

THE STATE OF SOUTH CAROLINA  
In The Supreme Court of South Carolina

APPEAL FROM RICHLAND COUNTY  
Probate Court

Amy W. McCulloch, Richland County Probate Judge

Case No. 2020-GC-40-00072

Jane E. Baskin,.....Respondent

v.

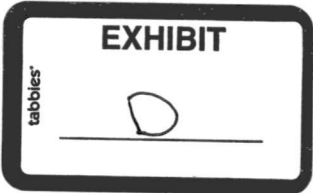
William B. Walkup,.....Appellant

**EXHIBIT D**

**NOTICE OF APPEAL**

***Order Regarding Motion for Order and Rule to Show Cause  
or, in the Alternative, Motion to Enforce Settlement and for  
Sanctions “Order for “Sanctions” filed August 31, 2022  
 (“Order for Sanctions”).***

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S.C. SUPREME COURT



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Jane E. Baskin, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 William B. Walkup, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

IN THE PROBATE COURT

Case Number: 2020-GC-40-00072

**ORDER REGARDING MOTION FOR  
 ORDER AND RULE TO SHOW CAUSE  
 OR, IN THE ALTERNATIVE, MOTION TO  
 ENFORCE SETTLEMENT AND  
 FOR SANCTIONS  
 "ORDER FOR SANCTIONS"**

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 RICHLAND COUNTY  
 SOUTH CAROLINA

This matter came before the court for a hearing on August 22, 2022 on the Plaintiff's Motion for Order and Rule to Show Cause or, in the Alternative, Motion to Enforce Settlement and for Sanctions (hereinafter "Motion for Sanctions") seeking to hold Defendant, William B. Walkup, Trustee, in willful contempt of this Court's prior Orders or, alternatively, to enforce the Temporary Settlement Agreement entered into by the parties on January 6, 2021, and awarding sanctions against the Defendant, for (1) violating the stay of this litigation, and (2) wrongfully holding himself out as the "Trustee of the Eldridge Baskin Testamentary Trust" empowered to bring suit in the Court of Common Pleas against the Special Trustee appointed by this Court and against the Plaintiff's attorney-in-fact. This Court issued an Order on August 23, 2022 Removing Defendant William B. Walkup as Trustee of the Trust for Jane E. Baskin; therefore, ending the Temporary Settlement Agreement and eliminating the request to enforce the temporary settlement agreement no longer necessary. However, the actions of the Defendant while operating under the Temporary Settlement Agreement will be addressed in this Order.

The Defendant filed a Memorandum in Opposition to the Plaintiff's Motion for Order and Rule to Show Cause. Defendant first asserts that this court has no jurisdiction over the complaint Defendant as Trustee filed in the Lexington County Court of Common Pleas, and has no jurisdiction over Weatherly and Moseley, as litigants in that case. Defendant asserts that the Motion is "masquerading" as a "Baskin Motion" but is, in fact, a Motion seeking relief for Weatherly and Moseley, over which this court

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has no jurisdiction. The Defendant misconstrues and mischaracterizes the Plaintiff's Motion and this Court's jurisdiction. The Plaintiff seeks sanctions against the Defendant for violating this Court's stay set forth in the parties' Temporary Settlement Agreement, dated January 6, 2021, subsequently adopted and made an order of this court, over which this court has jurisdiction. The Plaintiff also asserts that the Defendant had no authority to bring the Lexington County case "in his capacity as trustee of the Eldridge Baskin Testamentary Trust," which is the center of the controversy in the Richland County Probate Court. This court has jurisdiction over the Defendant's actions in his capacity as Trustee. This court, therefore, finds the Defendant's assertion that the court lacks jurisdiction over the matters presented in Plaintiff's Motion for Sanctions is without merit.

The Defendant next asserts that the language of the parties' Temporary Settlement Agreement states, "the litigation *in this matter* is stayed," and therefore this court's stay does not preclude the litigation in Lexington County. Defendant asserts that the Temporary Settlement Agreement, subsequently affirmed by orders of the court, did not apply to litigation in Lexington County; Defendant is still the trustee of the Eldridge Baskin Trust and "the agreement does not provide otherwise"; Defendant believes that "Weatherly and Moseley have breached their duties to Baskin" in their capacities as special trustee and lawyer (as to Weatherly) and attorney in fact (as to Moseley) entitling him to see redress in the Circuit Court action; and Defendant is seeking monetary damages from Moseley and Weatherly "for the wrongful conduct in which they have engaged," again predominately relating to the administration the Trust.

A hearing on Plaintiff's Motion was held on August 22, 2022, at which the Plaintiff was represented by her counsel of record and the Defendant was present with his counsel of record. Based upon the Motion, the record before the court, and the arguments of counsel, the Court finds as follows:

1. In this case, the parties, including Defendant Walkup, entered into a Temporary Settlement Agreement on June 6, 2021. That Agreement provides, among other things, the following:

- 1. The litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation**

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of rights in regards to litigation, including the issue of attorney's fees.

2. **William Walkup will remain as Trustee solely to continue to manage the money for investment purposes** and he will continue to retain tax reporting responsibility for the caregivers.

The Agreement bears Mr. Walkup's signature.

2. This Court issued its "Order Regarding Emergency Hearing," dated October 29, 2021. That Order affirmed the Temporary Settlement Agreement. In it, this Court held:

SC. Code Ann. § 62-7-111 provides that interested persons may enter into binding nonjudicial settlement agreements with respect to directing a trustee to perform or refrain from performing an administrative act, or to grant to a trustee a necessary or desirable administrative power. S.C. Code Ann. § 62-7-111(b)(2). ***The parties participated in reaching the Temporary Settlement Agreement with the aid of this Court, which approved the Agreement, filed it, and made it a part of the record in this case. See S.C. Code Ann. § 62-7-111(c). The Temporary Settlement Agreement is precisely the kind of nonjudicial settlement agreement contemplated by § 62-7-111, and, as such, is enforceable by this Court.***

*Order Regarding Emergency Hearing, p.2.*

3. Arising out of the Emergency Hearing and the Court's Order came the Respondent Walkup's subsequent Motion that the undersigned recuse herself from hearing any further proceedings in this matter. The Court denied the Motion for Recusal and specifically held:

**B. The Temporary Settlement Agreement filed on January 6, 2021 and amended on October 29, 2021, shall remain in place until final judgment.**

*Order Denying Motion For Recusal, dated April 28, 2022 p.10.*

4. On June 20, 2022, Respondent Walkup filed a civil action in the Court of Common Pleas, Lexington County, styled "*William B. Walkup, Individually and As Trustee of the Eldridge Baskin Testamentary Trust v. W. Alex Weatherly, Jr. and Michele Moseley*," Civil Action No. 2022-CP-32-02073.

5. While Defendant asserts in the Lexington County case that he is the "duly appointed trustee of the Eldridge Baskin Testamentary Trust", in fact, his powers and authority were very limited by the Temporary Settlement Agreement to which he is a party. Mr. Weatherly is the duly appointed Special Trustee of the Trust, and Walkup was to "remain as Trustee solely to continue to manage the money for investment purposes . . ." Temporary Settlement Agreement, ¶12

6. Defendant also alleges nearly identical facts arising out of the same operative facts, transactions and occurrences which are at issue in the case before this Court, complaining that Weatherly (this Court's Special Trustee) and Moseley (Ms. Baskin's attorney-in-fact), have impeded the proper administration of the Trust.

7. "Civil contempt occurs when a party willfully disobeys a clear and definite court order. To support a contempt finding, language of the court order must be clear and certain rather than implied. In the context of civil contempt, an act is willful if it is done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or disregard the law. Contempt must be proven by clear and convincing evidence, and the record must demonstrate the specific contemptuous act. The Court of Appeals of South Carolina reviews contempt orders for abuse of discretion, meaning we may only disturb them if they are based on incorrect law or inadequate evidence." *Capione v. Best*, 435 S.C. 451, 868 S.E.2d 378 (Ct. App. 2021)

8. It has been held that, while a consent order was the product of an agreement of the parties, it carries the authority of the court. See, *Johnson v. Johnson*, 310 S.C. 44, 46, 425 S.E.2d 46, 48 (Ct. App. 1992) ("[A] consent order is an agreement of the parties, under the sanction of the court, and is to be interpreted as an agreement." (emphasis added) (citing *Jones & Parker v. Webb*, 8 S.C. 202, 206 (1876))); *Ex parte Cannon*, 385 S.C. 643, 660, 685 S.E.2d 814, 824 (Ct. App. 2009) ("All courts have the inherent power to punish for contempt, which 'is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration

of justice.” (quoting *Miller v. Miller*, 375 S.C. 443, 453, 652 S.E.2d 754, 759 (Ct. App. 2007)).

9. The Temporary Settlement Agreement, a non-judicial settlement agreement made pursuant to S.C. Code Ann. § 62-7-111 enforceable by this Court, is in effect a Consent Order carrying the authority of the Court, including the inherent power to punish any violation for contempt. This Court has in two subsequent Orders held that the Temporary Settlement Agreement was still in effect and enforceable by this Court. The terms of the Agreement could not be more plain and this Court’s authority and intent to enforce it could not be more clear.

10. In his Complaint filed in the Court of Common Pleas, Defendant avers that he is the “duly appointed trustee of Eldridge Baskin Testamentary Trust” (Complaint, ¶4). This averment is misleading; at best. As pointed out above, Defendant did not have the authority to bring the suit in Lexington County in his capacity “as Trustee.”

11. The Defendant Trustee (Walkup) previously alleged that the Special Trustee (Weatherly), had “breached the Temporary Settlement Agreement” and failed to properly document and account for funds entrusted to him as Special Trustee. This Court specifically held that, “[a]fter hearing from the Special Trustee, the Court found that he has handled the funds entrusted to him reasonably and in accordance with the Agreement.” Order Regarding Emergency Hearing, at p.2. The allegations made in Walkup’s lawsuit are in direct contravention of this Court’s prior findings of fact.

12. In the Lexington County action, Walkup asserts that he was harmed because Ms. Baskin brought her petition before this Probate Court to assert her rights as a beneficiary of the Trust, an assertion that is clearly not actionable.

Specifically:

- (a) Walkup alleges “the campaign and conspiracy by Weatherly and Moseley gravitated into an action in Probate Court commenced on July 20, 2020 to remove Plaintiff as Trustee and to injure him financially.” Walkup goes on to say that he “**was first injured by Defendants in July 2020 . . .**” *Complaint* ¶10. Walkup alleges he was injured by Ms. Baskin filing her Petition in this case. In addition to not being actionable, that is clearly a matter of determination for this Court.

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- (b) Walkup alleges that Mr. Weatherly and Ms. Moseley "commenced a scheme in concert among themselves and with others *to disturb the effective administration of the Trust* and to injure the Plaintiff. Their actions were to benefit themselves financially and otherwise." Complaint, ¶7. Any matter involving "the effective administration of the Trust" by definition falls within the exclusive jurisdiction of this Court and are matters currently being litigated in this case. See, S.C. Code § 62-7-201 ("...the probate court has exclusive jurisdiction of proceedings initiated by interested parties concerning the internal affairs of trusts.")
- (c) Walkup alleges that Mr. Weatherly "made" Moseley the Power of Attorney for Jane Baskin and that *he* "amended the Jane Baskin Will" to leave Ms. Baskin's house to Ms. Moseley. Complaint ¶8. According to Mr. Walkup, Mr. Weatherly and Ms. Moseley "began a campaign of undue influence to take advantage of Jane Baskin, who is a vulnerable adult . . ." Complaint ¶9. These same allegations of undue influence were made before this Court and in its Order dated August 23, 2022, this Court ruled that Defendant Walkup "has not presented any evidence of undue influence by Moseley or anyone else associated with Baskin's legal team, support system, caregivers."
- (d) Walkup further alleges that "Moseley has manipulated funds from the Eldridge Baskin Testamentary Trust for her own benefit and with the aid of Weatherly. She used Trust money to buy her own food and to buy cleaning supplies for Moseley's Cleaning Company," and that she has "falsified timesheets to carry out the scheme to make money and benefit herself." These allegations, of course, implicate the administration of the Trust by Mr. Weatherly, acting as Special Trustee, and are matters within this Court's jurisdiction. Indeed, these are allegations already made and ruled upon by this Court.

Based upon the foregoing, I find that Defendant Walkup is in willful contempt of this Court's prior Orders and/or violation of the Temporary Settlement Agreement in the following ways:

- (a) By willfully initiating suit in Lexington County, alleging facts out of the same transaction and occurrences, in violation of the stay agreed to and affirmed by Orders of this Court, in an attempt to avoid the jurisdiction of this Court over the matters which are squarely before it — that is, the proper administration of the Trust and Mr. Walkup's status as the Trustee.
- (b) By willfully asserting powers and authority he did not have and deliberately misleading the Court of Common Pleas by stating he is

the "Trustee of the Eldridge Baskin Testamentary Trust" when, in fact, the Temporary Settlement Agreement confirmed by this Court provided:

**William Walkup will remain as Trustee solely to continue to manage the money for investment purposes and he will continue to retain tax reporting responsibility for the caregivers.**

- (c) By willfully bringing the lawsuit in the Lexington County Court of Common Pleas, without authority to do so, in an attempt to chill and impede the Special Trustee's duties to the Petitioner, Ms. Baskin and to this Court.
- (d) By willfully making allegations to the Circuit Court, all of which are matters currently before this Court, in an effort to chill and impede Ms. Moseley's duties and responsibilities as attorney-in-fact for Ms. Baskin.

Mr. Walkup is in contempt of this Court's prior Orders and of this Court's jurisdiction, and is in breach of the Temporary Settlement Agreement. He violated the stay provided for in the Agreement by commencing the action in Lexington County based upon the same facts, transactions, and occurrences currently pending before this Court. And he did so without any authority, in contravention of the Agreement. He seeks to avoid his obligations under the Agreement that bears his signature. He seeks to circumvent this Court's jurisdiction and authority. He seeks to obstruct and pervert the administration of justice.

Whether a willful violation of this Court's Orders, rendering him in civil contempt of court, or a breach of the parties' Temporary Settlement Agreement, the result is the same: Mr. Walkup must be called to account and should be sanctioned.

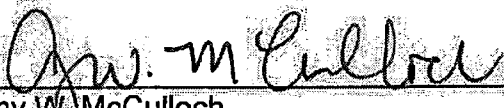
This Court has previously issued its Order Removing Trustee, dated August 23, 2022. However, as sanction for his willful disobedience of this Court's Orders and for his breach of the parties' Temporary Settlement Agreement, Defendant should be required to pay the Plaintiff's attorneys' fees and costs for having to bring her Motion for Sanctions, and for briefing and arguing the Motion before the court.

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Plaintiff's counsel has submitted an Affidavit for Attorneys' Fees reflecting fees of \$3,500.00 incurred with regard to Plaintiff's Motion for Sanctions. I find that amount is reasonable and should be awarded.

NOW, THEREFORE, for the reasons set forth above, the Defendant is hereby ordered to pay the Plaintiff's attorneys fees in the amount of \$3,500.00 for the costs she has incurred in bringing this Motion, to be paid to Plaintiff's counsel's law firm, Callison Tighe & Robinson LLC, within Thirty (30) days from the date of the entry of this Order.

AND IT IS SO ORDERED.

  
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Amy W. McCulloch  
Richland County Probate Judge

Columbia, South Carolina  
August 31, 2022

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