

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENNETH R. TALLEY and	§
JANICE A. TALLEY,	§
	§ No. 429, 2024
Plaintiffs Below,	§
Appellants,	§ Court Below—Court of Chancery
	§ of the State of Delaware
v.	§
	§ C.A. No. 2021-0011
JUDITH HORN and DARREN	§
HORN,	§
	§
Defendants Below,	§
Appellees.	§

Submitted: July 11, 2025

Decided: August 27, 2025

Before **VALIHURA, TRAYNOR**, and **LEGROW**, Justices.

ORDER

After consideration of the briefs and the record on appeal, it appears to the Court that:

(1) In January 2021, Kenneth and Janice Talley¹ filed an action in the Court of Chancery seeking a “declaration of their rights in real property located at 28289

¹ On January 27, 2025, a “Motion for Substitution” was filed, notifying the Court that Janice Talley died on December 10, 2024. We have taken note of that unfortunate occurrence. We also note that the Talleys’ daughter, Kristina Talley, whom the record reflects occupied the property at issue for several years and has extensively assisted the Talleys with their litigation, signed filings in this appeal as the “personal representative” of Janice’s estate. We have considered the filings. No further action will be taken on the motion.

We refer to Kenneth and Janice Talley as “the Talleys.” In pursuit of clarity, we sometimes use first names to refer to members of the family. No familiarity or disrespect is intended.

Broadkill Road, Milton, Delaware.”² They also filed a *lis pendens* on the property. The Talleys were represented by counsel from Community Legal Aid Society, Inc. (“CLASI”) until February 2022, when counsel withdrew at the Talleys’ request.

(2) The complaint alleged that the Talleys’ daughter and son-in-law, Judith and Darren Horn, had purchased the property in 1989 to provide the Talleys and their younger children with a place to live after the Talleys experienced financial hardships. It alleged that Kenneth had lived at the property since 1989 and that Janice had lived there from 1989 until 2019. The complaint alleged that although the Horns are the “title owners” of the property, they had agreed that the Talleys could live there “for as long as they wanted,” and the Talleys had made renovations and expenditures on the home in reliance on that promise. Nevertheless, the Horns had filed an action in the Justice of the Peace Court seeking to evict the Talleys from the property. The complaint in the Court of Chancery asked the court to declare that the Talleys had an equitable life estate in the property through promissory or equitable estoppel or a constructive trust and to enjoin the Horns from taking any action to deprive the Talleys of possession of the property without an order of the Court of Chancery.

² *Talley v. Horn*, C.A. No. 2021-0011, Docket Entry No. 1, Verified Complaint (Del. Ch. filed Jan. 6, 2021).

(3) Trial proceeded before a Magistrate in Chancery over two days in May 2022, and the court also heard testimony from Janice in June 2022. On October 4, 2022, the Magistrate entered a final report recommending that the court deny the Talleys' claims, enter judgment for the Horns declaring that the Talleys have no interest in the property, cancel the *lis pendens* that the Talleys had filed in January 2021, and decline to shift fees in favor of either side.³ The Talleys did not file exceptions under Court of Chancery Rule 144, and the Chancellor entered an order adopting the report on October 21, 2022. The Talleys did not appeal.

(4) In February 2024, on the Horns' motion, the magistrate reopened the case to consider a motion to cancel a *lis pendens* that the Talleys had filed on October 12, 2023. The Horns asserted that all but one of the multiple cases in six state and federal courts that were identified in the notice of *lis pendens* had been dismissed or otherwise resolved by final, unappealable judgments against the Talleys and the claims in a case that remained pending in federal court did not affect title to the property. They argued that the court should cancel the notice of *lis pendens* under 25 Del. C. § 1606, award the Horns costs and attorney fees under 25 Del. C. § 1611, and enjoin the Talleys and their agents from filing additional notices of *lis pendens*.

(5) On April 24, 2024, the Magistrate held a hearing on the motion to cancel the *lis pendens*, at the conclusion of which she issued a final report from the

³ *Talley v. Horn*, 2022 WL 4963256 (Del. Ch. Oct. 4, 2022) (magistrate's report).

bench. The Magistrate determined that the appellees' motion seeking cancellation of a *lis pendens* should be granted and the Talleys should be enjoined from refiling a *lis pendens*. The Magistrate also concluded that the attorney fees that the Horns incurred in connection with the motion to cancel the *lis pendens* should be shifted to the Talleys.

(6) The Talleys filed exceptions to the Magistrate's report. On July 19, 2024, while the exceptions were pending before the Vice Chancellor, the Talleys filed another notice of *lis pendens* against the property. The Horns notified the court of the new filing and requested that it also be canceled. The Talleys did not respond. In a letter opinion dated September 30, 2024, the Vice Chancellor adopted the Magistrate's report. The Vice Chancellor found "that there is no question that the lifting of the *lis pendens* is mandatory under the statute, and that the exceptional abuse of process here . . . amply justifies shifting fees as directed by the Magistrate."⁴ On October 2, 2024, the court entered an order cancelling the *lis pendens* filed in October 2023 and July 2024; ordering the Talleys to pay the Horns' attorney fees in

⁴ *Talley v. Horn*, 2024 WL 4347147, at *1 (Del. Ch. Sept. 30, 2024). The court pointed to a "Statement of Related Cases" that the Talleys filed with their exceptions, in which they identified twenty cases, almost all of which they initiated, that they asserted were "directly related" to and "originate from" the trial in this action in May 2022. *Talley v. Horn*, C.A. No. 2021-0011, Docket Entry No. 85, Plaintiffs' Notice of Exceptions (Del. Ch. filed May 7, 2024).

the amount of \$3,467.35; and enjoining the Talleys, and any of their agents, from refileing any notices of *lis pendens* against the property.⁵

(7) The Talleys have appealed to this Court. They do not argue on appeal that the Court of Chancery incorrectly determined that Section 1606 required it to lift the *lis pendens* because all the litigation identified in the *lis pendens* had either been resolved or did not affect title to the property.⁶ Rather, as they did in their exceptions to the Magistrate’s report, they argue that Kenneth is indigent and has insufficient education or mental capacity to represent himself, and the court therefore violated his right to due process and right to counsel by “making” him represent himself at trial in 2022. As the Court of Chancery determined, the “time for rearguing (or appealing) the substantive or procedural decisions that led to the 2022 decision of the Court has long since passed.”⁷ In any event, their claims are without merit. There is no general right to court-appointed counsel in a civil case;⁸ the Talleys had counsel from CLASI but elected to terminate the representation; and, as

⁵ In their answering brief, the Horns state that Kristina filed a fourth *lis pendens* on the property “on the day of [the Vice Chancellor’s] order” and that the fourth *lis pendens* “still exists on the property.” That matter is beyond the scope of this appeal but, if true, it further highlights the Talleys’ vexatious conduct and abuse of the judicial process.

⁶ *Talley v. Horn*, 2024 WL 4347147, at *1 & n.13.

⁷ *Id.* at *1.

⁸ *Iverson v. Hunt*, 2020 WL 7265875, at *1 n.2 (Del. Dec. 10, 2020).

the Magistrate noted in rejecting Kenneth’s request for court-appointed counsel, he has not been adjudicated incompetent, nor has such a request been made.⁹

(8) In their answering brief, the Horns ask the Court to order the Talleys to pay all the fees that the Horns have incurred in defending the cases filed by the Talleys in this Court, the Court of Chancery, the Superior Court, the Family Court, and two federal courts. We affirm the Court of Chancery’s award of attorney fees to the Horns. The Horns proceeded *pro se* in this appeal, and they therefore have not demonstrated grounds for an award of fees as to the current appeal. The request is otherwise beyond the scope of this appeal, but we warn Kenneth and Kristina that if they continue their vexatious course of conduct they risk further fee shifting and additional injunctions.

⁹ *Talley v. Horn*, C.A. No. 2021-0011, Docket Entry No. 88, Transcript of Apr. 24, 2024 Hearing, at 4 (Del. Ch.). Addressing Kenneth’s assertion that he suffers from “alphabetism,” or illiteracy, the Magistrate observed that Kenneth had signed a typewritten letter to the court citing legal rules and statutes and signed a statement under oath that he understood the contents of the affidavit that he signed and that the statements were true and correct. *Id.* at 4-5. The Magistrate further noted for the record that, during Kenneth’s presentation in court, she had “watched him speak clearly and read from a number of papers that were in front of him quite well.” *Id.* at 20-21. The Talleys and Kristina have asked the Court to consider reports of neuropsychological and psychological examinations of Kenneth, dated between November 1, 2024, and January 10, 2025, in support of Kenneth’s contention that he should not have been permitted to represent himself. Despite Kenneth’s ample opportunity to obtain such reports during the pendency of the proceedings in the trial court—or for Kristina to petition for guardianship if she believes Kenneth is unable to handle his affairs—the reports were prepared after the proceedings in the Court of Chancery concluded. We therefore decline to consider them. DEL. SUPR. CT. R. 8.

NOW, THEREFORE, IT IS ORDERED, that the judgment of the Court of
Chancery be AFFIRMED.

BY THE COURT:

/s/ Gary F. Traynor
Justice