which it could be used for the advancement of the cultural, artistic, or educational interests of the community.
- (3) Order and direct the Defendants, Museum and Foundation, to account to the Court and Plaintiffs for all funds received by them, or any of them, donated to the Endowment by any person or entity for the use and benefit of the Property or to any other name for the same purpose, and for all sums expended by and currently held by the Defendants, or any of them, from such donations.

(4) Award Judgment in favor of the Plaintiffs against any Defendants who, from such accounting, are found to have expended any funds or other property donated to the Endowment for any purposes other than the use and maintenance of the Property, and for any breach of their fiduciary duty, in the amount so expended on such other purposes; together with reasonable interest and investment return from the date of any improper expenditures to the date of Judgment and final payment thereof.

(5) Order any Defendants who, from such accounting are found to currently hold any funds or other property donated to the Endowment, to deliver such funds to the Plaintiffs.

(6) Award Judgment to the Plaintiffs for reasonable attorney fees of and from the Defendants, and each of them, as a result of the breach of the conditions of the said Deed by the Defendants, and for any misuse or misapplication of funds from the Endowment; and for all costs of this action.

### **Jury Trial Demanded**

Plaintiffs demand a trial by jury on all claims asserted herein to which a jury trial is applicable.

Respectfully submitted,

**RICHARD MAYS LAW FIRM PLLC**

/s/ Richard H. Mays

Richard H. Mays

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VERIFICATION

STATE OF ARKANSAS     )  
  )ss.  
COUNTY OF PULASKI    )

Now comes before the undersigned Notary Public in and for the State and County aforesaid, Susan Terry Borné and Beth Terry Foti, who, after being properly identified and duly sworn to tell the truth, stated that they are two of the Plaintiffs in the above-entitled Complaint; that they have read the contents thereof, and stated that the contents are true and correct to the best of their knowledge, information and belief.

Susan Terry Borné  
Susan Terry Borné

Elizabeth Terry Foti  
Elizabeth Terry Foti

Subscribed and sworn to before me, a Notary Public, on this 15<sup>th</sup> day of October, 2021.

Nina J. Jackson  
Notary Public

My Commission Expires:

