**From mcm lawsuit draft 10 before spreadsheet:**

**List of Exhibits and witnesses:**

**Danny Davila Evidence:**

1. 6/7/2004 - email from Brad Seals to Danny Davila about “annuities that are worth his time”, that then end up missing from the Estate. [(Exhibit 1: email from Brad Seals to Danny Davila)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%201-The%20Plan-6-7-04-bseals%20to%20danny%20davila%20email%20with%20elderly%20lady%20whose%20husband%20just%20died%20heist%20plot%20-%20in%20writing.pdf)
2. 5/26/2004 (Clara Lange) Letter from Mutual of Omaha about $315,000 paid to Maurine Hamilton for Alfred Hamilton Death Benefits, referred to by Brad Seals in his email, and with Alan’s name spelled “Allan” in Danny Davila’s handwriting. (4 pages) [(Exhibit 14 – Letter with Davila’s handwritten “Allan” misspelling with 315000 payment in June 2004)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%2015-In%202004%2CDanny%20knew%20mother%20just%20received%20%24315000-Alans%20name%20spelled%20wrong%20in%20Dannys%20handwriting.pdf)
3. 6/21/2004 – (Clara Lange-Mutual of Omaha letter) Mom-Maurine receives $315000 from Dad-Alfred's death benefits - Maurine is healthy wealthy and wise
4. July 2004, Danny and Sylvia do 2003 taxes
5. Bank of America 1099 from 2003 taxes done by Danny Davila for Sylvia and Maurine Hamilton. Clearly shows knowledge of Hamilton Trust by Danny Davila. [(see Exhibit 5: 2003 taxes BofA 1099)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%205-2003%20Bank%20of%20America%201099%20with%20Hamilton%20Trust%20on%20it.pdf)
6. August 6, 2004, Danny and Sylvia DPOA (compare with august 9, 2004 “not there” letter and august 31, 2004 request for new agent-“took it home for Maurine to sign and faxed from UPS store-not Danny’s Office?)
7. 1/12/2009 – entire packet from Mutual of Omaha, includes 2004 DPOA by Sylvia Hamilton and Danny Davila, with Danny Davila named as the successor agent for Sylvia Hamilton, instead of Alan Hamilton. [(Exhibit 2: 1/12/2009 packet from Mutual of Omaha)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%202-with%20watermark-all%20docs%20received%20Jan%2012%202009%20from%20Mutual%20of%20Omaha.pdf)
8. 4/14/2009 - received 2004-2009 Hamilton Estate Billing records from Danny Davila finally (with $35 tax extension filing charges for 4/29/2005, 8/30/2005 and 4/30/2006) [(Exhibit 3: Danny Davila’s Hamilton Billing records)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%203-Danny%20Davila%27s%20Hamilton%20Estate%20Billing%20records%20received%20on%204-14-2009.pdf)
9. 12/4/2008 email demand for payment ($2,072.29) from Alan Hamilton from Danny Davila before he would give him the 2004 Amended, 2005 and 2006 tax returns for the Estate. If someone asks for payment from you, they are working for you. Shows direct connect between Danny Davila and Alan Hamilton. This is one of many emails with Danny Davila, showing a working relationship with Alan Hamilton, as Executor of the Estate, taking over for Sylvia Hamilton in the Fall 2008, as Danny Davila should have done in 2005. [(Exhibit 10-Davila bills Alan Hamilton)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%2010-12-4-2008%20-%20Alan%20to%20Danny%20Davila%20-%20Alan%20requests%20taxes-Davila%20requests%20payment.pdf)
10. Voicemail from Danny Davila requesting payment from Alan and saying he wasn’t getting involved “in this feud” (something like that – listen to recording again) he was having with his sister. (Exhibit 11)

**Sylvia Hamilton Evidence:**

1) All of Danny Davila Evidence plus the following:

2) Sylvia’s Confession letter to Probate Judge [(Exhibit 7: Sylvia’s Confession Letter)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%207-Letter%20to%20Judge-confession%20papers%20dropped%20off%20by%20Sylvia%20on%2010-28-09.pdf)

3) Hamilton Estate Embezzlement TimeLine spreadsheet [(Exhibit 8-Embezzlement TimeLine)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%208-%20Hamilton%20Estate%20TimeLine%20Overview%20-%20Dec%202008%20-%2020-20%20hindsight%20after%20Chase%20Bank%20visit%20revealing%20embezzlement.pdf)

4) 1996 Recorded DPOAs – Sylvia Hamilton was already the DPOA – but she had to get 2 doctors certifications or a court order for it to take effect. So instead she got another one written in August 2004 that didn’t require doctors. As well, Hamilton Trust duties removed from 2004 DPOA, which Danny Davila wrote and assumed the successor duties. [(Exhibit 9-Recorded DPOA-1996)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%209-1996%20Recorded%20DPOAs-Maurine%20Hamilton%20only%203%20page%20DPOA%20extract-watermark.pdf)

 5) $150,000 transfer from Maurine Hamilton to Sylvia Hamilton’s account. (in June 2004?)

 6) Maurine Hamilton sig changes: IRS checks, DPOAs, Mutual of Omaha documents in 2003/early 2004 vs later 2004 signatures

 7) Witnesses:

1. Hester Pollard, Home Health aide, not allowed in by Sylvia Hamilton to see Maurine Hamilton or speak to on phone
2. John Cowan, Farm manager, not allowed by Sylvia Hamilton to talk to Maurine Hamilton on phone
3. Alan Hamilton, limited access to Maurine Hamilton, Alan told by Sylvia that Maurine was sleeping for 3 weeks after she had died.
4. Brian Dudley, not allowed to see Maurine Hamilton

**Mutual of Omaha evidence:**

 1) May 2003, Life Insurance Absolute assignment to Alan and Sylvia Hamilton

2) 8/9/2004 - (Michelle Bogatz) Letter from Mutual of Omaha to Maurine Hamilton saying Danny Davila and Sylvia Hamilton called about her annuities without Maurine being present. Showed that Mutual of Omaha first suspicions of fraud were not followed up on. Shows account growth and partial withdrawals and asking why she would want to give this up. (See Exhibit 12: 8/9/2004 Mutual of Omaha letter)

3) 9/2/2004 - (Cynthia Herman) Letter from Mutual of Omaha Life Insurance Division to Sylvia Hamilton saying they needed Alan Hamilton to fill out and sign a form in order for them to change ownership. Had they done this with the annuities and made that an attempted theft as well, they would have an A+ and this lawsuit wouldn’t exist and Maurine Hamilton might still be here today. (Exhibit 13-Life Ins theft thwarted)

4) 10/22/2004 - (Michelle Bogatz) Mutual of Omaha letter - ok to pre-release annuities

5) 1/12/2009 – (Peggy Rodewald) Entire packet from Mutual of Omaha, includes 2004 DPOA by Sylvia Hamilton and Danny Davila, with Danny Davila named as the successor agent for Sylvia Hamilton, instead of Alan Hamilton. [(Exhibit 2: 1/12/2009 packet from Mutual of Omaha)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%202-with%20watermark-all%20docs%20received%20Jan%2012%202009%20from%20Mutual%20of%20Omaha.pdf)

 6) 6/25/2009 - Alan and Marjie to Peggy Rodewald (Exhibit 25)

 7) 7/20/2009 - Letter from Peggy Rodewald (Exhibit 26)

 8) RMS Collection letters from Mutual of Omaha

 9) Alan Hamilton’s credit report

**Examples of standard/ordinary care/due diligence**

1) 9/3/2010 - Sylvia Hamilton’s Letter of release of responsibility/Affidavit demanded by Talon Development from Alan Hamilton, in order to receive a $20,000 payment from an oil lease contract, which had both Alan and Sylvia’s name of it. This shows the ordinary standard of care for releasing much smaller sums ($20,000) of money than Mutual of Omaha released ($800,000). [(see Exhibit 4: Talon Letter of Release)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%204-Recorded%20Talon%20Affidavit%20from%20Sylvia%20Hamilton%20for%20580%20County%20Rd%20329.pdf)

2) 11/2011 – BullionVault, a gold depository/investment company, requests a copy of the Trust when it sees “Trust” on the bank account check. Shows the standard/ordinary care/due diligence for Trusts. [(Exhibit 6: BullionVault Request for copy of Trust)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%206-BullionVault%20needs%20copy%20of%20Trust%20for%20Trust%20Bank%20account%20validation-Nov2011.JPG)

**Brad Seals Evidence:**

 1) 6/7/2004 - email from Brad Seals to Danny Davila about “annuities that are worth his time”, that then end up missing from the Estate. [(Exhibit 1: email from Brad Seals to Danny Davila)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%201-The%20Plan-6-7-04-bseals%20to%20danny%20davila%20email%20with%20elderly%20lady%20whose%20husband%20just%20died%20heist%20plot%20-%20in%20writing.pdf)

 2) Jefferson Insurance 1099 6-7-2004 date stamp, bank work?

**Gina Andro Evidence:**

1) Sylvia’s Confession letter to Probate Judge [(Exhibit 7: Sylvia’s Confession Letter)](file:///C%3A%5CProBaitCourt%5CHamiltonEvidenceDVD%5CLawsuit%5Clawsuit%20evidence%20folder%5CExhibit%207-Letter%20to%20Judge-confession%20papers%20dropped%20off%20by%20Sylvia%20on%2010-28-09.pdf)

Wayne Gonquist billings?

Shortcut exhibits for lawyers:

Proof of Fidiciary Duty:

1. Exhibit F – single page of 8/6/2004 DPOA with Danny Davila successor (1 page)

Proof of Breach of Fiduciary Duty (Exhibit 2S: Danny Davila successor agent page only)

1. Danny Davila billing records for $35 tax extensions, on 4/29/2005, 8/30/2005 and 4/30/2005. (3 pages) (Exhibit 3S)

Proof of financial loss/injury:

1. 1/12/2009 packet from Mutual of Omaha outlining why they released annuities and their value in October 2004 ($439,000). The annuities were supposed to mature in 2017 with a value of about $1.6 million. (10 pages??? Check) (Exhibit 2: 1/12/2009 packet from Mutual of Omaha)
2. June 2004 Letter from Mutual of Omaha about $315,000 paid to Maurine Hamilton for Alfred Hamilton Death Benefits, referred to by Brad Seals in his email, and with Alan’s name spelled “Allan” in Danny Davila’s handwriting. (3 pages??? check)
3. 2003 tax 1099s show interest paid on approximately $400,000, in various bank accounts. (BofA account received … alone- 1099 with Trust on it) (Exhibit 5)
4. Estate insolvent by the time the embezzlement was discovered in Sept 2008. Sylvia Hamilton’s Oct 2009 written confession to stealing the annuities, money laundering thru Western Union, and her listing of emptied bank accounts. (Exhibit 7)
5. Standard of ordinary care/due diligence by Talon Development by demanding a Letter of release from Sylvia Hamilton before giving Alan Hamilton any money on a contract which contained both of their names. (see Exhibit 4: Talon Letter of Release)
6. Spreadsheet timeline. (Exhibit 8)