RECEIVED
Aug 12 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel Dewitt Hall, Circuit Court Judge

Appellate Case No. 2022-000682
Case No. 2019-CP-46-04238

Philip Pringle, as the duly appointed Gurdian ad Litem for Alex Pringle,…………….Respondent

v.

Janet Mewshaw, individually and as Trustee,……………………………………….Appellant

# INITIAL BRIEF OF APPELLANT

**SOWELL & DuRANT, LLC**

Bess J. DuRant (SC Bar No. 77920)
1325 Park Street, Suite 100
Columbia, South Carolina 29201
803-722-1100
bdurant@sowelldurant.com

***Attorneys for Appellant Janet Mewshaw, individually and as Trustee***

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ........ iii

STATEMENT OF ISSUES ........ v

INTRODUCTION ........ 1

STATEMENT OF THE CASE ........ 2

STATEMENT OF FACTS ........ 5

A. Sabrina's Estate Planning ........ 5

B. The Trust and The Broad Powers of the Trustee. ........ 5

C. Assets at Issue. ........ 8

1. Founder's Joint Account. ........ 8

2. Merrill Lynch IRA Accounts ........ 9

3. Family Home at 507 Ann Shaw Avenue in Fort Mill. ........ 11

D. Charlene Controne, CPA's Expert Report Containing Legal Conclusions and Factual Errors ........ 12

STANDARD OF REVIEW ........ 13

ARGUMENT ........ 14

I. The Probate Court Ignored the Settlor's Intent by Removing Janet from Trustee ........ 14

II. The Probate Court Ignored the Settlor's Intent When It Bypassed the Settlor's Brother to Appoint the Expert's Firm to Serve as Trustee ........ 15

III. The Probate Court Ignored the Titles, Terms, and Testimony of the Merrill Lynch IRAs and the Founder's Joint Account Which Preclude Them from Being Part of the Trust ........ 16

A. Founder's Joint Account ........ 17

B. Merrill Lynch IRAs ........ 18

IV. The Probate Court Ignored the Settlor's Intent with respect To the Family Home When It Forced the Sale of the Home and Imposed a Monthly Rent that is Unsupported by the Record ....................19

V. The Probate Court Erroneously Relied on the Testimony and Report of Charlene Controne, CPA ....................21

VI. The Award of Attorney's Fees and Expert Fees is Faulty And Should be Reversed....................22

CONCLUSION....................24

## TABLE OF AUTHORITIES

### CASES

*Campbell v. Carr*, 361 S.C. 258, 603 S.E.2d 625 (Ct. App. 2004).....................................13

*Chiles v. Chiles*, 270 S.C. 379, 242 S.E.2d 426 (1978) ................................................ 15-16

*Crowder v. Crowder*, 246 S.C. 299, 143 S.E.2d 580 (1965) ............................................14

*Epworth Children's Home v. Beasley*, 365 S.C. 157,
616 S.E.2d 710 (2005) ...........................................................................................15

*Gary v. Lowcountry Med. Transp., Inc.,* 424 S.C. 18, 817 S.E.2d 291 (Ct. App. 2018) .....17

*Holcombe-Burdette v. Bank of America*, 371 S.C. 648,
640 S.E.2d 480 (Ct. App. 2006)..........................................................................16

*In re Estate of Holden*, 343 S.C. 267, 539 S.E.2d 703 (2000).............................................13

*In re Under Armour Sec. Litig., 409 F. Supp. 3d 446 (D. Md. 2019)*.................................10

*Kramer v. Time Warner Inc., 937 F.2d 767, 774 (2d Cir. 1991)*........................................10

*Lewis v. Lewis*, 392 S.C. 381, 709 S.E.2d 650 (2011).......................................................14

*Nutt Corp. v. Howell Road, LLC*, 396 S.C. 323,
721 S.E.2d 447 (Ct. App. 2011)..........................................................................14

*Postal v. Mann,* 308 S.C. 385, 418 S.E.2d 322 (Ct. App. 1992) ........................................17

*State Farm Fire & Cas. Ins. Co. v. Sproull, 329 F. Supp. 3d 238, (D.S.C. 2018)*.......... 10-11

*S.C. Dep't of Social Svcs. v. Janice C.*, 383 S.C. 221
678 S.E.2d 463 (Ct. App. 2009).......................................................................10, 23

*Waddell v. Kahdy*, 309 S.C. 1, 419 S.E.2d 783 (1992).......................................................13

*ZAN, LLC v. Ripley Cove, LLC*, 406 S.C. 404,
751 S.E.2d 664 (Ct. App. 2013)..........................................................................14

### STATUTES

S.C. Code Ann. § 62-6-202........................................................................................8, 18

S.C. Code Ann. § 62-6-203 ....................................................................................8, 18

S.C. Code Ann. § 62-7-1004 .................................................................................. 22-23

**SECONDARY SOURCES**

71 C.J.S. *Pleadings § 89 (2011)* ...........................................................................17

*Black's Law Dictionary* 368 (8th ed. 2005)...........................................................14

Jean Hoefer Toal, et.al., *Appellate Practice in South Carolina* 224 (3d ed. 2016) .............14

## STATEMENT OF ISSUES

1. Did the circuit court err in affirming the probate court's decision to remove Janet Mewshaw as the trustee of the trust created for her grandson Alex Pringle by her daughter Sabrina Cannon Pringle, thereby ignoring the Settlor's intent?

2. Did the circuit court err in affirming the probate court's order that ignores the Settlor's intent (1) when the probate court appointed a CPA firm to serve as trustee of the trust when the Settlor specifically selected her brother to serve as a successor trustee to Janet Mewshaw, the appointed trustee; (2) when the brother testified he would be willing to serve as trustee; and (3) when the CPA firm served as the court-appointed accountant that made erroneous factual findings and improper legal conclusions?

3. Did the circuit court err in affirming the probate court's order that ignored the titles, terms of, and the testimony regarding the Merrill Lynch IRAs and the Founder's Joint Account that establish these accounts are not trust assets?

4. Did the circuit court err in affirming the probate court's order that ignores the Settlor's intent regarding the family home and the value of the rental of the same, if any?

5. Did the circuit court err in affirming the probate court's order that relied upon Charlene Controne, CPA's testimony and report that was replete with incorrect and improper legal conclusions about the trust and funds?

6. Did the circuit court err in affirming the probate court's order that awarded attorney's fees and expert fees (and attorney's fees that are not supported by the record)?

## Introduction

This is a case about the wishes of a dying mother regarding her son and her reliance on her family to carry out those wishes. More specifically, this case is about Sabrina Pringle, the mother, Alex Pringle, her son, and Janet Mewshaw, her mother and Alex's grandmother and how Sabrina wanted Janet to take care of Alex after Sabrina's passing.[1] Soon before being diagnosed with breast cancer, Sabrina moved her mother and stepfather into her house with her son. After the diagnosis, they helped to raise her son, while also taking care of her during her fight with cancer. Sadly, Sabrina succumbed to cancer on March 25, 2017. But before she passed away, Sabrina entered into an estate plan in September of 2016 drafted by lawyer friends. In her estate plan, she created a trust (Trust) for her son Alex and chose her mother to serve as trustee for her son. She financially provided for her son through trust assets, individual retirement accounts, and a joint account that passed to Janet upon Sabrina's death. She also expressed her desire for her mother to keep the family home for her son Alex so he could continue to have his childhood home. If her mother did not or could not serve as trustee, Sabrina wanted her brother Brent to serve as trustee. At all times, this family remained a close unit until Sabrina's passing, leaving her mother and her

[1] For clarity, the relevant people will be referred to in this brief by their first names due to the common last names. The relevant people are:

a. Sabrina Cannon Pringle (Sabrina) – the decedent/settlor, mother to Alex, daughter of Janet, sister to Brent, and stepdaughter to Charlie;
b. Alex Pringle (Alex) – son of Sabrina, grandchild of Janet, nephew of Brent, and step-grandchild of Charlie;
c. Janet Mewshaw (Janet) – trustee, mother of Sabrina and Brent, grandmother of Alex, and wife of Charlie;
d. Brent Cannon (Brent) – successor trustee, brother of Sabrina, son of Janet, uncle of Alex, and stepson of Charlie; and,
e. Charles Mewshaw (Charlie) – husband of Janet; stepfather of Sabrina and Brent, and step-grandfather of Alex.

son to take care of each other with trust assets, including the family home, investment assets, and a joint banking account to support them.

Contrary to all evidence in the record, the probate court chose to appoint a trustee outside of the family, in direct contravention of the Trust. The probate court treated the investment retirement accounts and joint banking account as if they were subject to the trust, in direct contravention of the Trust and the terms and titles of the accounts. Neither the evidence nor the law supports the probate court's conclusion to appoint an unrelated accounting firm (BNA CPAs & Advisors (CPA Firm)) that served as an expert in this litigation to serve as the trustee. This court-appointed trustee has cast judgment, callings its neutrality into question. Similarly, neither the evidence nor the law supports the probate court's conclusion that the retirement accounts and the joint bank account belong to the Trust, rather than Janet. Additionally, the record is devoid of any evidence that Sabrina's home, which she placed in her son's Trust, is causing any waste on the Trust. Likewise, there is no evidence in the record to establish the rental value. Because the probate court erred in many respects, there is no ground to award attorney's fees or expert fees to Petitioner. Moreover, the amount of the award is erroneous because it includes fees already awarded or not related to this matter. The circuit court's order affirming the probate court's order should be reversed.

## STATEMENT OF THE CASE

In the present matter, Janet is appealing the circuit court's Form 4 Order, dated May 6, 2022 that affirmed the order of the probate court dated December 6, 2019. (Form 4 order dated May 6, 2022.)

This appeal originated from a Complaint filed in the York County Probate Court filed on May 10, 2018 by Petitioner against Janet, individually and as trustee. (Compl., May 10, 2018.)

The Complaint sought to remove Janet as the trustee of the Alex Pringle Trust, require Janet to repay any monies Petitioner contends were wrongfully taken from the trust, appoint CPA Firm as trustee of the trust, order an accounting, and reimburse reasonable attorney fees. In response, Janet filed her Answer dated June 14, 2018, generally denying Petitioner's claims. (Answer, June 14, 2018.) Soon thereafter, a Consent Order appointing Charlene Controne of CPA Firm to do a forensic accounting was filed on July 23, 2018. (Consent Order, July 23, 2018.)

On December 12, 2018, Petitioner filed a motion to remove Janet as the trustee. (Mot. to Remove Trustee, Dec. 12, 2018.) A few weeks later, he also filed a motion to amend his complaint on December 19, 2019. (Mot. to Amend Compl., Jan. 2, 2019.) Janet filed returns and a supporting affidavit to both of these motions on February 5, 2019. (Return to Mot. to Remove Trustee, Return to Mot. to Amend Compl., and Aff. of Janet Mewshaw Jan. 24, 2019, filed Feb. 5, 2019.) The probate court issued an order on February 18, 2019, denying Petitioner's motion to remove Janet as trustee but allowing Petitioner to amend his complaint. (Order, Feb. 18, 2019.)

On March 5, 2019, Petitioner filed his Amended Complaint, adding two additional causes of action: (1) requesting the family home at 507 Ann Shaw Avenue, Fort Mill be sold and for Janet to pay rent until it is sold; and (2) requesting an accounting from January 1, 2015 until Sabrina's death for the Founder's Joint Account. (Am. Compl., March 5, 2019.) Janet filed her answer (erroneously captioned as Amended Answer) dated April 2, 2019 to the Amended Complaint, denying that the family home should be sold and that Founder's Joint Account and Merrill Lynch IRAs were trust assets. (Answer to Am. Compl., April 2, 2019.)

On August 1, 2019, the matter was tried non-jury before the probate court. The following day, Petitioner filed an attorney's fee affidavit to supplement his testimony. (Pl. Att'y Fee Aff., Aug. 2, 2019.)

On December 6, 2019, the probate court issued its order in favor of Petitioner, ordering that the CPA Firm be appointed as trustee of the Trust, ordering Janet to repay the trust $177,832.70 for monies purportedly wrongfully spent, back rent, CPA Firm fees, and Pringle's attorney fees. (Order, Dec. 6, 2019.)

On December 12, 2019, Mewshaw appealed the probate court order. (Notice of Appeal to the Circuit Ct., Dec. 12, 2019.) While this matter was on appeal, Petitioner filed a Motion to Remand Case to Trial Judge on December 3, 2020 because he purportedly discovered new evidence in a related case, styled as *Philip Pringle, as the Guardian ad Litem for A.P. vs. Steven Lang, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Janet Mewshaw*, Civil Action Number 2020-CP-46-02542, filed in the York County Court of Common Pleas. (Mot. to Remand Case to Trial Judge, Dec. 3, 2020.) The circuit court granted this motion via Form 4 Order on January 27, 2021. (Order, Jan. 27, 2021.) Pursuant to the circuit court's remand order, the probate court admitted the deposition transcript of Steven Lang and any exhibits attached thereto via its order filed November 23, 2021. (Probate Ct. Order, Nov. 23, 2021.) No exhibits were attached to the deposition transcript, however. (Cover pages & index of Dep. of Steven Lang, dated July 23, 2021.)

A hearing was held on the appeal on April 22, 2022. The circuit court affirmed the probate court's order via Form 4 Order, filed on May 6, 2022. (Order, May 6, 2022.) Mewshaw timely filed and served the notice of appeal of the circuit court's order on May 19, 2022. This matter is now before this Court.

## STATEMENT OF FACTS

### A. Sabrina's Estate Planning

Facing a breast cancer diagnosis at the age of 46, Sabrina and her mother Janet met with two lawyers, Jessica Hardin and Donna Hargrove, to create her estate plan. (Trial Tr. 113:21-24, Aug. 1, 2019.) Most importantly, she wanted her then 7 year old son Alex to be taken care of financially and emotionally. To that end, she created a testamentary trust (Trust) in the Will of Sabrina Cannon Pringle, dated September 30, 2016. (Pet'r's Ex. 1.)[2] Sabrina wanted her mother Janet to take care of Alex via the trust funds and accounts that Sabrina left to Janet, individually. (*See, e.g.* Trial Tr. p. 100:17 – 101:5.) In Sabrina's own handwritten memorandum to her will, Sabrina confirms this instruction and announces her wishes as follows:

> It is my hope that my Mom and Dad will take care of Alex and take him on vacations as we have always done. ***Please watch over my beloved, son, Alex***.

(Pet'r's Ex. 7.) (emphasis added.) Janet carried out her daughter's directives, until the probate court erroneously changed Sabrina's clearly expressed wishes.

### B. The Trust and The Broad Powers of the Trustee

The Trust's language supports Janet's testimony that Sabrina wanted her mother to use Sabrina's assets for Alex. It places significant – and occasionally sole – discretion in Janet's hands. The Trust mirrored the lives that the family had been living: Sabrina wanting her mother to continue taking care of Alex, and if not capable, then having her brother, Brent Cannon, become the trustee. The Trust clearly and unambiguously conveys Sabrina's intent.

---

[2] After a contentious divorce, Sabrina did not want her ex-husband, Philip Pringle, to know about the trust. As testified by Janet, "I was told by the two attorneys that set up the will that Philip was not to know anything about it . . . . They had a talk with Sabrina and I. They assured Sabrina that Philip [would] never know about these." (Trial Tr. 113:15-25.) Sabrina did not want Philip to know about the Trust and Janet was "following [her] daughter's direction" by not informing Philip of the Trust after Sabrina's death. (Trial Tr. 100:12-16.) Rather, Sabrina wanted her mother to have access to that money for Alex. (*Id.*)

Sabrina's Will is separated into eight articles. (Pet'r's Ex. 1.) For purposes of this appeal, four articles are salient. They are as follows:

- Article I – Disposition of Estate
- Article II – Disposition of Trust Property
- Article IV – The Fiduciaries
- Article V – Administrative Powers of Fiduciaries

Importantly, the first sentence in the first article states: "All my tangible personal property ***that was not held by me solely for investment purposes***, including but not limited to, my automobiles, household furniture and furnishings . . . shall be disposed of as follows[.]" (Pet'r's Ex. 1, , p. 1 (emphasis added)). ***Consequently, Sabrina specifically excluded all investment accounts, including her IRAs, from the disposition of her estate and the ultimate trust funds for the Trust she created for Alex***. She continues in Article I that she may dispose of her personal property through a handwritten memorandum, or it can be transferred to Alex (via property or its proceeds), or the personal property can be added to the residuary estate. (*Id.*) Next, she addresses her residuary estate, and provides that it will be given to the Trustee (Janet) for her to dispose of it pursuant to Article II – Disposition of Trust Property. (*Id.*)

Article II contains the testamentary trust Sabrina created for Alex. (Pet'r's Ex.1, p. 2.) She states that "property payable to the Trustee" shall become a trust asset.[3] (Pet'r's Ex. 1, p. 2.) She then discusses the family home. (*Id.*) She acknowledges that the family home should become part of the Trust, and then states it is her "sincere hope" that Alex continues to live at the family home

[3] As discussed below, the Merrill Lynch IRAs and Founder's Joint Account are not payable to the Trustee, nor are they property given to the Trustee under Sabrina's Will. They are payable to Janet, individually. The IRAs and the joint banking account stand on their own and are not part of the Trust.

with Janet and Charlie. (*Id.*) After all, it was his childhood home. It was the home where he was raised by both his mother and grandparents and where he comes home to visit his grandparents and stay in his same childhood bedroom. Sabrina also states that Janet, as Trustee, has the sole discretion as to whether she, as Trustee, should rent the house and for how much. (*Id.*) Moreover, Janet, as Trustee, has the sole discretion to determine fair market value for rent. (*Id.*)

Like the family home, Sabrina gives the Trustee significant discretion regarding carrying out other terms of the Trust. For example, Sabrina allows Janet, as Trustee to determine how much of the Trust assets, if any, should be given to Alex before he turns 30 years old. (*Id.*, Art. II(B)(1)(a).) Similarly, regarding the expenditure of trust funds, Sabrina states "*without limiting the Trustee's discretion*, it is my desire that such discretion be exercised for such purposes as the Trustee shall deem reasonable and appropriate for the welfare, enjoyment and education of the beneficiaries." (Pet'r's Ex.1, Art. II(E)(1), p. 2.) The Trustee's discretion is wide and far reaching.

Article IV appoints Janet as both Trustee of Alex's Trust and Personal Representative of Sabrina's estate. (Pet'r's Ex. 1, Art. IV, p. 4-5.) Importantly, Sabrina specifically states that her brother Brent Cannon should serve as Alex's Trustee, provided that Janet cannot serve. (Pet'r's Ex. 1, Art. IV, p. 5.) In fact, Janet must ask Brent if he wants to serve as Trustee before Janet can appoint a successor trustee. (*Id.*)

Finally in Article V, Sabrina lists a plethora of powers that her Trustee can exercise, including making investments, sell or manage property, continue to run Sabrina's business, borrow or lend money, the ability to bring a lawsuit, among many other powers. (*Id.* Art. V.) Those powers include the right to employ and rely on advisors. (*Id.* Art. V(L).)

In sum, Sabrina wanted her mother to take care of her son, both as his grandmother and his Trustee. The first sentence of the Will in Article I provides that none of the IRAs – *i.e.* accounts

"held by [Sabrina] solely for investment purposes" – passes through the Will to the Trust. (*Id.* Art I(A).) Then, the first sentence of Article II reiterates that neither the IRA, nor the Founder's Joint Account, becomes trust property because they are made payable to Janet, individually, not as Trustee. (*id.* Art II(A)). As discussed below, Merrill Lynch has concluded that the IRAs belong to Janet, individually, and the Founder's Joint Account passed to Janet, upon Sabrina's death, as a matter of law. These facts do not preclude Janet from using those assets for Alex's benefit, but Sabrina indicated her intent that she wanted her mother, individually, to have these assets.

**C. Assets at Issue**

This appeal concerns three different assets that belonged to Sabrina, individually or jointly. These assets are (1) the Founder's Joint Account between Sabrina and Janet, (2) the Merrill Lynch IRAs, and (3) the family home at 507 Ann Shaw Avenue in Fort Mill.

**1. Founder's Joint Account**

On November 8, 2016, Sabrina added Janet to her banking account, making it a joint account with rights of survivorship, as noted above the signatures of Sabrina and Janet on the Membership Application and Account Card. (Resp't's Trial Ex. 1.) South Carolina law provides that once Sabrina died, the funds in the account passed *in toto* to Janet, as discussed more fully below. *See* S.C. Code Ann. § 62-6-202 & § 62-6-203(a). At the time of Sabrina's death, the terms of the Founder's Joint Account provided that it was a joint account with rights of survivorship. Janet was the survivor, and accordingly, the funds passed to her.

### 2. Merrill Lynch IRAs

Sabrina had two Merrill Lynch IRAs. One account's last four numbers were 9649, and the second account's last four numbers were 9651.[4] (MLPF&S_Pringle000662-000683; MLPF&S_Pringle 001223 – 001238.) The accounts were titled (1) Sabrina Cannon Pringle IRA FBO Sabrina Cannon Pringle and (2) Sabrina Cannon Pringle RRA FBO Sabrina Cannon Pringle for accounts 9649 and 9651, respectively. (*Id.*) At the time of Sabrina's death, the balances were approximately $378,010.52 and $19,670.13, respectively. (Order, Probate Court, December 6, 2019 p. 1.) After Sabrina's death, both accounts were transferred by Merrill Lynch to Janet, individually, and these accounts were given new account numbers by Merrill Lynch. (Pet'r's Exs. 4 & 5.) Account number 9649 became account number 1322 and account number 9651 became account number 1336. (*Id.*) These two accounts were transferred to Janet, individually. (*Id.*) Both of these new accounts had the titles of (1) Sabrina C. Pringle DECD IRA FBO Janet Mewshaw and (2) Sabrina C. Pringle DECD RRA FBO Janet Mewshaw for accounts 1322 and 1336, respectively. (MLPF&S_Pringle00001- 000016; MLPF&S_Pringle000365 – 000378.) During the litigation of this matter, the funds in these accounts were frozen pursuant to the probate court's order. (Order from Mot. To Amend, to Quash Subpoena, and to Remove Trustee Held on Feb. 5, 2019, dated Feb. 18, 2019.)

After Sabrina's death, Merrill Lynch informed Janet that she was the sole owner of these two inherited IRA accounts by letter dated January 24, 2019 from Steven Lang, Senior Financial Advisor. (MLPF&S_Pringle001463; *see also* Resp't's Ex. 2.) Lang was Sabrina's personal financial advisor at Merrill Lynch. (*See, e.g.* MLPF&S_Pringle000662.) Lang also told Janet that

[4] For convenience's and privacy's sake, all accounts will be referred to by their last four digits.

she, individually, owned the funds in the IRAs. (Trial Tr. 53:21 – 54:4.) Petitioner argues that these accounts should have been transferred to the Trust pursuant to alleged change of beneficiary forms, but for whatever reason, these forms did not accomplish what Petitioner desires. But as noted by Steven Lang in his January 24, 2019 letter, the funds in the IRAs belonged to Janet, individually. (MLPF&S_Pringle001463.) In addition to the Will and the Trust language, which unambiguously states that investment accounts are not subject to the Will and Trust, Merrill Lynch's January 24, 2019 letter confirming ownership in Janet provides that the probate court's ruling that the IRAs belonged to the Trust was erroneous. Additionally, the 1099s for distributions from the IRAs in 2017 and 2018 were sent to Janet, individually – not as Trustee. (Resp't's Ex. 2.)

After the trial of this case, Petitioner filed a separate lawsuit against Merrill Lynch, Steven Lang, Janet Mewshaw, among others, claiming that Merrill Lynch wrongfully transferred the IRA monies to Janet. *See Philip Pringle, as the Guardian ad Litem for A.P. vs. Steven Lang, Merrill Lynch, Pierce, Fenner & Smith, Inc., and Janet Mewshaw*, Civil Action Number 2020-CP-46-02542, filed in the York County Court of Common Pleas. This Court can take judicial notice of this related lawsuit. "Certainly, 'courts routinely take judicial notice of documents filed in other courts . . . to establish the fact of such litigation and related filings.'" *In re Under Armour Sec. Litig.*, 409 F. Supp. 3d 446, 456 (D. Md. 2019) (alteration in original) (quoting *Kramer v. Time Warner Inc.*, 937 F.2d 767, 774 (2d Cir. 1991)); *see also S.C. Dep't of Social Svcs. v. Janice C.*, 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) (noting "a court can take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records." (quotation marks and citation omitted)); *State Farm Fire & Cas. Ins. Co. v. Sproull,* 329

F. Supp. 3d 238, 245–46 (D.S.C. 2018) (taking judicial notice of underlying state court negligence action).

In this related action, Petitioner purportedly found newly discovered evidence, and the circuit court remanded the appeal to the probate court to determine if other evidence should be admitted. (Mot. to Remand Case to Trial Judge, filed Dec. 3, 2020) The probate court allowed the admission of the deposition transcript of Steven Lang and any exhibits. (Order, filed Nov. 23, 2021.) No exhibits were attached to the deposition transcript, however. (Cover pages & index of Dep. of Steven Lang, dated July 23, 2021.)

### 3. Family Home at 507 Ann Shaw Avenue in Fort Mill

The family home at 507 Ann Shaw Avenue was the home in which Sabrina, Alex, Janet, and Janet's husband Charlie lived while Sabrina was fighting breast cancer for nearly three years. (Trial Tr. 116:23-25.) As noted above, Sabrina specifically addressed the home in a term of the Trust, which is as follows:

> Until my son reaches the age of thirty (30) or sooner dies,
>
> b. My mother, JANET W. MEWSHAW, and my stepfather, CHARLES E. MEWSHAW, currently live with my son and me in ***our residence*** located at and known as 507 Ann Shaw Avenue, Fort Mill, South Carolina (the "Residence"), which I expect to become part of the trust property. ***It is my sincere hope that my son continue to have a home at the Residence and maintain a close relationship with my mother and my stepfather, even if the Residence is not my son's primary residence***. Accordingly, I request, but do not require, that the Trustee retain the Residence in trust as long as the Trustee, ***in the sole discretion of the Trustee***, determines that it is in the best interest of my son to retain the Residence. As long as the Residence is part of the trust property, my mother and my stepfather, or the survivor as between them, shall have the right to rent the Residence for fair market value. ***Fair market value rent and the other terms and conditions of the rental agreement shall be determined by the Trustee, in the Trustee's sole discretion, even if my mother is then serving as Trustee.***

(Pet'r's Ex. 1, Art. II(B)(1)(b) (emphasis added).) Sabrina not only gave her mother, as Trustee, the sole discretion as to whether Janet should rent the home, but also how much rent Janet should

charge. She also expressed her desire for Alex to stay in the home as his primary residence and that he keep a "close relationship" with his grandparents. This is in stark contrast to the present reality of Alex living in Colorado with his father.

### D. Charlene Controne, CPA's Expert Report Containing Legal Conclusions and Factual Errors

The Charlene Controne, CPA Expert Report is riddled with legal conclusions, ranging from what constitutes a proper trust expense to whether an asset was a trust asset or not. (Pet'r's Ex. 8) Moreover, she expanded the scope of the work requested by the probate court when she analyzed the Founder's Joint Account. There should be no question that the Founder's Joint Account is not a trust asset and does not fall under the probate court's order for Controne to "be appointed as forensic accountant to conduct an accounting of the trust, all assets, income and expenditures of the trust." (Consent Order, filed July 23, 2018.) She makes uninformed assumptions that expenses were improper without any support. For example, she concludes that withdrawals of $40,666.81 from the Founder's Joint Account – Janet's *own* bank account after the death of Sabrina – was improper without any support. (Pet'r's Ex. 9, Attachment A; Trial Tr. 197:17-198:4.) She admits that her accounting would be affected if it was determined that the money in the Founder's Joint Account belonged to Janet, not the Trust, because the Founder's Joint Account was joint with the right of survivorship. (Trial Tr. 195:8-16.) She admits that she did not know if various expenses were trust or personal expenses. (Trial Tr. 197:10-13.) Then, she makes improper legal conclusions for which she has no knowledge, skill, or training. For example, Petitioner's counsel and Controne engaged in "lawyering" by concluding IRA funds were trust funds in the following exchange:

> Q: So those IRA monies that were supposed to go into the trust were going directly into the trust because those IRAs are contracts with named beneficiaries of the trust, correct?

A: Yes, sir, and there was no trust checking account to put them in that I was provided.

(Trial Tr. 199:16-22.)

In sum, Controne is no lawyer, and even if she were, it is in the court's province, not a CPA's, to opine on the law. Additionally, she relied on incorrect assumptions that render her report meaningless.

## STANDARD OF REVIEW

The standard of review in this appeal is de novo.[5] A proceeding in probate court may be at law or in equity, depending on the nature of the action. *In re Estate of Holden*, 343 S.C. 267, 278, 539 S.E.2d 703, 709 (2000). "Whether the action is one at law or in equity is determined by the nature of the pleadings and the character of the relief sought." *Id.* An action to construe or interpret a trust is equitable in nature. *Waddell v. Kahdy*, 309 S.C. 1, 4-5, 419 S.E.2d 783, 785-86 (1992) (stating "[i]t is firmly recognized as a rule and principle of law in this State that all possible trusts, *whether express or implied*, are within the jurisdiction of the chancellor . . . if [t]here is *an element* of trust in this case, *which*, *wherever it exists*, always confers jurisdiction in equity." (alterations and emphasis in original)).

"In an action in equity, tried by a judge alone without reference, on appeal the appellate court has jurisdiction to find facts in accordance with its views of the preponderance of the evidence." *Campbell v. Carr*, 361 S.C. 258, 263, 603 S.E.2d 625, 627 (Ct. App. 2004). "'It is now well settled that this court has jurisdiction in appeals in equity cases to find the facts in accord with our view of the preponderance or greater weight of the evidence, in the absence of a verdict

[5] Petitioner agrees that the standard of review is de novo as stated by Petitioner's counsel during the oral argument of this appeal before the circuit court. (S.C. Cir. Ct. App. Hr'g Tr. 14:13-19, Apr. 22, 2022.)

by a jury; and may reverse a factual finding by the lower court in such cases where the appellant satisfies this court that the finding is against the preponderance of the evidence. *Id.* (quoting *Crowder v. Crowder*, 246 S.C. 299, 301, 143 S.E.2d 580, 581 (1965)). This standard of review is called de novo, which "literally means 'anew.'" Jean Hoefer Toal, et.al., *Appellate Practice in South Carolina* 224 (3d ed. 2016) (quoting *Black's Law Dictionary* 368 (8th ed. 2005); *see also Nutt Corp. v. Howell Road, LLC*, 396 S.C. 323, 327, 721 S.E.2d 447, 449 (Ct. App. 2011) ("We review factual findings and legal conclusions in an equitable action de novo.").

De novo review is the "broadest form of appellate review, as it 'permits appellate court fact-finding, notwithstanding the presence of evidence supporting the trial court's findings.'" *Id.* (quoting *Lewis v. Lewis*, 392 S.C. 381, 709 S.E.2d 650 (2011)). "'De novo review permits appellate court fact-finding, notwithstanding the presence of evidence supporting the trial court's findings.'" *ZAN, LLC v. Ripley Cove, LLC*, 406 S.C. 404, 412, 751 S.E.2d 664, 669 (Ct. App. 2013) (quoting *Lewis*, 392 S.C. at 390, 709 S.E.2d at 654-55).

When applying this standard to the present matter, this Court should reverse the lower court for incorrect applications of the law, in addition to several unsupportable factual findings. A de novo analysis of the underlying facts and law shows that the circuit court and probate court erred and judgment should be entered in favor of Janet Mewshaw, individually and as Trustee.

## ARGUMENT

### I. The Probate Court Ignored the Settlor's Intent by Removing Janet from Trustee.

Sabrina's estate plan clearly provides that Janet is to serve as Trustee. (Pet'r's Ex. 1, Art. IV(B)). It was her "sincere hope" that Alex continue to live at his home with his grandmother Janet and grandfather Charlie. (Pet'r's Ex. 1, Art II(B)(1)(b).) It is undisputed that Janet is a most loving grandmother.

In order to prepare to be a trustee, Janet reviewed the salient portions of the South Carolina Probate Code when she discovered she would be a trustee. (Trial Tr. 49:23-50:4.) She received directions from the estate planning lawyer as to her responsibilities as trustee. (Trial Tr. 58:17-23.) She understood from Merrill Lynch that the IRAs were hers. More specifically, she states "I understood from Merrill Lynch and conversation with them that these monies were for me as a beneficiary. That was the only way they could set those accounts up." (Trial Tr. 84:16-19.) Janet has the right to rely on such advisor under Sabrina's Will. (Pet'r's Ex. 1, Art. V, p. 7.) Janet prepared for her role as trustee. She conferred with professionals about her duties. (Trial Tr. 58:17-59:17.) She knows the distinction between being a good grandmother and a prudent Trustee. If she cannot serve as the Trustee, Sabrina clearly stated who should – her brother, Brent Cannon.

## II. The Probate Court Ignored the Settlor's Intent When It Bypassed the Settlor's Brother to Appoint the Expert's Firm to Serve as Trustee.

Sabrina's estate plan could not have been clearer. She said if her mother "fails or ceases to act for any reasons, I appoint my brother, BRENT MIDDLETON CANNON, to be Trustee." (Pet'r's Ex. 1, Art IV(B).) If Janet wanted to step down from serving as Trustee, Sabrina directed her mother that she must first ask her brother Brent if he would serve as trustee before Janet could appoint another trustee. (*Id.*)

The probate court blatantly ignored this language in the Trust. The probate court appointed expert Charlene Controne and the CPA Firm as Trustee and then named Brent as the trust protector. (Order, Dec. 6, 2019.) Respectfully, the probate court cannot re-write Sabrina's clear and unambiguous wishes. *Epworth Children's Home v. Beasley*, 365 S.C. 157, 166, 616 S.E.2d 710, 715 (2005) ("holding "the primary consideration in construing a trust is to discern a settlor's intent."); *Chiles v. Chiles*, 270 S.C. 379, 384, 242 S.E.2d 426, 429 (1978) ("Its construction depends upon the trustor's intent at the time of execution as shown by the face of the document

and not on any secret wishes, desires or thoughts after the event." (internal citation and quotation marks omitted)). It cannot impose its judgment on the unambiguous trust and its directives. *See Holcombe-Burdette v. Bank of America*, 371 S.C. 648, 658, 640 S.E.2d 480, 485 (Ct. App. 2006) ("In ascertaining a settlor's intent, if the language of the trust instrument is perfectly plain and capable of legal construction, such language determines the force and effect of the instrument.").

Brent testified that he would like to be the trustee, should his mother not be able to do so. (Trial Tr. 240:12-19.) He further stated he would use an accounting firm to help him. (*Id.*) It is of no moment that Controne works for an accounting firm. The probate court cannot simply replace its chosen accounting firm with one that Brent would choose. There is a reason that Sabrina chose her brother to be the successor trustee, and it is his choice, not the probate court's, as to which accounting firm he would like to use to help him. As testified to by Brent, "Sabrina talked with me a lot about how she'd want to handle things and stuff like that for Alex, and I would much rather have an accounting firm handle it as long as I'm trustee." (Trial Tr. 241:6-9.) The Court has improperly re-written the trust, while ignoring the Settlor's intent – the paramount concern. Brent Cannon should be appointed to serve as Trustee, if Janet cannot.

### III. The Probate Court Ignored The Titles, Terms, and Testimony of the Merrill Lynch IRAs and the Founder's Joint Account Which Preclude Them from Being Part of the Trust.

The probate court made improper findings and conclusions about the Founder's Joint Account and Merrill Lynch IRAs. The Founder's Joint Account belonged to Janet, as a matter of law, once Sabrina passed according to both the South Carolina Code and the terms of the joint account that explicitly provided it was a joint account with rights of survivorship. The Merrill Lynch IRA belonged to Janet, individually. Merrill Lynch, itself, represented that Janet holds the IRAs individually. Sabrina's advisor at Merrill Lynch, Steve Lang, told Janet the IRAs belonged

to Janet, individually. All funds in these accounts belonged to Janet from the date of Sabrina's death to the present.

As a preliminary matter, the probate court erred in concluding that Merrill Lynch accounts were trust assets because Janet admitted the same in her answer. (Order, Dec. 6, 2019.) Janet later filed a new answer in response to the Amended Complaint and denied that these accounts were trust assets. (Answer to Am. Compl. (styled as Amended Answer), Apr. 2, 2019.) In other words, Janet's operative pleading denies that the IRAs and Founder's Joint Account are trust assets. Regardless, her initial answer does not bind her. *See Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992) (holding "parties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise.") Moreover, "[n]otwithstanding allegations to the contrary in his or her pleadings, a party is not precluded from showing the facts to be as they really are where his or her allegations are due to an honest mistake or ignorance as to the facts." *Gary v. Lowcountry Med. Transp., Inc.*, 424 S.C. 18, 22, 817 S.E.2d 291, 294 (Ct. App. 2018) (quoting 71 C.J.S. *Pleadings* § 89 (2011)). Janet's operative answer denies that these accounts were trust assets, and the probate court committed a clear error of law when it relied on Janet's initial answer in an attempt to bind Janet.

**A. Founder's Joint Account**

The South Carolina Code and the terms of the Founder's Joint Account held by Sabrina and Janet provide that the funds in the joint account belonged to Janet at the time of Sabrina's death to the present. It is indisputable that Sabrina and Janet held the account at Founders jointly and with a right of survivorship. (Resp't's Ex. 1.) In fact, immediately above their signatures on the Membership Application and Account Card, the terms of the account provide as follows:

"ACCOUNT OWNERSHIP: The owners intend to and do hereby create a joint tenancy with rights of survivorship[.]" (*Id.*)

Regarding bank accounts with rights of survivorship, the South Carolina Code has a statute that is directly on point and is called "Right of survivorship." Section 62-6-202 states, in pertinent part, as follows: "Except as otherwise provided in this subpart, on death of a party sums on deposit in a multiple-party account belong to the surviving party or parties." There are no present applicable exceptions. The Code then goes on to say that the terms of the account control the rights of the parties to the joint account. Section 62-6-203(a) states, in pertinent part: "Rights at death of a party under Section 62-6-202 are determined by the terms of the account at the death of the party." These statutes could not be clearer that Janet – and Janet only – owns the funds in the Founder's Joint Account. She is the sole surviving party, and the terms of the account provide that it is a joint account with rights of survivorship. She owns these funds, and the probate court erroneously looked at transfers to and from this account after Sabrina's death as they were under the direct control of and sole ownership by Janet.

### B. Merrill Lynch IRAs

First, Merrill Lynch and Sabrina's personal financial advisor acknowledged in writing on January 24, 2019, well after Sabrina's death, that the two IRA accounts belonged to Janet, individually. (MLPF&S_Pringle001463.) This is true even in light of the purported change of beneficiary forms. Moreover, Janet testified that "I understood from Merrill Lynch and conversations with them that these monies were for me as a beneficiary. That was the only way they could set those accounts up." (Trial Tr. 84:16-19.) Janet had a right to rely on Steven Lang pursuant to Sabrina's Will. ((Pet.'s Ex. 1, Art V(L).) Notably, none of the statements for these accounts are titled in the Trust's name. After Sabrina's death and the accounts were transferred to

Janet, the statements for accounts 1322 and 1336 reflect that the accounts are "FBO Janet Mewshaw." (MLPF&S_Pringle000001- MLPF&S_Pringle000016; MLPF&S_Pringle000365-MLPF&S_Pringle000378.) Second, Sabrina's will, itself, carves out these investment accounts from being subject to the probation of the will and Trust. The Will states that "[a]ll my tangible personal property that was not held by me solely for investment purposes, . . ." (Pet'r's Ex. 1, Art I(a).) Moreover, the IRAs are not property payable to Janet as Trustee or property given to her as Trustee under the will. (Pet'r's Ex. 1, Art II(A).) The transfer of accounts and funds from Sabrina to Janet occurred outside of the probate and trust contexts, and these Merrill Lynch IRAs should not be included in the trust as evidenced by Merrill Lynch's own conclusion.

## IV. The Probate Court Ignored The Settlor's Intent with respect to the Family Home When It Forced the Sale of the Home and Imposed a Monthly Rent that is Unsupported by the Record.

With no evidence in the record, the probate court concluded the house "has been a drain on the trust corpus" and that Janet can only live in the home for the next six months, provided she pay for the mortgage, interest, property taxes, hazard insurance, homeowner's dues, utilities, all repairs, and lawn care. (Order, December 6, 2019.) First, the record is wholly devoid of any testimony that the house is a drain on the Trust. Second, it also lacks any evidence of what the rental fair market value of the home would be. Petitioner failed to meet this burden. To the contrary, Janet offered repeated testimony about the value of her grandson having access to childhood home. (Trial Tr. 117:1-120:11.)

But, the most significant piece of evidence about the import of 507 Ann Shaw Avenue is Sabrina's own words in the Trust. In the Trust, Sabrina states as follows:

Until my son reaches the age of thirty (30) or sooner dies,

> b. My mother, JANET W. MEWSHAW, and my stepfather, CHARLES E. MEWSHAW, currently live with my son and me in ***our residence***

> located at and known as 507 Ann Shaw Avenue, Fort Mill, South Carolina (the "Residence"), which I expect to become part of the trust property. ***It is my sincere hope that my son continue to have a home as the Residence and maintain a close relationship with my mother and my stepfather, even if the Residence is not my son's primary residence***. Accordingly, I request, but do not require, that the Trustee retain the Residence in trust as long as the Trustee, ***in the sole discretion of the Trustee***, determines that it is in the best interest of my son to retain the Residence. As long as the Residence is part of the trust property, my mother and my stepfather, or the survivor as between them, shall have the right to rent the Residence for fair market value. ***Fair market value rent and the other terms and conditions of the rental agreement shall be determined by the Trustee, in the Trustee's sole discretion, even if my mother is then serving as Trustee.***

(Petitioner's Ex. 1, Art. II(B)(1)(b) (emphasis added).) Sabrina not only gave her mother, as Trustee, the sole discretion as to whether Janet should rent the home, but also how much rent Janet should charge. This broad power was wholly ignored by the probate court. While Sabrina expressed her understanding that Alex may live elsewhere, she still wanted her mother and stepfather to keep the home and pay the fair market value rent, which "shall be determined by the Trustee, in the Trustee's sole discretion, even if my mother is then serving as Trustee." (*Id.*) Alex has already been forced to leave his childhood home mere months after his mother died, but now the probate court is forcing the sale of his childhood home when there is no evidence in the record to support it. Again, the Settlor's intent, which is of paramount concern, is ignored in favor of an unsupported supposition.

Finally, the probate court's award of back rent should be reversed because it is in direct contravention of Sabrina's intent as expressed in the Trust, which gave sole discretion regarding rent to the Trustee. Moreover, there is no evidence to support a conclusion that rent was financially necessary.

## V. The Probate Court Erroneously Relied on the Testimony and Report of Charlene Controne, CPA.

As discussed *supra*, Controne's report and testimony is factually and legally erroneous and should be disregarded by this Court. Legally, she concludes that the Founder's Joint Account belongs to the Trust and not Janet. She concedes that if she is incorrect on this premise her accounting would be impacted. (Trial Tr. 195:8-16.) She makes improper legal conclusions whether an expense was a personal expense or a trust expense. Then she concludes that she could not tell whether an expense was personal or for the trust. (Trial Tr. 197:10-13.) Without any legal training, she improperly concludes that the IRAs should go in the Trust. (Trial Tr. 199: 16-22.)

Her report is based on the premise that the Founder's Joint Account belongs to the Trust, and then she concluded – with no support – that the IRAs belonged to the Trust. If faced with a cash or teller transaction, she simply assumed that it was a "wrongful" withdrawal by Janet, even though it could have easily been a trust or estate expense. (Trial Tr. 197:22-198:4.) She concluded that expenses for a custody case in which Janet sought custody of Alex were "wrongful" even though the Trust advised Janet that "[a]s a guide to the Trustee and ***without limiting the Trustee's discretion***, it is my desire that such discretion be exercised for such purposes as the Trustee shall deem reasonable and appropriate ***for the welfare,*** enjoyment and education ***of the beneficiaries.***" (Pet'r's Ex. 1, Art. II(E)(1) (emphasis added).) Consequently, if Janet thought the welfare of Alex was being called into question in Colorado, she had every right under the Trust to spend it on lawyers, private investigators, and other court costs to ensure Alex's welfare.

In sum, Controne's report and testimony is replete with erroneous assumptions. The probate court heavily relied on the report to conclude that Janet owed monies back to the Trust. For example, the probate court erroneously concludes that Janet wrongfully withdrew $21,141.00 from Sabrina and Janet's Founder's Joint Account based on Controne's testimony and report.

(Order p. 3-4, dated Dec. 6, 2019.) The probate court found this amount of money represented Social Security funds for the benefit of Alex. (*Id.*) But the probate court failed to consider was that Sabrina chose to deposit these funds into the Founder's Joint Account. (Aff. dated Jan. 24, 2019 & Social Security attachments & Trial Tr. 133:12 – 135:7.) Moreover, these Social Security funds were backpay for Alex. (*Id.* & Resp't's Exs. 3 & 4.) In other words, these were funds reimbursing Sabrina for money that she had already spent on Alex. Sabrina, Alex's mother, could deposit and spend the funds on her child's welfare as she saw fit. (Resp't's Ex. 3 and 4.) At no time, did Janet recall ever using Sabrina's power of attorney, allowing Janet to withdraw the funds. (Trial Tr. 122:7-9.) This was Sabrina's choice to deposit the funds, not Janet's. The funds in the Founder's Joint Account became Janet's funds upon Sabrina's death. The probate court's and Controne's conclusion is without merit.

To add insult to injury, the probate court appointed Controne and her firm to serve as Trustee, when she made conclusions that were negative towards both Janet and Alex. Stated differently, Controne has already passed judgment about the parties. Controne and her firm were never mentioned in Sabrina's will and trust, but her mother and brother were. This Court respectfully should disregard Controne's testimony and report and reverse the decision to appoint her and her firm as Alex's trustee.

### VI. The Award of Attorney's Fees and Expert Fees is Faulty and Should be Reversed.

Because the probate court should have ruled in favor of Janet, no award of attorney's and professional's fees (Pet'r's Ex. 12 and Pl. Att'y Fee Aff.) to Petitioner should have been made. In this case, the probate court did not state under what authority it issued attorney's and expert fees. Presumably, it awarded attorney's and expert fees pursuant to section 62-7-1004 of the South Carolina Code, which provides that "[i]n a judicial proceeding involving the administration of a

trust, the court, *as justice and equity may require*, may award costs and expenses, including reasonable attorney's fees . . . ." (Emphasis added.) "This section codifies the court's historic authority to award costs and fees, including reasonable attorney's fees, in judicial proceedings grounded in equity." S.C. Code Ann. § 62-7-1004 cmt. If the probate court erred in its analysis and ultimate findings and conclusion, justice and equity do not support an award of attorney's and expert fees and expenses to Petitioner.

Moreover, the amount of the attorney's fee award is improper. Under the York County Family Court's Agreement, Janet was to pay Petitioner $17,500 in attorney's fees which "represent all fees incurred by Father [Petitioner] in probate court and family court to date." (Agreement dated February 28, 2019 (York Family Court Case No. 2017-DR-46-2056.)[6] Thus, Petitioner negotiated to settle his attorney's fees from the beginning of the dispute to February 28, 2019 to total $17,500. He cannot go back prior to February 29, 2019 to try and recoup prior fees or "double dip." The fee affidavit, however, is replete with time before February 28, 2019. Four and one-half pages of six pages of his itemized bill for Petitioner's legal services constitute work up to February 28, 2019. The amount of attorney's fees billed by Petitioner's counsel from March 1, 2019 forward total approximately $8,700.00

The fees for this amount of work is less than the requested and awarded $10,612.70. Petitioner's counsel recognized the problem of "double dipping" and simply reduced his requested award to $10,612.70, but this number goes back to time that he billed before February 28, 2019.

---

[6] This Court can take judicial notice of a court's orders and docket. *S.C. Dep't of Social Svcs. v. Janice C.*, 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) (noting "a court can take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records." (quotation marks and citation omitted)).

Moreover, Petitioner seeks costs he incurred before February 28, 2019. Any award of costs must be reduced by the costs incurred before February 28, 2019, which total $385.

## CONCLUSION

For the above-reasons, this Court should reverse the circuit court's order and probate court's order and enter judgment in favor of the Appellant.

**SOWELL & DuRANT, LLC**


s/Bess J. DuRant
Bess J. DuRant (SC Bar No. 77920)
1325 Park Street, Suite 100
Columbia, South Carolina 29201
803-722-1100
bdurant@sowelldurant.com

***Attorneys for Appellant Janet Mewshaw, individually and as Trustee***


Columbia, South Carolina
August 12, 2022