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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Probate Court

Amy W. McCullough, Probate Judge

Case No. 2020GC4000072
Appellate Case No. 2022-001328 and 2022-001226

Jane E. Baskin.....Respondent,

v.

William B. Walkup.....Appellant.

RECORD ON APPEAL – VOLUME II

Thornwell F. Sowell, III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
SOWELL & DuRANT, LLC
1325 Park Street, Suite 100
Columbia, SC 29201
T: 803.722.1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Sarah P. Spruill, SC Bar No. 68337
HAYNSWORTH SINKLER BOYD, P.A.
P.O. Box 2048
Greenville, SC 29602
T: 864.240.3200
sspruill@hsblawfirm.com

Attorneys for the Appellant

Richard C. Detwiler, SC Bar No. 6473
Harry A. Dixon, SC Bar No. 103509
CALLISON, TIGHE & ROBINSON, LLC
P.O. Box 1390
Columbia, SC 29202
T: 803.404.6900
RickDetwiler@CallisonTighe.com
HarryDixon@CallisonTighe.com

Attorneys for Respondent

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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	REPLY AFFIDAVIT OF
	)	RICHARD C. DETWILER
William B. Walkup,	)	
	)	
Defendant.	)	
	)	

PERSONALLY APPEARED BEFORE ME Richard C. Detwiler who, being duly sworn, deposes and says:

1. This Affidavit is given in reply to the Defendant's Motion for Recusal filed on November 21, 2021, and the affidavits in support of that motion given by defense counsel. The two bases for the Motion are: (a) an email from the Court's clerk requesting a proposed order allowing for attorneys' fees (an order never issued) and (b) a statement made in chambers by Judge McCulloch which has been recollected, I believe, inaccurately and out of context. In his affidavit, Thornwell F. Sowell, III asserts that Judge McCulloch stated that she had made her mind up about issues before she heard all of the evidence. I was there. That is not what she said.

2. Defendant's Motion does not state any legal basis for recusal. According to our Supreme Court, "it is not enough for a party seeking disqualification to simply allege bias or prejudice. The party must show some evidence of that bias or prejudice. *The alleged bias or prejudice must stem from an extra-judicial source and result in a decision based on information other than what the judge learned from his or*

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her participation in the case as a judge. If there is no evidence of judicial bias or prejudice, a judge's failure to disqualify himself will not be reversed on appeal." *State v. Jackson*, 353 S.C. 625, 578 S.E.2d 744 (2003) (emphasis added).

I. REQUEST FOR PROPOSED ORDER

3. On February 11, 2021 Plaintiff filed her "Petition for Temporary Attorneys' Fees and Costs" requesting "an award of her attorneys' fees and costs to be paid by the Defendant Walkup or, alternatively, for an award of her attorneys' fees and costs [to] be paid by the Eldridge Baskin Trust." See, Exhibit A, "Petition for Attorneys' Fees and Costs" (the "Petition").

4. On July 27, 2021, Ms. Lori Elrod sent the undersigned an email as follows: "Mr. Detwiler, Please send a proposed order over to pay your attorneys' fees." The request for the proposed order did not specify whether the order should allow for fees to be granted from the Defendant or the Trust.

5. An award of fees and costs was (and still is) warranted.

6. The Defendant failed to file any response in opposition to the Petition for Temporary Attorneys' Fees and Costs until six months after the Petition was filed, after Ms. Elrod sent her email. The Motion for Recusal was not filed until four (4) months after that, on November 16, 2021.

7. It was noted in the Petition that the Complaint in this action, filed on July 20, 2020, was preceded by several years of negotiations in which Ms. Baskin sought to be returned to her home and allowed monthly expenses to cover her care and living expenses. Petition, ¶1 and ¶2. The Trust, after all, provides for the residue of Mr.

Baskin's estate:

to be held, administered and distributed as hereinafter provided for the sole benefit of my daughter, Jane E. Baskin, ***the purpose of the trust created hereunder being to provide for the well being of Jane E. Baskin so long as she shall live. This will and the provisions thereof are to be construed in the light of this purpose and while this shall not have the effect of limiting in any way the power, authority or discretion of the trustee hereunder, it shall at all times be borne in mind by the trustee when considering the matter of any encroachment upon the principal of the trust created hereunder.***

This action seeks only the removal of the Trustee Walkup and a full accounting. See, Complaint.

8. The Petition noted that substantial discovery was conducted by the Defendant which included copious written discovery and almost fifteen (15) hours of depositions. The overwhelming majority of this discovery focused on issues not even raised in the pleadings – undue influence and Ms. Baskin's competency. This unnecessary and irrelevant discovery dramatically raised the cost of this litigation for both parties. Petition, ¶s 3, 8 and 9.

9. While the Defendant Trustee is in a superior financial position and able to pay two lawyers for the extreme positions he has taken, Ms. Baskin is not, and she cannot pay her attorneys' fees. Petition, ¶13. Ms. Baskin would not have her day in court but for the willingness of Callison Tighe and the undersigned to pursue this matter with the possibility of never being paid. Id. The Petition reflected a request for fees and costs which did not include Mr. Weatherly's fees. Id. Ms. Baskin's lawyers certainly have a right to be paid.

10. The evidence at the trial proved that Mr. Walkup failed for over thirty (30) years as Trustee to provide any reasonable accounting to the Plaintiff. On two occasions prior to this suit, some tax returns and other information were shared, but only after demand was made by Mr. Baskin's attorneys. No annual accountings were ever generated by the Trustee. Petition, ¶6.

11. **After almost two years of litigation, Mr. Walkup has learned nothing: Mr. Walkup has failed to provide any further accountings of the Trust since the trial of this case in January of 2021, almost fourteen (14) months ago. On the other hand, Mr. Weatherly, acting as the Special Trustee, has filed monthly accountings.**

12. The Petition also noted that the Temporary Settlement Agreement, reached after two full days of trial and months of discovery, exceeded that which Mr. Weatherly had proposed eighteen (18) months prior to the trial of the case. See, Petition, ¶5, 9, and exhibits thereto.

13. The Petition was one for temporary fees, either from the Defendant or the Trust. Any final award following the conclusion of the trial can take into account the prior award and who should be made to pay the fees.

14. No order granting attorneys' fees has been issued and the Petition for Temporary Attorney's Fees and Costs remains pending.¹

¹ An "Amended and Supplemental Petition for Temporary Fees and Costs" is being filed contemporaneously with this Reply Affidavit.

15. The Defendant's Motion for Recusal was filed nine (9) months after the Petition for Attorneys' Fees was filed and fully four (4) months after the Judge's Clerk send her email.

16. The Motion for Recusal on this ground is untimely. See, *Davis v. Parkview Apts.*, 409 SC 266, 762 S.E.2d. 535 (2014).

17. While certainly warranted, no order granting the Petition for Fees and Costs has been issued. But even if such an award had been made, it is clear that an adverse ruling is no grounds for a motion for recusal. When no evidence is presented other than a claimed "adverse" ruling by the judge, the judge is not required to recuse himself. *Payne v. Holiday Towers Inc.*, *supra*. Adverse rulings, even if erroneous, are insufficient to establish a trial judge's bias or prejudice. *Butler v. Sea Pines Plantation Company*, 282 S.C. 113, 317 S.E. (2d) 464 (Ct. App. 1984).

II. STATEMENT MADE IN CHAMBERS:

18. In the Defendant's Motion, counsel for Defendant Walkup makes the following statement:

The status conference turned into an emergency hearing and, in chambers, during the hearing on October 12, Judge McCulloch stated that she was going to make an award of Plaintiff's attorneys' fees against the Defendant.

This statement is at least misleading and, I believe, inaccurate.

A. Why the "Emergency Hearing"?

19. First, Defendant's Motion does not explain why the "status conference turned into an emergency hearing." This is a critical fact notably omitted from the Motion and Mr. Sowell's affidavit. This history is remarkable. At the status

conference, Mr. Sowell announced his client's position that the Temporary Settlement Agreement entered into on January 6, 2021 had "expired" and the Trustee was under no further obligations thereunder. This position had no basis in fact or in law, and Mr. Sowell was at a loss to explain it. If accurate, the Trustee would have been under no obligation to fulfill the responsibilities he agreed to fulfill on January 6, 2021. The Court rightly considered the matter an emergency and ordered a hearing for that afternoon.

20. At the Emergency Hearing, not only did Mr. Sowell double-down on the Defendant's position, but he and his co-counsel, Ms. DuRant, accused Mr. Weatherly, appointed as Special Trustee under the Temporary Settlement Agreement, of "breaching" that Agreement. Like the "expiration" of the Agreement, this allegation had no basis in law or in fact. This alleged breach was only vaguely stated and was dispensed with on the spot. Neither of these positions were worthy of merit, and the Court found as much. See, *Order Regarding Emergency Hearing*, dated October 29, 2021.

B. Statement made in chambers:

21. During a break in the Emergency Hearing, a meeting between counsel and Judge McCulloch occurred in Chambers. It was in this meeting that, according to Mr. Sowell, Judge McCulloch made the statement referenced above.

22. Notably, Ms. DuRant in her affidavit has a somewhat (but significantly) different recollection:

I recall Judge McCulloch mentioning that she would award attorneys' fees to Plaintiff Baskin *if the parties continued with the balance of the trial.*

23. My recollection of the conversation in Chambers does not comport with either Mr. Sowell's or Ms. DuRant's. I recollect Mr. Sowell, sitting on a couch in Chambers, glibly reiterating the Defendant's position that the Temporary Settlement Agreement was of no further force and effect. Again, no cogent explanation was given. I recall Judge McCulloch indicating that she did not agree with that position. I also recall Judge McCulloch admonishing Mr. Sowell that she had the ability to award attorneys' fees to the Plaintiff should Defendant continue taking untenable positions, which was certainly a true statement and appropriate under the circumstances. I have no recollection of Judge McCulloch ever stating that she was, in fact, going to award attorneys' fees to the Plaintiff and, of course, no such award has been made.

24. At no time did Judge McCulloch express any prejudice, bias, or animosity toward the Defendant, Mr. Walkup, either in chambers on the day of the Emergency Hearing or on any other occasion that I recall. Judge McCulloch's admonition was clearly directed toward the position Defendant's counsel expressed, on behalf of his client, but she did not reflect any bias or prejudice toward Mr. Walkup or his lawyers.

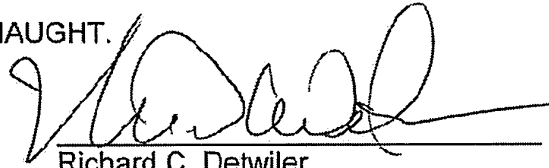
25. In my opinion, Judge McCulloch has been remarkably deferential to defense counsel, perhaps unnecessarily so.

26. Defendant has alleged no bias or prejudice of Judge McCulloch stemming from an extra-judicial source. See, *State v. Jackson, supra*. I have never witnessed any such bias or prejudice and certainly there has been no ruling in this case by the Court on the issue of attorneys' fees.

27. "A judge shall hear and decide matters assigned to the judge except those

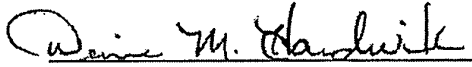
in which disqualification is required." *Canon 3(B)(1) S.C. Code of Judicial Conduct* (emphasis added); see, also, *Barritt v. State*, 2007 Ark. App. LEXIS 619, 2007 WL 2713593 (Ark. Ct. App.) (a judge has a duty to sit on a case unless there is a valid reason to disqualify). Disqualification here would cause enormous harm to Jane Baskin by further delaying the trial and resolution of this case.

FURTHER, DEPONENT SAYETH NAUGHT.



Richard C. Detwiler
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED
before me this 25th day of February, 2022

 (L.S.)
Notary Public for South Carolina
Print Name: Denise M. Hardwick
My commission expires: 3-25-28

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

IN THE PROBATE COURT

CASE NO. 2020-GC-40-72

**PETITION FOR TEMPORARY
ATTORNEYS' FEES AND COSTS**

The Plaintiff, Jane E. Baskin, by and through her undersigned counsel, hereby petitions this Court for an award of her attorneys' fees and costs, pendente lite, incurred in the court of this litigation, and would show further unto this Honorable Court as follows:

RELEVANT FACTS

1. The action was brought on July 20, 2020 seeking the removal of the Trustee and an accounting of the testamentary trust established by Plaintiff's father, Eldridge Baskin.

2. This action was preceded by several years of negotiations by Ms. Baskin through her counsel, W. Alex Weatherly, Jr., seeking a resolution of the issues without litigation. Specifically, Ms. Baskin sought to be returned to her home and a monthly allowance to cover her care and living expenses. These negotiations were to no avail.

3. After suit was filed, substantial discovery was conducted by the Defendant Trustee, William B. Walkup, which included much written discovery and almost fifteen hours of depositions taken by defense counsel of the Plaintiff, Mr. Weatherly, Michele Moseley (the Plaintiff's attorney-in-fact) and the Plaintiff's personal physician. The

EXHIBIT A

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majority of this discovery was targeted at issues not raised in the pleadings – undue influence and Ms. Baskin's competency.

4. The case was tried for two full days. At the end of the second day, the Court strongly encouraged the parties to settle. On the morning of the third day of trial, the undersigned counsel made a written offer of settlement which was initially reject without a counter-proposal. However, thereafter, a settlement was reached, but only after help from the Court. A copy of the "Temporary Settlement Agreement," filed January 6, 2021 is attached as Exhibit A.

5. The settlement reached after two days of trial and months of discovery must be compared to the offer sent by Mr. Weatherly to Mr. Walkup's then attorney, Benjamin C. Bruner, dated May 13, 2019, attached as Exhibit B. This comparison reveals that the parties agreed, after substantial litigation costs, to *more than* what Mr. Weatherly had offered on Ms. Baskin's behalf over eighteen months prior to the trial. Stated another way, after all of this expensive litigation, Ms. Baskin prevailed.

6. Evidence at the trial of this case also proved that Mr. Walkup failed for over thirty years as acting as Trustee to provide any reasonable accounting to the Plaintiff. On two occasions prior to this litigation, some tax returns and other information were shared, but only after demand was made by Ms. Baskin's attorney. No annual accountings were ever generated by the Trustee.

7. This litigation was unnecessary. Had Mr. Walkup conducted himself as a reasonable trustee should have, he would have regularly provided accountings and would

have provided Ms. Baskin with some reasonable income to support herself. He did neither, until forced to do so by this litigation and this Court.

8. But more importantly, Mr. Walkup turned a somewhat routine claim for an accounting and his removal into complex litigation involving multiple, unnecessary depositions, discovery and motions. The magnitude this litigation took on was completely unnecessary and avoidable, but for the Defendant's actions.

9. As reflected in the undersigned counsel's Affidavit of Attorney's Fees, attached as Exhibit C, Ms. Baskin has incurred \$55,289.50 in attorneys' fees and \$11,283.15 in costs, for a total of \$66,572.65 in fees and costs. These fees and costs were largely unnecessary and caused by the improper actions of the Defendant Walkup, his unwillingness to seek a compromise, his turning a simple dispute into complex litigation, and his steadfast refusal to cooperate with his beneficiary.

STANDARD FOR AWARD OF ATTORNEYS FEES

10. S.C. Code Ann Sect. 62-7-1004 provides:

In 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, to any party, to be paid by another party or from the trust that is the subject of the controversy.

11. Our Supreme Court set forth the standard for determining an award of attorneys' fees in *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). In that case, the court held that in awarding reasonable attorney's fees, there are six factors to be considered (citations omitted). Consideration should be given to all six

criteria in establishing reasonable attorney's fees; none of these six factors is controlling. *Id.* at 385.

In the *Baron* decision, the Supreme Court upheld the award of the trial court, which had articulated and analyzed each of the six factors as follows:

(1) The Nature, Extent and Difficulty of the Legal Services Rendered.

Upon its evaluation of the nature, extent and difficulty of the legal services, the trial court determined that Baron had to expend considerably more time and effort on the case because the defendants had transformed a simple collection action into complex litigation.

(2) The Time and Labor Necessarily Devoted to the Case.

The trial court concluded that "a review of the statements and affidavits of Baron's trial attorney indicate clearly that the time and labor spent were reasonable and not duplicative." The respondents did not dispute this conclusion.

(3) The Professional Standing of Counsel.

The circuit court's determination that Baron's trial attorney is an experienced, skilled attorney, of high professional standing in the community was based upon a careful review of the affidavits of Baron's expert and its trial attorney, which included the attorney's resume. Respondents did not contest the trial court's determination.

(4) The Contingency of Compensation.

Not applicable since this was not a contingency case.

(5) The Fee Customarily Charged in the Locality for Similar Legal Services.

Based upon a review of the attorney's resume, affidavits and its familiarity with attorney' fees customarily charged in this legal community, the trial court found that the rate [charged] was appropriate.

(6) The Beneficial Results Obtained.

The trial court decided that the total benefits obtained by Baron include a sizeable judgment (\$16,151) and the avoidance of nearly half a million dollars in liability on the counterclaims. The Court of Appeals concluded that Baron sought over \$70,000 and recovered only \$16,151, thus the beneficial result was not significant.

Baron, 297 SC 382, 385-386.

APPLICATION OF STANDARD

12. Applying the standard set forth in *Barron*, the Plaintiff would show as follows:

(a) *Nature, Extent and Difficulty of Legal Services Rendered.* In this case, like *Baron*, this litigation was made unnecessarily complex by the defendant's strategy of attacking Ms. Baskin's attorney-in-fact, suggesting undue influence, and by calling into question Ms. Baskin's competency, when neither allegation was even asserted in the pleadings.

(b) *Time and Labor Necessarily Devoted to the Case.* The time and labor expended on Ms. Baskin's behalf by her counsel were reasonable and not duplicative and were largely spent in response to the unfounded (and unpled) allegations made by the defendant.

(c) *Professional Standing of Counsel.* The undersigned counsel is an experienced trial lawyer in good standing in the legal community, with thirty-five years as a practicing lawyer handling general litigation, including trust litigation, as reflected in his affidavit made a part of this Petition. Likewise, Mr. Weatherly has been practicing for a

similar length of time and is also an experienced Certified Public Accountant who practices in the areas of Trusts and Estates.

(d) *The Contingency of Compensation.* Like *Baron*, this is not a contingency case in the typical sense, but this factor should be considered. The undersigned counsel and his firm undertook this case because it was the right thing to do, knowing that Ms. Baskin could not pay for our services. Had Ms. Baskin not prevailed, we understood that we likely would never have been paid.

(e) *Fees Customarily Charged in the Locality for Similar Services.* The fees charged are those customarily charged in this legal community. It must also be noted that much of the time shown on the itemized statement provided to the court for *in camera* review was "no-charged," including all of Mr. Weatherly's time.

(f) *Beneficial Results Obtained.* Finally, the benefits obtained by Ms. Baskin were *more than* she had offered to settle the dispute for eighteen months prior to bringing suit, as previously noted.

13. Ms. Baskin has no ability to pay her attorneys' fees and costs. She would have been unable to bring this action to seek redress before the Court but for the undersigned counsel agreeing to do so without a retainer or periodic payment of fees and costs, at great risk. Since 2017, Mr. Weatherly has represented Ms. Baskin without being paid, because she could not afford payment. He does not seek payment of any pre-suit fees now. However, since this litigation began, counsel still has received no payment and has advanced over \$11,000 in litigation costs to protect Ms. Baskin's rights.

14. Mr. Walkup has the ability to pay Ms. Baskin's fees and costs and he should be ordered to do so. Mr. Walkup testified that he (or his Company) has under management over \$100 million in assets from third-parties, including the Plaintiff. According to his testimony, he receives a fee of .9% (.009) for managing these assets, which would amount to fees in excess of \$900,000 yearly. This is *in addition* to the trustee fees he charges the Eldridge Baskin Trust.

15. Ms. Baskin and the undersigned counsel believe that her counsel has a right to be paid a reasonable fee and reimbursement of costs for bringing this action, regardless of whether the settlement is "temporary" or "permanent." Funds are available to pay the undersigned's fees and costs from the Trust, but the undersigned counsel would respectfully show that the Defendant, Walkup, not the Trust, should be responsible for their fees and costs. The Plaintiff and her counsel request that an award of attorneys' fees be made and that such fees and costs be ordered paid by the Defendant Walkup or, alternatively, by the Trust.

NOW, WHEREFORE, having fully petitioned this Court as set forth above, the Plaintiff respectfully requests an award of her attorneys' fees and costs to be paid by the Defendant Walkup or, alternatively, for an award of her attorneys' fees and costs be paid by the Eldridge Baskin Trust.

[SIGNATURE ON FOLLOWING PAGE]

7

RCN
#7



Richard C. Detwiler (S.C. Bar No. 6473)
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

February 11, 2021

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

FILED

IN THE PROBATE COURT
Estate Number: 2020-GC-40-0072

2021 JAN -6 P 1:35

IN THE MATTER OF THE TRUST
OF JANE E. BASKIN

TEMPORARY
SETTLEMENT AGREEMENT

MARY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

1. The litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation 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.
3. Alex Weatherly shall be Special Trustee of the Jane E. Baskin Trust.
4. William B. Walkup agrees to pay the 2020 property taxes and shall provide the amount of \$513.84 to Alex Weatherly for him to pay the 2020 property taxes.
5. The agreed upon budget per month is as follows:

\$4810.00	Caregivers
\$150.00	Mortgage beginning in February
\$300.00	Electricity
\$60.00	Water
\$120.00	Cable
\$75.00	Cellphone
\$120.00	Pharmacy
\$75.00	Vet Bills
\$250.00	Boost/Depends (Supplies)
\$75.00	House Insurance
\$50.00	Property Taxes
\$650.00	Food/Dog Food and treats
\$250.00	Clothing/ Toiletries
\$150.00	Dining Out
<u>\$150.00</u>	Miscellaneous
\$7,285.00	
6. The parties agree that this budget shall be reduced by the personal income Ms. Baskin receives of \$860.00.
7. The parties agree that William Walkup, as Trustee, shall provide Ms. Baskin, as a beneficiary, \$6,425.00 per month to be paid to Alex Weatherly, as Special Trustee, for him to distribute as needed for the care of Ms. Baskin. The check shall be made payable to Callison & Tighe Trust Account and is to be deposited into their trust account for disbursement in accordance with the above budget.

8. William B. Walkup will provide a check for January 2021 in the amount of \$6,428.00 and shall be provided to Alex Weatherly by January 7, 2021.
9. Jane E. Baskin will move from her current residence at Atrium Place apartments into her home at 316 Summerlea Drive, Columbia, South Carolina 29203 by February 1, 2021.
10. The parties agree that this settlement agreement will be a temporary solution to determine its feasibility moving forward and the parties will report to the Court in 6 months' time with a progress report by July 16, 2021.

Jane E. Baskin

Jane E. Baskin, Beneficiary

Michele Moseley
Michele Moseley

Alex Weatherly
Alex Weatherly

Richard C. Detwiler
Richard C. Detwiler

William B. Walkup Trust
William B. Walkup, Trustee

Thornwell F. Sowell
Thornwell F. Sowell

Bess J. DuRant
Bess J. DuRant

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1/6/21
Date

1/6/21
Date

1/6/21
Date

EXHIBIT B

701 12 12 12 12 12
TIGHE

May 13, 2019

Benjamin C. Bruner, Esquire
Bruner Powell Wall & Mullins, LLC
Post Office Box 61110
Columbia, South Carolina 29260-1110

Re: Eldridge Baskin Trust
Our File No. 6660.001
BPMW File No. 11-2885.100

Dear Ben:

I am writing in response to your email to me last week to discuss the points raised in your letter dated October 6, 2018.

Before outlining Ms. Baskin's current position regarding this matter, I would like to respond to a few of the comments made in your letter.

A. RESPONSES TO OCTOBER 6, LETTER:

I. Request for an accounting of all income expenditures by the Trust for the past three (3) years. Thank you for providing the information you sent with the October 6 letter and previously on May 4, 2017. In reviewing the accounting information, we are unable to locate how Mr. Walkup deposited a check in the amount of approximately \$13,600 which Jane received from the sale of property which she specifically asked Mr. Walkup to deposit. Is there another account into which these funds were deposited? Did we receive the information on all accounts held by the Trust? Please ask Mr. Walkup to respond to this question specifically.

II. Request for limited contact. You requested clarification on the point as to why Ms. Baskin has asked Mr. Walkup to limit his contact with her. Simply stated, Ms. Baskin fears Mr. Walkup. According to Ms. Baskin, he is aggressive with her and tries to exert undue influence over her regarding the choices he wants her to make regarding her finances and other matters. He is not her representative, he is not her agent, and she feels that he has tried to insert himself in that capacity in the past. In order that she need not undergo the emotional stress which he causes her, and in order that there may be an independent individual involved in observing the interaction between Ms. Baskin and Mr. Walkup regarding her finances, she requests that he interact with her through her agent, Michele Moseley, or through me as her attorney.

EXHIBIT

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CALLUSON@THECCH

1812 Lincoln Street, P.O. Box 1390, Columbia, South Carolina 29202
803.604.6900 FAX 803.604.6902

Walkup 00183

III. Disbursement of annuity funds. Presently, Mr. Walkup sends Ms. Baskin a check for the annuity payment which is disbursed from one of the accounts held by her trust. She has no verification that the amount she is receiving is in fact equal to the amount of the annuity payment or that the annuity payment is in fact going into the Trust and then being disbursed to her. Her preference would be that arrangements be made so that the annuity checks are paid directly to her and sent to her by the issuer of the annuity. In lieu thereof, she requests that copies of the annuity checks received by Mr. Walkup be provided to her along with the checks that he is sending her.

IV. Disbursement of Trust income. You make a number of statements in this extensive section of your letter concerning which you have no personal knowledge and which are no doubt based on Mr. Walkup's opinion. Ms. Baskin would challenge Mr. Walkup's assertions regarding the motivations of her father. Ms. Baskin has said there are substantial facts surrounding how Mr. Baskin's Will was executed which would indicate that Mr. Walkup initially tried to cut Ms. Baskin out of the Will altogether and only after Mr. Baskin, while on his deathbed, demanded that Mr. Walkup change the Will so as to include the Trust for Ms. Baskin, did Mr. Walkup have Ben Boyd, the attorney which Mr. Walkup hired, revise the Will.

Ms. Baskin resents Mr. Walkup's continued assertions about the \$10,000 credit card charges. The fact that he serves as her trustee does not give him the right to know every little thing about her finances. Had he properly supported her through the Trust, she would have felt no need to use her credit card in order to cover her expenses. In the grand scheme of things, the \$10,000 was not covered by Mr. Walkup from the Trust but by Ms. Baskin. Furthermore, the expenses were merely for items Mr. Walkup should have been paying for anyway.

Regarding Mr. Walkup's assertions concerning what statements have and have not been made by Ms. Baskin's caregivers, let me simply assure you that statements have been made by caregivers that are contrary to those facts which Mr. Walkup relayed to you.

As to the HVAC system, Ms. Baskin has received three (3) different estimates, copies of which are enclosed. Only the most expensive of the estimates is willing to provide financing. It would be a savings to the Trust and Ms. Baskin if the less expensive option could be selected and financed through the Trust. One of the HVAC companies who inspected the work performed by the contractor hired by Mr. Walkup has also given ample evidence of the substandard nature of the work performed by Mr. Walkup's contractor. Given that the home is heated by gas, and the recent news events concerning the improper repair and maintenance of gas heated living facilities here in the Columbia area, it is shocking to think that Mr. Walkup would have exposed Ms. Baskin to the dangers of an inadequately heated and maintained gas furnace.

V. Disbursements of principal and authority to make living arrangements. Mr. Baskin made it clear in his Will that, "...the sole purpose of the trust created [under the Will] to provide the well being of Jane E. Baskin so long as she shall live". Notwithstanding the discretion given to Mr. Walkup as trustee, Mr. Baskin made it clear that this purpose was to be, "...born in mind by the trustee when considering the matter of any encroachment upon the principal of the trust created [under the Will]."

Walkup 00184

It is clear from the poultry sums that Mr. Walkup has distributed on behalf of Ms. Baskin, and from the unbelievable growth in the principal of the trust, that he has managed it primarily for the benefit of the remainderman and not for Ms. Baskin.

As to the remaining assertions made in your letter, all I can say is that the testimony of witnesses will bear out who is right about those statements.

Enclosed is the proposed budget that Ms. Baskin would like the trustee to abide by in making encroachments upon the principal of the trust for her benefit.

VI. Request for additional distributions. As mentioned previously, enclosed are estimates for the proper repair of the HVAC system, along with the report of one inspector who has indicated that the work done thus far by Mr. Walkup's HVAC contractor has been substandard.

VII. Future selection of caregivers, living expenses, etc. Ms. Baskin is delighted to know that Mr. Walkup will stop hiring caregivers who he charges with the task of acting as his "spies" in order to try to build a case for him to try to have Ms. Baskin committed.

VIII. Plans for successor trustee. You indicate that Mr. Walkup says that the statements that he should retire are false. Prior to your involvement in this matter, Mr. Walkup made those exact statements to me. Accordingly, he is obviously getting to the age where he is not able to remember what he has or has not said. If Mr. Walkup is ready to retire, we are glad to provide information regarding who acceptable potential successors might be.

B. DEMANDS BY MS. BASKIN:

Having responded to the assertions made in your prior letter, Ms. Baskin hereby demands the following:

1. Mr. Walkup should either return the \$13,600 that she gave him to deposit on her behalf or show exactly where it was deposited and demonstrate how it has been utilized exclusively for her benefit.

2. Ms. Baskin desires to hire Edward Herbert to complete the installation and repair of the HVAC system at the Summerlea residence. Ms. Baskin wants Mr. Walkup's immediate commitment to pay the cost of the repairs in accordance with Mr. Herbert's estimate.

3. Since the time of your letter, Mr. Walkup has raised the rate paid to Ms. Baskin's primary caregivers to \$15.00 per hour. He has also re-hired caregivers that he has in the past terminated because he thought they were inadequate. Per your statements above regarding the selection of future caregivers, Ms. Baskin demands the immediate right to hire all future caregivers and to receive Mr. Walkup's assurance that so long as they are paid not more than \$15.00 per hour during normal working hours and not more than \$20.00 per hour for last minute work on the weekends, that he will make such payments.

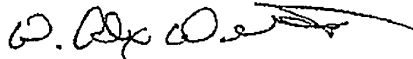
Walkup 00185

4. Ms. Baskin demands that Mr. Walkup immediately begin disbursing her a monthly amount of \$6,500 in order to cover the cost consistent with the monthly budget outlined in the enclosed statement.

5. Ms. Baskin demands that Mr. Walkup provide her with quarterly statements showing all Trust receipts and disbursements for all accounts.

Please do not hesitate to contact me if you would like to discuss these demands. Otherwise, please confirm in writing that Mr. Walkup will begin immediately to comply therewith.

Yours sincerely,



W. Alex Weatherly, Jr.

WAWjr/tsl
Enclosures

Walkup 00186

Jane Baskin Monthly Budget

Description	Amount
Caregiving	\$4,700.00
Rent	\$1,200.00
Electricity	\$100.00
Water	\$30.00
Cable	\$60.00
Cell Phone	\$50.00
Pharmacy	\$122.00
Miscellaneous	<u>\$238.00</u>
	\$6,500.00

Walkup 00187

Herbert Heating & Air

205 Juarez Court • Columbia, SC 29205 803-606-5041



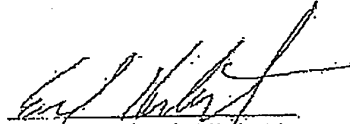
February 18, 2019

Attn: Michelle Moseley and Alex Weatherly

Address for work completed - 316 Summerlea Rd.

Upon inspection of the Heating and Air unit at the above referenced address, the following items should be addressed as they are not up to code.

1. Wiring at condenser unit not up to code
2. Line set is not the right size for cooling system.
3. Duct work needs to be replaced as it's rusted out in places.
4. Insulation on duct is not up to R Factor
5. Drain line is not up to code
6. No flue line connected to gas furnace. Flue line cannot be installed into old chimney. Has to have a power vent installed to blow flue gasses to outside
7. Gas furnace is 80,000 btu with a 5 ton drive. Too much air flow for square footage of house.
8. No gas line connected to gas furnace.
9. Unit not level on pad



Edward W. Herbert, Jr.

MM368

Licensed • Bonded • Insured • Goodman® - Aireye® • Service and installation on all makes and models

Walkup 00188

EXHIBIT C

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

IN THE PROBATE COURT
CASE NO. 2020-GC-40-72

FILED
2021 FEB 12 P 2:00
CLERK OF COURT
RICHLAND COUNTY, SOUTH CAROLINA

**AFFIDAVIT IN SUPPORT OF
ATTORNEYS' FEES**

PERSONALLY APPEARED BEFORE ME Richard C. Detwiler who, being duly sworn, deposes and says:

1. I was admitted to the practice of law in South Carolina in 1986.
2. I am an active member of the South Carolina Bar Association, the Richland County Bar Association, the American Association for Justice and the South Carolina Association for Justice. I am also admitted to practice before the United States District Court, District of South Carolina and the United States Fourth Circuit Court of Appeals.
3. I joined the law firm of Callison Tighe & Robinson, LLC, in July of 1991 and became a Member the following year. I currently serve as the firm's Managing Member.
4. The emphasis of my practice is general civil litigation, including commercial litigation, trust and estate litigation and personal injury. I am rated "AV Preeminent" by Martindale-Hubbell, a recognition of my peers of the highest professional excellence, levels of skill and integrity. I am recognized by "Best Lawyers" in the areas of commercial litigation and workers' compensation.
5. I am the attorney of record for the Plaintiff in the above-captioned action. The services rendered on behalf of Plaintiff have been performed by me or under my direction.

6. My regular hourly rate is Three Hundred Fifty and 00/100 (\$350.00) Dollars per hour, which I believe to be at or below market rate for a trial lawyer with my experience. I have incurred 144.40 hours of billable time in this matter. My paralegal charges an hourly rate of One Hundred Fifteen and 00/100 (\$115.00) Dollars per hour and has incurred 41.30 hours of billable time. Total fees incurred in this matter are \$55,289.50. Costs incurred to date are \$11,283.15. The total fees and costs, therefore, are \$66,572.65, as reflected on the attached detailed invoice showing descriptions of work and time for each entry.

7. W. Alex Weatherly, Jr. also assisted in the representation of the Plaintiff in this case. However, despite his considerable contributions, he has not billed for any of his time.

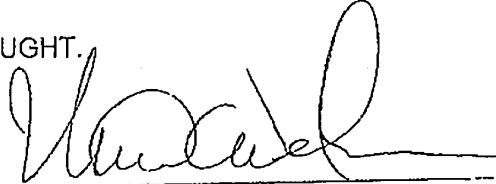
8. I prepared the Petition for Attorneys' Fees filed in this matter, to which this Affidavit is appended, and state as an officer of this Court that all statements therein are true and correct, to the best of my knowledge, information and belief, and are incorporated by reference into this Affidavit. I particularly note, as set forth in the Petition, that much of the considerable cost of this litigation were the result of the Defendant's unreasonable actions and positions taken.

9. All services performed in this case were reasonable, efficient and necessary for the proper representation of the Plaintiff, and I am informed and believe that the fees and expenses charged in this case reflect those customarily charged in this locality for a similar action.

10. I am requesting that the Court review the file, Plaintiff's Petition, this Affidavit, and the evidence presented to the Court and grant Plaintiff an award of her attorneys' fees

and costs to date in the amount of \$66,572.65, pendente lite, requiring the Defendant to pay the undersigned counsel immediately for those fees and costs. Alternatively, I am requesting that our fees and costs be paid out of the Eldridge Baskin Trust.

FURTHER, DEPONENT SAYETH NAUGHT.



Richard C. Detwiler
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED
before me this 11th day of February, 2021

Dennis M. Handwick (L.S.)
Notary Public for South Carolina
Print Name: Dennis M. Handwick
My commission expires: 3-25-29

CALLISON TIGHE & ROBINSON, LLC
Attorneys at Law
1812 Lincoln Street, Suite 200
Post Office Box 1390
Columbia, South Carolina 29202

(803) 404-6900
(803) 404-6902
FEDERAL I.D.

Jane Baskin
200 Atrium Way
Apartment 503
Columbia SC 29223

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February 11, 2021
File No: 6660-002M
Statement No: 213783

Eldridge Baskin Trust f/b/o Jane E. Baskin

Date	Initials	Description	Hours	Charge
03/05/2020	RCD	Emails to/from Mr. Bruner.	0.50	
07/10/2020	RCD	Meet with Jane and Michele; review and revise draft Complaint.	2.50	
	DMH	Instructions from RCD; draft Complaint	2.10	
07/12/2020	DMH	Revise Complaint, draft Summons; letter to Probate Court filing same	1.60	
07/14/2020	RCD	Review and revise Complaint.	1.00	
07/16/2020	RCD	Draft, review, revise and finalize Complaint; teleconference with Michele Mosley; instruction to DMH.	2.00	
	DMH	Revise and finalize, Summons, Complaint and letter to Clerk of Court filing same	0.80	
07/24/2020	RCD	Emails to/from Biff Sowell and Bess DuRan (regarding service of S&C).	0.30	
07/31/2020	MCE	Telephone conference with Deputy Clerk of Probate Court regarding filing of Exhibit A to Complaint; email from Richland Probate with corrected filing stamp date on Exhibit A; letter to Richland County Probate Court with Acceptance of Service for filing; copy and mail accordingly.	0.30	No Charge
08/07/2020	WAW	Review Request for Interrogatories and Production of Documents	1.00	No Charge
08/08/2020	WAW	Confer with legal assistant	0.10	No Charge
08/10/2020	WAW	Confer with legal assistant	0.20	No Charge
08/11/2020	WAW	Confer with legal assistant; office conference with Jane Baskin and Michele Moseley; confer with co-counsel	1.80	No Charge
	RCD	Conference with WAW	0.40	No Charge
08/12/2020	WAW	Review email	0.10	No Charge
08/17/2020	RCD	Telephone call from Michelle Mosley; email to Mr. Sowell and Mrs. Durant.	1.00	

Jane Baskin

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February 11, 2021
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Eldridge Baskin Trust f/b/o Jane E. Baskin

		Hours	
08/25/2020	WAW Review correspondence; review responsive pleadings; telephone conference with Michele Moseley	0.40	No Charge
08/26/2020	WAW Confer with Michele Moseley	0.10	No Charge
08/27/2020	WAW Review discovery requests	0.20	No Charge
08/28/2020	RCD Review response to Discovery; instructions to DMH.	0.60	
09/25/2020	WAW Email to and from Michelle Moseley	0.20	No Charge
10/01/2020	RCD Respond to email from Lori Elrod; instructions to DMH; emails to/from Bess Durant.	1.00	
10/02/2020	RCD Review letter and subpoena from Durant; instructions to DMH.	0.40	
10/07/2020	RCD Conference with Michelle Mosley and DMH (to review and respond to discovery requests).	2.00	
	DMH Draft Answers to Interrogatories and Responses to Request for Production; Bate-stamp documents	4.50	
10/08/2020	WAW Review email to and from Probate Court	0.20	No Charge
	RCD Prepare for and participate in video conference with Judge McCulloch; emails to Judge McCulloch; conference with WAW.	1.20	
10/09/2020	WAW Confer with co-counsel	0.20	No Charge
	RCD Review and revise responses to discovery; review and revise Interrogatories and Requests for Production; letters (x4) to Sowell and Durant.	2.50	
	DMH Revise and finalize Answers to Defendant's Interrogatories and Requests for Production, Certificate of Service; letter to Bess DuRant serving same and producing documents	2.30	
10/12/2020	WAW Review email; review financial documents; confer with co-counsel; telephone conference with Michelle Moseley	0.90	No Charge
10/13/2020	WAW Office conference with Michelle Moseley; review financial and tax records from trustee's attorney' draft memorandum; review email	4.80	No Charge
	RCD Conference with WAW.	0.20	No Charge
10/14/2020	WAW Review tax and financial records; Memorandum to file; confer with legal assistant; confer with co-counsel; review and revise correspondence; review correspondence from opposing counsel; Research regarding application of Uniform Principal and Income Act and other financial accountability principals; voice mail to Ted Chalgren	3.00	No Charge
	RCD Respond to email from Amy Kelly; respond to email from Bess Durant.	0.40	
10/15/2020	WAW Confer with co-counsel; email to Ted Chalgren; conference call with		

Jane Baskin

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February 11, 2021
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Eldridge Baskin Trust f/b/o Jane E. Baskin

		Hours	
	Judge McCulloch and opposing counsel; review accounting received from DuRant; telephone conference with Michelle Moseley; draft response to Judge regarding review of accounting	5.50	No Charge
RCD	Review so.called "accounting" received from Trustee; prepare/draft letter in response to "accounting" sent by Trustee; draft Petition; emails to/from Judge McCulloch; video conference with Judge McCulloch; conferences with WAW; numerous emails from Ms. Kemmerlin, Counsel.	3.00	
10/16/2020	WAW Office conference with Jane Baskin; office conference with Jane Baskin and Michelle Moseley; review budget items; draft correspondence to Probate Court; confer with legal assistant; confer with co-counsel; review correspondence from Jane Baskin; email from Michelle Moseley; email to Ann Lyles at United Cerebral Palsy of SC	7.30	No Charge
RCD	Teleconference with Mary Katherine Bagnal; email to Court and Counsel; meet with WAW and Jane; review ,edit and approve letter from WAW; review letter from Jane.	2.40	
10/18/2020	WAW Review correspondence; confer with co-counsel; review and reply to email	0.20	No Charge
10/19/2020	RCD Letters to various health care providers requesting medical records (upon instructions from Court)	2.10	
	WAW Confer with legal assistant; draft correspondence; telephone conference with Michele Moseley; confer with co-counsel	0.50	No Charge
	RCD Emails to/from Michelle Mosley.	0.20	No Charge
10/20/2020	WAW Review and reply to email; telephone conference with Brad Beasley; voice mail to and from Rick Detwiler	0.80	No Charge
	RCD Telephone call to Mary Katherine Bagnal.	0.20	No Charge
10/21/2020	DMH Download and review documents produced by Amy Kelly to Judge McCulloch	0.80	
	WAW Review and reply to email; confer with co-counsel; confer with legal assistant	0.40	No Charge
	RCD Teleconference with Mary Katherine Bagnal; telephone calls to Michelle Nunn; teleconference with Ms. Nunn; emails to/from Judge McCullouch, Counsel; review DuRant letter to Court; respond.	2.60	
10/22/2020	RCD Emails to/from Judge McCulloch, Counsel.	0.50	
	WAW Confer with legal assistant; confer with co-counsel; review and reply to email; telephone conference with Sheila Wolfe	1.30	No Charge
10/23/2020	WAW Confer with legal assistant; confer with co-counsel; attend hearing before Judge McCulloch; office conference with Jane Baskin and Michelle Moseley	2.10	No Charge
	RCD Conferences with WAW; Zoom conference with Judge McCulloch, et al; conference with Jane.	2.50	
10/24/2020	WAW Confer with Jane Baskin and Michelle Moseley	0.30	No Charge

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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		Hours	
10/26/2020	WAW Confer with co-counsel; review and reply to email from guardian ad litem; confer with legal assistant; email to Michele Moseley	0.40	No Charge
	RCD Telephone call from Michelle Nunn (rescheduling meeting); email to Michelle Moseley and WAW.	0.30	No Charge
	RCD Email from Michelle Nunn; respond; teleconference with Ms. Moseley.	0.50	
10/27/2020	WAW Review and reply to email; confer with co-counsel; telephone conference with Michele Moseley	0.60	No Charge
10/28/2020	WAW Meeting with Michelle Nunn, co-counsel and opposing counsel at Jane Baskin's house on Summerlea Drive; confer with co-counsel; review and reply to email	1.20	No Charge
	RCD Site visit with WAW to Summerlea house; Email to Michelle Moseley; emails to/from Michelle Nunn; teleconference with Ms. Nunn, WAW.	1.20	
10/29/2020	WAW Review and reply to email; confer with co-counsel; telephone conference with Michele Moseley; Prepare construction list and budget information.	1.50	No Charge
	RCD Emails to/from Bess DuRant; conferences with WAW.	0.50	
10/30/2020	RCD Emails from Bess Durant to Judge McCulloch; respond.	0.70	
	WAW Review email; confer with co-counsel	0.30	No Charge
10/31/2020	WAW Review email	0.10	No Charge
11/02/2020	WAW Review email; confer with legal assistant; confer with co-counsel; review documents	1.50	No Charge
	RCD Email from DuRant accusing me of withholding documents; respond; instructions to DMH; email to Michele regarding discovery; conferences with WAW.	1.50	
	RCD Trial preparation	4.00	
11/03/2020	DMH Receipt and review of documents produced by Bill Walkup; index same	3.10	
	WAW Prepare for deposition; review and reply to email; telephone conference with Michelle Moseley	2.00	No Charge
	RCD Work on supplemental discovery responses; review documents; email to DuRant; email from DuRant; respond.	1.10	
	RCD Prepare for trial; meet with clients, witnesses	6.00	
11/04/2020	DMH Instructions from RCD; revise Motion for Summary Judgment	1.10	
	WAW Give deposition	6.00	No Charge
	RCD Conference with client, Alex; deposition of Alex Weatherly (10-2:30); conferences with clients; email (tedium) from Amy Kelly; draft Motion for Summary Judgment.	6.50	
11/05/2020	WAW Confer with co-counsel; telephone conference with Michele Moseley	0.20	No Charge
	RCD Prepare for and attend deposition of Jane Baskin (10-1:30); conferences with Jane before and after deposition; revise Motion for Summary Judgment; legal research.	6.00	

Jane Baskin

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February 11, 2021
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Eldridge Baskin Trust f/b/o Jane E. Baskin

			Hours	
11/06/2020	DMH	Instructions from RCD; revise Motion for Summary Judgment	1.50	
11/09/2020	RCD	Emails to/from Bess DuRant	0.50	
11/10/2020	RCD	Conference with Jane and Michele; attend/defend Ms. Moseley's deposition (10-3 p.m.); teleconference with Michelle Nunn; emails to/from Ms. Nunn, Biff Sowell; teleconference with Alex.	7.50	
	WAW	Review and reply to email; confer with co-counsel	0.70	No Charge
11/12/2020	RCD	Email from opposing counsel; emails to/from court reporter; respond to opposing counsel; email to Michelle Nunn (responding to email from Ms. Kelly sending argumentative "budget"); email to Court, counsel; review medical records; letter to Judge McCullough.	2.50	
	WAW	Review email	0.40	No Charge
11/13/2020	RCD	Review deposition transcripts (briefly); emails to/from court reporter.	0.40	
11/16/2020	WBB	reviewing fiduciary accounting issues	0.50	No Charge
	RCD	Review 2,300 pages of documents received from Defendant's Counsel; prepare for deposition of Mr. Walkup.	6.80	
	WAW	Confer with co-counsel; research re: trust accounting records	1.50	No Charge
11/17/2020	RCD	Prepare for and take deposition of Bill Walkup (deposition 10-2:30, no lunch).	6.00	
	WAW	Prepare for and participate in deposition of William Walkup; office conference with Jane Baskin, Michele Moseley and Rick Detwiler	6.00	No Charge
11/18/2020	RCD	Email from Amy Kelly (with Baskin family tree); respond; email to Michele and Alex.	0.30	
11/19/2020	WAW	Prepare for and participate in status conference with Rick Detwiler, Judge McCulloch and opposing counsel; telephone conference with Jane Baskin; telephone conference with Michele Moseley; conference call with Michele Moseley and Jane Baskin	2.20	No Charge
	RCD	Status conference with Judge McCulloch; email to/from Sowell; review Motion to Compel.	1.80	
11/20/2020	WAW	Review and reply to email; confer with co-counsel	0.70	No Charge
	RCD	Review Scheduling Order; teleconference with Michele Mosley; email from Opposing Counsel; email from Jordan Kimmerlin; respond.	0.80	
11/22/2020	WAW	Review Probate Court Order	0.10	No Charge
11/23/2020	RCD	Emails to/from Ted Chalgren; review notice of deposition of Dr. Henderson; draft Motion to Quash Deposition subpoena.	1.80	
	DMH	Instructions from RCD; draft Motion to Quash	1.50	
11/24/2020	WAW	Review and reply to email; review supplemental pleadings; telephone conference with Ted Chalgren	0.50	No Charge
	RCD	Review Motion to Amend; email to Counsel.	0.40	

Jane Baskin

Page: 6
February 11, 2021
File No: 6660-002M
Statement No: 213783

Eldridge Baskin Trust f/b/o Jane E. Baskin

		Hours	
11/25/2020	WAW Review responsive pleadings and Motion to Quash; review and reply to email	0.30	No Charge
	RCD Draft Return to Motion to Amend; review and revise Motion for Summary Judgment.	1.80	
	DMH Revise and finalize Motion to Quash, Certificate of Service and letter to Court filing and serving same	0.70	
	DMH Instructions from RCD; draft, revise and finalize Return to Motion to Amend, Certificate of Service and letter to Court filing and serving same	1.50	
11/30/2020	WAW Review email and Responsive Pleadings and Motions	0.20	No Charge
	RCD Email to Michele Mosley; letter to Sowell/Durant regarding medical alert device; review Walkup deposition transcript; review and revise draft Motion for Summary Judgment.	3.00	
12/01/2020	RCD Continue review of Walkup deposition transcript; continue reviewing, revising, and drafting Motion for Summary Judgment; email from Ted Chalgren.	2.80	
	WAW Review email; confer with legal assistant	0.20	No Charge
12/02/2020	RCD Continue review of Walkup deposition; continue drafting Motion for Summary Judgment; email from opposing counsel DuRant (regarding responses).	3.20	
12/03/2020	WAW Review email	0.20	No Charge
	RCD Finish review of Walkup deposition; revise Motion for Summary Judgment.	2.00	
	DMH Draft, revise and finalize Plaintiff's Answer to Defendant's Second Interrogatories and Second Request for Production	1.60	
12/07/2020	WAW Review and reply to email; review Motion for Summary Judgment; review Order of Judge Amy McCulloch	0.40	No Charge
	RCD Review and revise Motion for Summary Judgment; file and serve same; email to Jordan Kimmerlin (law clerk to Judge McCulloch); review Order of Judge on pending Motion; emails to/from Sowell.	1.30	
12/08/2020	RCD Revise and finalize Motion for Summary Judgment; file and serve same; letter to Judge McCulloch; emails to/from Sowell.	1.80	
	WAW Coordinate with co-counsel in preparing and filing Motion for Summary Judgment; review email correspondence; telephone conference with Michele Moseley	2.00	No Charge
12/09/2020	RCD Teleconference with Michele Moseley; prepare for and participate in deposition of Dr. Frampton Henderson.	1.00	
	WAW Confer with legal assistant; review and reply to email	0.30	No Charge
12/11/2020	RCD Email from Ms. DuRant regarding trial logistics; respond.	0.30	
	WAW Office conference with Michele Moseley	0.30	No Charge
12/14/2020	WAW Review correspondence; confer with co-counsel; confer with legal		

Jane Baskin

Page: 7
February 11, 2021
File No: 6680-002M
Statement No: 213783

Eldridge Baskin Trust f/b/o Jane E. Baskin

		Hours	
	assistant	0.40	No Charge
12/15/2020	WAW Review emails and text messages between client and counsel; confer with co-counsel; review Motion for Reconsideration; confer with Michele Moseley	1.50	No Charge
	RCD Review emails/texts ordered by Court to be produced; legal research regarding attorney-client privilege; conferences with parties; Motion to Reconsider Order; review, revise and file same; letter to Judge McCulloch; review (briefly) Motion for Summary Judgment filed by Walkup; email to Jordan Kimmerlin regarding scheduling Motion's hearing.	2.80	
	DMH Draft and finalize Reply to Counterclaim, Certificate of Service and letter to Court filing and serving same	0.80	
12/17/2020	RCD Emails to/from opposing counsel; review Order of Court; communication with Lee Coggiola.	0.50	
12/18/2020	RCD Letter to Judge McCulloch with emails and texts.	0.50	
	WAW Review and reply to email	0.40	No Charge
12/22/2020	WAW Review and reply to email; multiple telephone conferences with Michele Moseley, Nancy Jordan, Jennifer Robinson and Rick Detwiler; research re: converting long term care benefits; email to and from Ken Wingate, Esquire	2.50	No Charge
	RCD Review Order denying Motions for Summary Judgment; teleconference with Michele; email to Michele, Alex.	0.60	
12/23/2020	WAW Review and reply to email	0.30	No Charge
12/24/2020	WAW Review and reply to email from Ken wingate; confer with co-counsel; telephone conference with Ken Wingate	1.20	No Charge
12/25/2020	WAW Review email from Ken Wingate	0.20	No Charge
12/28/2020	WAW Review and reply to email; confer with co-counsel; telephone conference with Michele Moseley; conference call with Rick Detwiler and Ken Wingate	2.50	No Charge
12/29/2020	WAW Confer with co-counsel; telephone conference with Ken Wingate; review and reply to email	1.50	No Charge
	DMH Instructions from RCD; draft, revise and finalize Plaintiff's First Supplement Answers to Defendants Interrogatories, Certificate of Service and letter to Bess DuRant serving same	1.10	
12/30/2020	WAW Office conference with Jane Baskin and Michele Moseley; review and reply to email correspondence; telephone conference with Ken Wingate; confer with co-counsel	2.50	No Charge
	DMH Instructions from RCD; review documents; prepare case for trial	4.50	
	DMH Draft, revise and finalize Plaintiff's Second Supplement Responses to Defendant's Interrogatories and Plaintiff's Supplemental Responses to Request for Production, Certificate of Service, letter to Bess		

Jane Baskin

Page: 8
February 11, 2021
File No: 6660-002M
Statement No: 213783

Eldridge Baskin Trust f/b/o Jane E. Baskin

		Hours	
	DuRant serving same	1.30	
	DMH Letter to all Bess DuRant with Walkup Deposition Excerpts; export clips from Walkup Clip; conferences with Videographer re: excerpting clips	4.50	
	RCD Meet with Michele and Jane to prepare for trial; trial preparation	3.00	
12/31/2020	WAW Review and reply to email correspondence; confer with co-counsel; confer with legal assistant; review documents binder	0.80	No Charge
	DMH Instructions from RCD; continue reviewing documents and preparing case for trial	2.50	
01/01/2021	WAW Review and reply to email	0.20	No Charge
01/02/2021	WAW Review and reply to email	0.20	No Charge
01/03/2021	WAW Office conference with Rick Detwiler, Jane Baskin and Michele Moseley; review trial exhibits binder; review and reply to email	3.50	No Charge
	DMH Instructions from RCD; work on documents for trial	2.00	
	RCD Conference with Jane, WAW, Michele; trial preparation	7.50	
01/04/2021	DMH Revise and finalize Pre-Trial Brief; email to all; continue preparing case for trial	1.50	
	WAW Prepare for, attend and conduct Probate Court Trial	10.50	No Charge
	RCD Trial preparation/Trial (9:30 - 6:30)	11.00	
01/05/2021	WAW Probate Court Trial; confer with co-counsel; review lease documents; review accounting documents	7.50	No Charge
	RCD Trial (9:30 - 5:30); conference with clients re: settlement (at Court's direction)	10.00	
01/06/2021	WAW Settlement conference with Parties, Counsel and Judge McCulloch; confer with legal assistant; review and reply to email	4.00	No Charge
	RCD Conferences with clients re: settlement; draft written settlement offer; present same to opposing counsel (rejected); conference with Judge McCulloch and opposing counsel	4.50	
01/07/2021	WAW Telephone conference with Ken Wingate, Esq.	0.20	No Charge
01/21/2021	WAW Review and reply to email	0.10	No Charge
01/22/2021	WAW Review and reply to email	0.10	No Charge
02/09/2021	RCD Draft Petition for Attorneys Fees; review draft bill.	1.50	
	For Current Legal Services Rendered	185.70	55,289.50

Recapitulation

Timekeeper	Hours	Rate	Total
RICHARD C. DETWILER	144.40	\$350.00	\$50,540.00
Denise M. Hardwick	41.30	115.00	4,749.50

Jane Baskin

Page: 9
February 11, 2021
File No: 6660-002M
Statement No: 213783

Eldridge Baskin Trust f/b/o Jane E. Baskin

Fees/Costs/Advances Paid to Other Attorneys or Vendors	567.80
Court Reporter	4,164.93
Copies of Medical Records	190.10
Probate Court	150.00
Expert Witness	6,030.00
Clerk of Court	180.32
<u>Total Advances</u>	11,283.15
Total Current Work	66,572.65
<u>Balance Due</u>	<u>\$66,572.65</u>

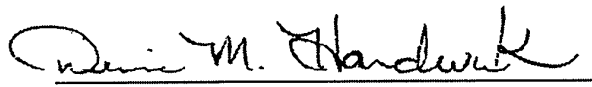
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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
William B. Walkup,	)	
	)	
Defendant.	)	
	)	

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served copies of the **Affidavit of Richard C. Detwiler and Affidavit of W. Alex Weatherly** on counsel of record by causing copies of same to be emailed to them at the below email addresses and placed in the United States Mail, first-class postage affixed, to the following address on February 28, 2022:

Thornwell P. Sowell, Esquire
 Bess J. DuRant, Esquire
 Sowell & DuRant, LLC
 1325 Park Street, Suite 100
 Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


 Denise M. Hardwick

Columbia, South Carolina

February 28, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF
	)	W. ALEX WEATHERLY, JR.
William B. Walkup,	)	
	)	
Defendant.	)	
_____	)	

PERSONALLY APPEARED BEFORE ME W. Alex Weatherly, Jr. who, being duly sworn, deposes and says:

1. This Affidavit is given in reply to the Defendant's Motion for Recusal filed on November 21, 2021. Defendant asserts Judge McCulloch shall be disqualified because of an email sent from the Court's clerk requesting a proposed order allowing for attorneys' fees and a statement made by the judge which has been mischaracterized.

2. As Defendant and his counsel are well aware, the Plaintiff is in a vastly inferior financial position, compared with that of the Defendant, from which to engage in litigation necessary to protect the Plaintiff's rights as the sole lifetime beneficiary of her father's testamentary trust. S.C. Code Section 62-7-1004 provides that in 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, to any party, to be paid by another party or from the trust that is the subject of the controversy. Under the circumstances, the Petition for Attorneys' Fees and Costs submitted by Mr.

Detwiler, Plaintiff's counsel, seeking payment of Ms. Baskin's attorneys' fees either by the Defendant or from the Trust was consistent with § 62-7-1004. In like manner, the statute implicitly contemplates that the court might ask for a proposed order from counsel for the parties for consideration in its own contemplation of whether to grant an award based on such a motion. To assert that the Court's request for a "Draft Order" for consideration is grounds for recusal defies logic and reason and flies in the face of the above-referenced very plainly worded statute.

3. In the Defendant's Motion, counsel for Defendant Walkup makes the following statement:

The status conference turned into an emergency hearing and, in chambers, during the hearing on October 12, Judge McCulloch stated that she was going to make an award of Plaintiff's attorneys' fees against the Defendant.

I was personally present in chambers when this incident allegedly occurred and do hereby state emphatically that Defendant's assertion is a gross mischaracterization of the incident and the statements made.

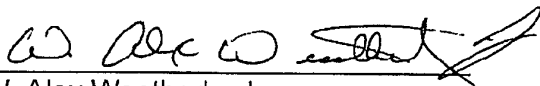
4. During a break in the Emergency Hearing, a meeting between counsel and Judge McCulloch occurred in chambers. During that meeting I observed an interchange between Mr. Sowell and Judge McCulloch regarding various untenable positions asserted by Defendant. During the course of that discussion, Judge McCulloch reminded Mr. Sowell of the various remedies available to the court, included among which was the possibility of awarding attorneys' fees to the Plaintiff.

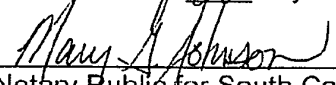
5. Judge McCulloch never in fact stated that she was awarding attorneys' fees to the Plaintiff and to date no such award has been made. She merely indicated,

as a courtesy to Mr. Sowell, the obvious fact that, in accordance with the statute cited above, an award of attorneys' fees could be made.

6. In no way did Judge McCulloch's statement appear to me to reflect any bias or prejudice toward Mr. Walkup or his lawyers. Indeed, she appeared to me to simply and graciously caution Mr. Walkup, through his attorney, of the possible consequences of maintaining untenable positions interposed for delay or to otherwise prolong the litigation in an effort to wear down Ms. Baskin, a Plaintiff with limited means.

FURTHER, DEPONENT SAYETH NAUGHT.


W. Alex Weatherly, Jr.
Attorney for Plaintiff & Special Trustee

SWORN TO AND SUBSCRIBED
before me this 28th day of February, 2022
 (L.S.)
Notary Public for South Carolina
Print Name: Mary G. Johnson
My commission expires: 6/19/2030

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Jane E. Baskin,

Plaintiff,

v.

William B. Walkup

Defendant.

IN THE COURT OF PROBATE

Civil Action No. 2020-GD40-72

**DEFENDANT'S MOTION TO
SUPPLEMENT AND/OR AMEND
AMENDED ANSWER AND
COUNTERCLAIM**

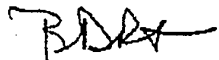
YOU WILL PLEASE TAKE NOTICE that undersigned counsel for the Defendant will move before the Court as soon as counsel may be heard for an Order pursuant to Rules 15(a) and (d) of the South Carolina Rules of Civil Procedure granting leave to supplement and/or amend his Amended Answer and Counterclaim.

"Rule 15(a) provides that when a party asks to amend his pleading, 'leave shall be freely given when justice so requires and does not prejudice any other party.' This rule strongly favors amendments and the court is encouraged to freely grant leave to amend." *Patton v. Miller*, 420 S.C. 471, 489, 804 S.E.2d 252, 261 (2017), *reh'g denied* (Sept. 27, 2017). "A motion to amend is addressed to the sound discretion of the trial judge, and the party opposing the motion has the burden of establishing prejudice." *Harvey v. Strickland*, 350 S.C. 303, 313, 566 S.E.2d 529, 535 (2002). "The prejudice contemplated in Rule 15 is not that the non-moving party is forced to defend the merits of a valid claim. Rule 15 prejudice is some result flowing from the amendment that puts the non-moving party at a disadvantage in defending the merits, which disadvantage the party would not have faced if the amended claim had been included in the original pleading or a timely motion to amend." *Patton* at 491, 804 S.E.2d at 262-63.

CERTIFICATION

The undersigned counsel has attempted in good faith to resolve this matter, but upon information and belief, due to time constraints has not received a response from Plaintiff's counsel.

SOWELL & DuRANT, LLC

By: 
Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for Defendant William B. Walkup

Columbia, South Carolina
June 13, 2022

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT

COUNTY OF RICHLAND) CASE NO.: 2020-GC-40-72

Jane E. Baskin,

Plaintiff,

vs.

William B. Walkup,

Defendant.

SUPPLEMENTAL AND/OR SECOND
AMENDED ANSWER AND
COUNTERCLAIM

Defendant William B. Walkup ("Defendant" or "Walkup") hereby supplements and/or amends his amended answer to the Complaint ("Complaint") and asserts a counterclaim for attorney's fees and costs in this action and denies each and every allegation thereof not hereinafter specifically admitted, qualified, or explained, and further alleges as follows:

FOR A FIRST DEFENSE

1. Defendant admits the allegations of paragraph 1 of the Complaint.
2. Defendant admits the allegations of paragraph 2 of the Complaint.
3. Paragraph 3 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the same and demands strict proof thereof.
4. Defendant admits the allegations of paragraph 4 of the Complaint.
5. Responding to paragraph 5 of the Complaint, Defendant admits that Plaintiff Jane E. Baskin ("Plaintiff" or "Baskin") suffers from a severe physical disability, but denies that Plaintiff's mind is clear and that she is capable of making decisions for herself.
6. Responding to paragraph 6 of the Complaint, Defendant craves references to the referenced will and trust instrument, and to the extent the allegations of paragraph 6 of the Complaint are inconsistent with said documents, Defendant denies the same and demands strict proof thereof.

7. Responding to paragraph 7 of the Complaint, Defendant craves references to the referenced will and trust instrument, and to the extent the allegations of paragraph 7 of the Complaint are inconsistent with said documents, Defendant denies the same and demands strict proof thereof.

8. Defendant admits the allegations of paragraph 8 of the Complaint.

9. Responding to paragraph 9 of the Complaint, Defendant admits that Mr. Baskin passed away and that a trust corpus was left for Plaintiff. Defendant denies the remaining allegations of paragraph 9 of the Complaint.

10. Defendant denies the allegations of paragraph 10 as stated. To the extent there is any relation, Mr. Eldridge Baskin's heirs may be distant cousins of Defendant's mother, upon information and belief.

11. Defendant denies the allegations of paragraph 11 of Complaint.

12. Paragraph 12 of the Complaint incorporates prior paragraphs. To the extent a response is required, Defendant reincorporates his responses to prior paragraphs.

13. The allegations of paragraph 13 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Defendant craves references to the cited statute and relevant case law and other statutes, and to the extent the allegations of paragraph 13 are inconsistent with said statute, relevant case law, and other pertinent statutes, Defendant denies the same and demands strict proof thereof.

14. Defendant denies the allegations of paragraph 14 and all of its subparts of the Complaint.

15. Defendant denies allegations of paragraph 15 of the Complaint.

16. Defendant denies the allegations of paragraph 16 of the Complaint.

17. Defendant denies the allegations of paragraph 17 of the Complaint.

18. Defendant denies the allegations of paragraph 18 of the Complaint.
19. Defendant denies the allegations of paragraph 19 of the Complaint. Defendant construes the second paragraph under the number 19, but above the number 20, to be part of paragraph 19. This second paragraph under number 19 is also denied.
20. Defendant denies the allegations of paragraph 20 of the Complaint.
21. Defendant denies the allegations of paragraph 21 of the Complaint.
22. Paragraph 22 of the Complaint incorporates prior paragraphs. To the extent a response is required, Defendant reincorporates his responses to prior paragraphs.
23. Defendant denies the allegations of paragraph 23 of the Complaint.

FOR A SECOND DEFENSE

24. Plaintiff fails to state a cause of action for which relief can be granted.

FOR A THIRD DEFENSE

25. Defendant pleads the prudent investor rule, and at all times acted in reasonable reliance on the provisions of the trust. *See* S.C. Code Ann § 62-7-933.

FOR A FOURTH DEFENSE

26. Defendant pleads the applicable statute of limitations.

FOR A FIFTH DEFENSE

27. Defendant pleads S.C. Code Ann. § 62-7-1005. All claims for breach of trust fail because this Complaint was brought more than one year after the date Plaintiff and her representative were sent a report that adequately disclosed the existence of a potential claim for breach of trust, which is expressly denied.

FOR A SIXTH DEFENSE

28. Defendant pleads waiver and all other available equitable defenses.

FOR A SEVENTH DEFENSE

29. Defendant pleads estoppel.

FOR AN EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Attorney's Fees and Costs)

30. Defendant incorporates all allegations previously stated into this defense and counterclaim.

31. Defendant seeks attorney's fees and costs as allowed under section 62-7-1004 of the South Carolina Code of Laws and any other available source for attorney's fees and costs.

FOR A NINTH DEFENSE

32. Defendant pleads that Jane Baskin is being unduly influenced by Michele Moseley and others for the specific purpose of injuring the trust and Defendant. Upon information and belief, Jane Baskin brought the current lawsuit because of the undue influence imposed upon her by Michele Moseley and others for the specific purpose of injuring the trust and Defendant.

WHEREFORE, having fully answered the Complaint, William B. Walkup prays that this matter be dismissed, for an award of his attorney's fees and costs, and for such other and further relief as is just and proper.

SOWELL & DuRANT, LLC

By:

Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street
Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for Defendant William B. Walkup

Columbia, South Carolina
June __, 2022

STATE OF SOUTH CAROLINA

) IN THE PROBATE COURT

FILED

COUNTY OF RICHLAND

) CASE NO.: 2020-GC-40-72

2022 JUN 13 P 4:43

Jane E. Baskin,

)

)

Plaintiff,

)

vs.

)

)

CERTIFICATE OF SERVICE

William B. Walkup,

)

)

Defendant.

)

)

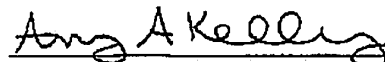
AMY W. McCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

I, the undersigned paralegal of the law offices of Sowell & DuRant, LLC, attorneys for *Defendant William B. Walkup*, do hereby certify that I have served all counsel in this action with a copy of the documents specified below by emailing a copy of same to the following addresses:

Documents: Defendant's Motion to Supplement and/or Amend Amended Answer and Counterclaim

Counsel Served: Richard C. Detwiler, Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Attorneys for Plaintiff

W. Alex Weatherly, Jr., Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Special Trustee for Jane E. Baskin



Amy A. Kelly

June 13, 2022

RICHARD C. DETWILER - Managing Member
803-404-6964
RickDetwiler@CallisonTighe.com



June 30, 2022

VIA EMAIL AND U.S. MAIL

Thornwell P. Sowell, Esquire
Bess J. DuRant, Esquire
Sowell & DuRant, LLC
1325 Park Street, Suite 100
Columbia, South Carolina 29201

Re: Jane E. Baskin vs. William B. Walkup
Case No. 2020-GC-40-0072
Our File No. 6660.002

Dear Bess and Biff:

Enclosed please find a copy of my letter to Judge McCulloch, Petitioner's proposed Order and Rule to Show Cause and a clocked-in copy of the Notice of Motion and Motion for Order and Rule to Show Cause (Contempt), Or, In The Alternative, Motion to Enforce Settlement in connection with the above-referenced matter, which we are hereby serving upon you. If we need to serve Mr. Walkup personally, please let me know right away.

Sincerely yours,

A handwritten signature in black ink, appearing to read "RCD".

Richard C. Detwiler

RCD/dmh
Enclosures

cc: W. Alex Weatherly, Jr., Esquire (w/enclosures) – Via Email
Jane E. Baskin (w/enclosures) – Via Email

RICHARD C. DETWILER - Managing Member
803-404-6964
RickDetwiler@CallisonTighe.com

FILED
CALLISON TIGHE

2022 JUN 30 P 12:39
AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

June 30, 2022

VIA HAND-DELIVERY

The Honorable Amy McCulloch
Richland County Probate Judge
Richland County Judicial Center
1701 Main Street
2nd Floor Suite 207
Columbia, South Carolina 29201

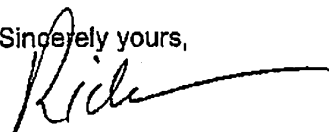
Re: Jane E. Baskin vs. William B. Walkup
Case No. 2020-GC-40-0072
Our File No. 6660.002

Dear Judge McCulloch:

Enclosed please find Petitioner's proposed Order and Rule to Show Cause and Notice of Motion and Motion for Order and Rule to Show Cause (Contempt) Or, In The Alternative, Motion to Enforce Settlement in connection with the above-referenced matter.

Please file the originals and return clocked-in copies to us via our runner. If the Order meets with your approval, it would be appreciated if you would have the hearing scheduled at your earliest convenience.

Sincerely yours,



Richard C. Detwiler

RCD/dmh
Enclosures

cc: Thornwell P. Sowell, Esquire (w/enclosures) – Via Email and U.S. Mail
Bess J. Durant, Esquire (w/enclosures) – Via Email and U.S. Mail

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Petitioner,	)	ORDER AND
	)	RULE TO SHOW CAUSE
vs.	)	
	)	
William B. Walkup,	)	
	)	
Respondent.	)	
_____	)	

TO: WILLIAM B. WALKUP, THE DEFENDANT HEREIN

Based upon the attached Motion for an Order and Rule to Show Cause, it appears that you have not obeyed certain court order(s) as described in the Motion; therefore,

IT IS ORDERED that you appear before the Richland County Probate Court on _____, 2022, at _____ o'clock ____m., then and there to be prepared to show cause, if any, why you should not be held in contempt of court for such disobedience and why the relief requested in the Motion should not be granted.

Amy W. McCulloch, Probate Judge
Richland County Probate Court

_____, 2022
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Jane E. Baskin,)
Petitioner,)
vs.)
William B. Walkup,)
Respondent.)

IN THE PROBATE COURT
CASE NO. 2020-GC-40-72

**NOTICE OF MOTION AND
MOTION FOR ORDER AND
RULE TO SHOW CAUSE
(CONTEMPT)
OR
IN THE ALTERNATIVE,
MOTION TO ENFORCE SETTLEMENT,
AND FOR SANCTIONS**

FILED
2022 JUN 30 P 12:35
AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

TO: WILLIAM B. WALKUP, THE DEFENDANT HEREIN

YOUR PETITIONER, Jane E. Baskin, respectfully moves before this Honorable Court for an Order and Rule to Show Cause why the Respondent, William B. Walkup, Trustee, should not be held in willful contempt of this Court's prior Orders (1) for violating the stay of this litigation, and (2) for 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 Petitioner's Attorney-in-Fact, for the grounds set forth herein. Alternatively, Petitioner requests an Order of this Court enforcing the Temporary Settlement Agreement entered into by the parties on January 6, 2021, and awarding sanctions against Respondent Walkup.

Specifically, the parties entered into a "Temporary Settlement Agreement," subsequently affirmed and made an Order of this Court, which provided:

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

In violation of the parties' Agreement, subsequently confirmed and declared enforceable by Orders of this Court, Respondent, *"individually and as Trustee*, initiated a civil action in Lexington County on June 20, 2022 against your Petitioner's Attorney-in-Fact, Michele Moseley, and this Court's appointed Special Trustee, W. Alex Weatherly, Jr., based upon the same issues pending before this Probate Court. The grounds for this motion are more fully set forth as follows:

1. 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. A copy of the Summons and Complaint are attached as **Exhibit A**.

2. The parties, including Walkup, entered into a Temporary Settlement Agreement on June 6, 2021, attached hereto as **Exhibit B**. 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 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.

3. This Court issued its "Order Regarding Emergency Hearing," dated October 29, 2021, attached hereto as **Exhibit C**, and "Order Denying Motion for Recusal," dated April 28, 2022, attached hereto as **Exhibit D (without exhibits)**. Both orders affirmed the Temporary Settlement Agreement. In its Order Regarding Emergency Hearing, 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.

4. "Civil contempt occurs when a party willfully disobeys a clear and definite court order. To support contempt finding, language of 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)

5. 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))).

6. 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.

7. Respondent's civil action was brought for the ulterior purposes of circumventing his obligations under the Agreement he signed, avoiding this Court's jurisdiction, impeding the proper administration of the Eldridge Baskin Trust by the Special Trustee, W. Alex Weatherly, Jr., and seeking an advantage in this litigation pending before the Probate Court.

8. Respondent 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 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.
- (b) By 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 bringing the specious lawsuit in the Lexington County Court of Common Pleas, without authority to do so, asserting allegations that are demonstrably false, and which involve matters currently pending before this Court, in an attempt to chill and impede the Special Trustee's duties to your Petitioner, Ms. Baskin and to this Court.
- (d) By asserting demonstrably false allegations, 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, as well as her friendship with Ms. Baskin, in order to further isolate Ms. Baskin.
- (e) By initiating suit in another forum alleging facts arising out of the same operative facts as those presented in this case, 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.

9. It must not be ignored that, as was noted in the Court's Order Regarding Emergency Hearing, the Respondent 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.” *Id.* at p.2. The allegations made in Walkup’s lawsuit are in direct contravention of this Court’s finding.

10. Arising out of the Emergency Hearing and the Court’s Order came the Respondent Walkup’s subsequent Motion that Judge McCulloch recuse herself from hearing any further proceedings in this matter. After a thorough analysis of that issue, 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, p.10.

11. Now, in his Complaint filed in the Court of Common Pleas, Walkup avers that he is the “Duly Appointed Trustee of Eldridge Baskin Testamentary Trust” (Complaint, ¶4), a statement which is, at best, misleading. Walkup fails to reveal to the Court of Common Pleas that his powers are very limited. Mr. Weatherly is the duly appointed Special Trustee of that Trust, and Walkup was to “remain as Trustee solely to continue to manage the money for investment purposes . . .” *Temporary Settlement Agreement*, ¶2.

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. In other words, 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.

- (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 jurisdiction of this Court and are matters currently being litigated in this case.
- (c) Walkup also 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. First, Mr. Walkup fails to reveal to the Circuit Court that this Court appointed a Guardian ad litem to investigate Ms. Baskin’s circumstances and that the Guardian ad litem was specifically asked to look into such allegations. See, Email from the undersigned to the Court, dated May 16, 2022, attached as **Exhibit E**. More fundamentally, however, Mr. Walkup has no standing to make these assertions and, indeed, any matter involving Ms. Baskin’s Last Will and Testament are not ripe.
- (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. To the extent Walkup has any evidence of such wrongdoing, that evidence should and must be presented to this Court.
- (e) Without alleging specific facts, Walkup seeks actual and punitive damages for his severe financial and emotional injuries and alleged

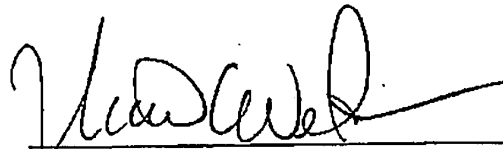
defamation and damages for their "wrongful interference with a contractually (sic) relationship." *Complaint* ¶21. Aside from their absurdity, again, these allegations arise out of the same set of facts in dispute in this case.

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 issues before this Court. And he did so without any authority, in contravention of the Agreement. He is seeking to avoid his obligations under the Agreement that bears his signature. He is seeking to circumvent this Court's jurisdiction and authority. He is seeking to obstruct and pervert the administration of justice.

Whether a willful violation of this Court's Orders or a willful breach of the parties' Temporary Settlement Agreement, Mr. Walkup should be called to account and sanctioned. By his latest actions, Mr. Walkup's judgment must be called into question and examined by this Court. His word and his signature cannot be relied upon. He is not fit to continue to serve as Trustee. He must be removed.

NOW, THEREFORE, for the reasons set forth above, Petitioner respectfully requests that this Court issue its Order and Rule to appear before this Court to Show Cause why he should not be held in willful contempt of Court; why he should not be immediately removed as Trustee; why he should not be required to cease and desist in asserting any claims "as Trustee of the Eldridge Baskin Testamentary Trust," since he has no authority to do so; and why he should not be required to reimburse the Petitioner for her attorneys' fees and costs in bringing this Motion.

Finally, Mr. Walkup's pleadings in this case should be stricken and judgment should be rendered in Petitioner's favor, removing Walkup as Trustee entirely and requiring him to pay all fees and costs incurred by your Petitioner through the conclusion of this case.



Richard C. Detwiler
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Facsimile: (803) 404-6901
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

June 30, 2022

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
C.A. No.:

William B. Walkup, Individually and
As Trustee of the Eldridge Baskin
Testamentary Trust,

Plaintiff,

vs.

W. Alex Weatherly, Jr. and
Michele Moseley

Defendants.

SUMMONS
(Jury Trial)

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this matter, a copy of which is herewith served up on you, and to serve a copy of your ANSWER to said Complaint upon the subscriber at his office, 1700 Sunset Boulevard, P.O. Box 5709, West Columbia, South Carolina, 29171, within THIRTY (30) days from the service thereof, exclusive of the day of such service; and if you fail to answer the COMPLAINT within the time aforesaid, judgement by default will be rendered against you for the relief demanded in the Complaint.

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: s/ S. Jahue Moore

S. Jahue Moore (SC Bar #4063)

1700 Sunset Boulevard

P.O. Box 5709

West Columbia, South Carolina 29171

Phone: (803) 796-9160

Attorney for Plaintiff

West Columbia, South Carolina
June 13, 2022

FILED
2022 JUN 30 P 12:33
CLERK W. MCCULLOUGH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

ELECTRONICALLY FILED - 2022 Jun 20 12:45 PM - LEXINGTON - COMMON PLEAS - CASE#2022CP3202073

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
C.A. No.:

William B. Walkup, Individually and
As Trustee of the Eldridge Baskin
Testamentary Trust,

Plaintiff,

vs.

W. Alex Weatherly, Jr. and
Michele Moseley

Defendants.

**COMPLAINT
(Jury Trial)**

The Plaintiff above-named complaining of the Defendants herein alleges that:

FOR A FIRST CAUSE OF ACTION

1. Plaintiff William B. Walkup is a resident of Richland County. He owns Walkup and Associates, an investment advisory firm in Columbia. He is a graduate of the University of South Carolina with B.S. and M.S. degrees, and he is a Certified Investment Counselor.
2. Defendant W. Alex Weatherly, Jr. is a resident of Lexington County.
3. Defendant Michele Moseley is a resident of Richland County.
4. Plaintiff is a duly appointed Trustee of the Eldridge Baskin Testamentary Trust, made for the benefit of Jane Baskin. Plaintiff was cousin to Eldridge Baskin before his death and specifically chosen by Eldridge Baskin to serve as Trustee of the referenced Trust.
5. For the last thirty-two (32) years Plaintiff has faithfully and expertly managed the Eldridge Baskin Testamentary Trust without upset. The Trust has been grown from a small amount of corpus to over Four Hundred Thousand (\$400,000) Dollars today. The annual rate of return,

FILED
2022 JUN 30 PM 12:45
J. W. McCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

ELECTRONICALLY FILED - 2022 JUN 20 12:45 PM - LEXINGTON - COMMON PLEAS - CASE#2022CP3202073

without any material risk, has been on ten (10%) percent or greater. In the meantime, Plaintiff has paid all income from the Trust to or on behalf of Jane Baskin, as well as large sums from the principal, to meet Ms. Baskin's day-to-day needs. Total expenditures from principal and interest are approximately 1.1 million dollars.

6. Defendant Weatherly is a lawyer with the firm of Callison Tighe & Robinson.

7. Prior to the damages complained of herein, the Defendants Weatherly and Moseley commenced a scheme, in concert among themselves and with others, to disturb the effective administration of the Trust and to injure Plaintiff. Their actions were to benefit themselves financially and otherwise.

8. Defendant Weatherly made Defendant Moseley the Power of Attorney for Jane Baskin, replacing her former neighbor without notice. Defendant Weatherly also amended the Jane Baskin Will to leave Ms. Baskin's house on Summerlea Drive to Defendant Moseley.

9. Subsequently, both Weatherly and Moseley began a campaign of undue influence to take advantage of Jane Baskin, who is a vulnerable adult with Cerebral Palsy since birth, and to harass, slander and harm the Plaintiff.

10. 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. Plaintiff was first injured by Defendants in July of 2020 and he has spent tens of thousands of dollars in attorney's fees to defend himself in the Probate action which was wrongfully motivated and initiated by Weatherly and Moseley in order to make money and gain the Summerlea house for one or both of them. In the meantime, the Defendants have caused severe financial harm and emotional distress to Plaintiff, under the guise or false justification of helping Jane Baskin.

11. Moseley is not helping Jane Baskin. Moseley has manipulated funds from the Eldridge Baskin Testamentary Trust for her own benefit and with the aid of Weatherly. She uses Trust money to buy her own food and to buy cleaning supplies for Moseley's cleaning company. She has moved her friend, her friend's boyfriend, and their large dog into the house on Summerlea Drive. She has converted caregiving time spent by others to her own use and benefit, falsifying timesheets to carry out the scheme to make money and benefit herself. She is breaching the statutory duties imposed on her as Power of Attorney. For example, she is acting in bad faith and is not preserving Ms. Baskin's estate plan, but is depleting the assets of same. See S.C. Code Ann § 62-8-114.

12. Defendants Weatherly and Moseley have schemed together and conspired to injure Plaintiff, and with the intent to injure Plaintiff, and he has been proximately harmed and damaged both financially and emotionally by their wrongful acts and misconduct. As a direct and proximate result of the aforementioned wrongful conduct, the Plaintiff has lost significant amounts of money; has suffered great shock and emotional distress; has been damaged in his business reputation; has been greatly inconvenienced, has lost serious amounts of time; has expended large sums of effort; and has been financially as well as emotionally damaged.

13. The conduct of Defendants Weatherly and Moseley has been intentional, malicious, and reckless, and therefore Plaintiff is entitled to actual and punitive damages, jointly and severally against both Defendants.

FOR A SECOND CAUSE OF ACTION

14. Plaintiff hereby reasserts and realleges each and every allegations set forth above as fully as it set forth verbatim.

15. For approximately two (2) years the Defendants, pursuant to their evil scheme, have maligned and slandered the good name of the Plaintiff both individual and in his capacity as Trustee.

16. The statements which have been made are not true and were known not to be true at the time they were made.

17. Plaintiff has been accused of fraud; wrongdoing; dishonesty; unfair and deceptive business practices; criminal activity; and abuse of his charge.

18. As a direct and proximate result of the aforementioned acts of defamation the Plaintiff has been damaged as set forth above and Plaintiff is entitled to actual and punitive damages.

FOR A THIRD CAUSE OF ACTION

19. Plaintiff hereby reasserts and realleges each and every allegations set forth above as fully as it set forth verbatim.

20. The Defendants have used their positions of trust and confidence in order to influence a vulnerable adult. They have interfered with the Trust relationship and have caused serious injury and loss to the Trust.

21. The conduct complained of herein amounts to wrongful interference with a contractually relationship.

22. As a direct and proximate result of the aforementioned wrongful interference with the contractual relationship, the Trust has lost serious amounts of money; has been dissipated; has been wrongly interfered with; and has been otherwise damaged all to the Plaintiff's damage both actual and punitive.

23. Plaintiff is entitled to a preliminary and permanent injunction in joining the Defendants from further disparagement and further interference with the operation of the Plaintiff both individually and as Trustee.

WHEREFORE, Plaintiff prays for judgment against the Defendants for actual damages; for punitive damages; for appropriate injunctive relief; and for such other and further relief as this Court might deem just and proper.

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: s/ S. Jahue Moore
S. Jahue Moore (SC Bar #4063)
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, South Carolina 29171
Phone: (803) 796-9160
Attorney for Plaintiff

West Columbia, South Carolina
June 13, 2022

EXHIBIT B

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

FILED

IN THE PROBATE COURT
Estate Number: 2020-GC-40-0072

2021 JAN -6 P 1:35

IN THE MATTER OF THE TRUST
OF JANE E. BASKIN

AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

TEMPORARY
SETTLEMENT AGREEMENT

FILED

2022 JUN 30 P 12:40

AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

1. The litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation 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.
3. Alex Weatherly shall be Special Trustee of the Jane E. Baskin Trust.
4. William B. Walkup agrees to pay the 2020 property taxes and shall provide the amount of \$513.84 to Alex Weatherly for him to pay the 2020 property taxes.
5. The agreed upon budget per month is as follows:

\$4810.00	Caregivers
\$150.00	Mortgage beginning in February
\$300.00	Electricity
\$60.00	Water
\$120.00	Cable
\$75.00	Cellphone
\$120.00	Pharmacy
\$75.00	Vet Bills
\$250.00	Boost/Depends (Supplies)
\$75.00	House Insurance
\$50.00	Property Taxes
\$650.00	Food/Dog Food and treats
\$250.00	Clothing/ Toiletries
\$150.00	Dining Out
<u>\$150.00</u>	Miscellaneous
\$7,285.00	

6. The parties agree that this budget shall be reduced by the personal income Ms. Baskin receives of \$860.00.
7. The parties agree that William Walkup, as Trustee, shall provide Ms. Baskin, as a beneficiary, \$6,425.00 per month to be paid to Alex Weatherly, as Special Trustee, for him to distribute as needed for the care of Ms. Baskin. The check shall be made payable to Callison & Tighe Trust Account and is to be deposited into their trust account for disbursement in accordance with the above budget.

8. William B. Walkup will provide a check for January 2021 in the amount of \$6,428.00 and shall be provided to Alex Weatherly by January 7, 2021.
9. Jane B. Baskin will move from her current residence at Atrium Place apartments into her home at 316 Summerlea Drive, Columbia, South Carolina 29203 by February 1, 2021.
10. The parties agree that this settlement agreement will be a temporary solution to determine its feasibility moving forward and the parties will report to the Court in 6 months' time with a progress report by July 16, 2021.

Jane B. Baskin

Jane B. Baskin, Beneficiary

Michelle Moseley
Michelle Moseley

Alex Weatherly
Alex Weatherly,

Richard C. Delwiler
Richard C. Delwiler

William B. Walkup Trust
William B. Walkup, Trustee

Thornwell F. Sowell
Thornwell F. Sowell

Bess J. DuRant
Bess J. DuRant

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1/6/21
Date

1/6/21
Date

1/6/21
Date

EXHIBIT C

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Jane E. Baskin,)

Petitioner,)

vs.)

William B. Walkup,)

Respondent.)

IN THE PROBATE COURT

CASE NO. 2020-GC-40-00072

ORDER REGARDING
EMERGENCY HEARING

FILED
2021 OCT 29 A 10:48
ATTY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

This matter came before the Court for an emergency hearing on October 12, 2021 set, *sua sponte*, following a status conference during which the Respondent Trustee, William B. Walkup, through his counsel, denied that the Temporary Settlement Agreement filed on January 6, 2021 ("Agreement") in this matter was still effective. The Respondent Trustee asserted that the Agreement was not an order of this Court and expired by its own terms, and that the Trustee was no longer bound by that Agreement. The Respondent Trustee also asserted that the Special Trustee, W. Alex Weatherly, Jr., had breached the Agreement by overspending on various line items.

Also pending before the Court was the Plaintiff's Motion to Amend the Temporary Settlement Agreement, filed on July 20, 2021, seeking to increase the distributions from the trust to the Special Trustee from \$6,425.00 to \$8,105.00 per month.

The Respondent Trustee also requested that the Court set the continuation of the trial of this case for the earliest possible date.

The Court addresses the issues raised in turn as follows:

1. Effectiveness of the Temporary Settlement Agreement:

Paragraph 10 of the Temporary Settlement Agreement states the following:

10. The parties agree that this settlement agreement will be a temporary solution to determine its feasibility moving forward and the parties will report to the Court in 6 months' time with a progress report by July 16, 2021.

S.C. 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.

Nowhere in the Agreement is there a provision which calls for a specific expiration date. The Agreement was by its very nature "temporary" to determine how its terms and structure might benefit Ms. Baskin, the beneficiary of the Eldridge Baskin Trust. The Special Trustee reported to the Court that the arrangement is working well for Ms. Baskin. She has returned to her home and is satisfied with the arrangement. However, being "temporary" does not require that it may end without the parties' further agreement or order of this Court.

The Respondent Trustee asserted that the Special Trustee had "breached" the Agreement by not following precisely "the line items" set forth in the Agreement. The Special Trustee provided his accountings and back up documentation for inspection. After hearing from the Special Trustee, the Court finds that he has handled the funds entrusted to him reasonably and in accordance with the Agreement.

The Agreement has not expired, nor has it been breached by the Special Trustee, and shall remain in effect until further order of the Court or agreement of the parties.

2. Motion to Amend Temporary Settlement Agreement:

Also before the Court is the Plaintiff's Motion to Amend the Temporary Settlement Agreement to increase the distributions from the trust to the Special Trustee set forth therein from \$6,425.00 to \$8,105.00, to cover the cost of an increase in the number of hours for Ms. Baskin's caregivers.

Although he objected to the Motion, the Respondent Trustee expressed his desire that Ms. Baskin receive additional care. After further evaluation of the request and inquiry by the Court, the Respondent Trustee stated that he had no objection to increasing the distributions to the Special Trustee for the purpose of increasing the number of hours of Ms. Baskin's caregivers.

a

The request for additional funds for the beneficiary's care, comfort, and safety is reasonable and fair.

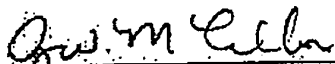
3. Continuation of Trial:

Notwithstanding the Agreement and the report of the Special Trustee that Ms. Baskin seems to be doing well, the Defendant Trustee has demanded his opportunity to be heard and to present the remainder of his case at trial. This is his right and he shall have his day in court.

NOW, THEREFORE, having reviewed the record of this case and considered the matters before the Court, the Court finds and concludes as follows:

- A. The Court hereby affirms that the Temporary Settlement Agreement remains in effect and controlling in this case moving forward, until further order of this Court or agreement of the parties.
- B. The Plaintiff's Motion to Amend the Temporary Settlement Agreement is granted. Effective immediately, Respondent Trustee is instructed to increase the amount to be paid to the Special Trustee from the trust, from \$6,425.00 to \$8,105.00 per month. In addition, Ms. Baskin's \$381.50 monthly annuity payment, which is included as part of her personal income of \$860.00 and counted in the overall budget for Ms. Baskin approved by the Court, has been received by the Respondent Trustee and not remitted to her until recently. The parties agree that amount shall be added to the amount to be paid from the trust making the total amount to be paid to the Special Trustee each month, \$8,486.50. This amount shall be paid in the same fashion as previously agreed by the parties.
- C. The conclusion of the trial in this matter is set for December 21, 2021 and December 22, 2021.

AND IT IS SO ORDERED.



Amy McCulloch
Richland County Probate Judge

October 29, 2021
Columbia, South Carolina

EXHIBIT D

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE PROBATE COURT
CASE NO. 2020-GC-40-00072

JANE E. BASKIN,)
Petitioner,)

vs.)

WILLIAM B. WALKUP,)
Respondent.)

ORDER DENYING MOTION FOR RECUSAL

FILED
2022 APR 28 P 3:47
CLERK OF COURT
PROBATE COURT
RICHLAND COUNTY, S.C.

THIS MATTER COMES BEFORE THE COURT upon a Motion for Recusal filed on November 19, 2021, by attorney Thornwell F. Sowell, III, on behalf of Respondent, William B. Walkup. Respondent requests that this Court recuse itself from any further proceedings, citing two instances where Respondent felt that this Court had prejudged the case and has not and will not receive a fair and impartial determination of the merits of this case. The first instance is on July 27, 2021, when the Court requested a proposed order from the Petitioner for temporary attorneys' fees and costs. The second instance is regarding a conversation in chambers on October 12, 2021, with the attorneys of records, when attorneys Sowell and Durant for Respondent remember that this Court stated that attorneys' fees and costs would be awarded to the Petitioner. Respondent cites violations of Cannons 2(A) and 3(E)(1)(a), Rule 501, SCACR.

A hearing on the matter was held on February 17, 2022. Present at the hearing were Petitioner, Jane E. Baskin, and her attorney Richard C. Detwiler; attorneys for Respondent, Thornwell F. Sowell, III, and Bess DuRant; and Agent under Power of Attorney for Jane E. Baskin, Michelle Mosely. Subsequent to the hearing, attorneys Sowell and DuRant submitted Affidavits to the Court in support of the Motion for Recusal, and attorney Detwiler and Special Trustee and attorney Alex Weatherly, Jr. submitted Affidavits in reply.

This matter began as a Complaint filed by the Petitioner on July 20, 2020, requesting that Respondent be removed as Trustee of the Trust established by Eldridge Baskin for the Petitioner's benefit, as well as for an accounting of all Trust property, income, debts, and expenses. Eldridge Baskin, who died on September 21, 1990, is the father of Jane Baskin, a single woman aged 76 with a serious and permanent physical disability since her childhood. The

Trust was established by the Will of Eldridge Baskin and named Respondent, a second cousin of Jane Baskin and professional financial advisor and investor, as her Trustee. Respondent has served as her Trustee since 1990. Respondent is now 81 years old.

The trial on the Complaint was held on January 4 - 6, 2021. After the Petitioner rested her case and after Respondent's direct and cross examination testimony, the parties entered into a Temporary Settlement Agreement ("Agreement") on January 6, 2021. The parties agreed, amongst other things, on set a budget for Petitioner, to appoint attorney Weatherly as Special Trustee, and to allow Respondent to continue as the financial investor for the Trust funds. The Agreement stated that, "[t]he litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation of rights in regards to litigation, including the issue of attorneys' fees."

Respondent's counsel was clear on the record that they wished to reserve the right to present further evidence in the matter at a later date in a continuation of the trial through the testimony of the following witnesses: Julian W. Walker, Jr., Sinclair Lewis, Albert L. Moses, Clarence E. Kanipe, Jr., Captain Louis Edward Spradlin, Anne Webster, and Katherine Parr. Respondent's counsel further wished to offer the deposition of Dr. Frampton Henderson and potentially introduce the report from the Guardian ad Litem.

It is important to note that before the trial began, this Court was in possession of and had clearly read the Affidavits of the above listed potential witnesses, as they were filed with the Court on December 18, 2020 as a part of Respondent's Motion for Summary Judgment, attached to this Order as **Exhibit A**. Before the trial began, this Court was in possession of and had clearly read the report of the Guardian ad Litem as the Court appointed this person and the report was filed on November 30, 2020, attached to this Order as **Exhibit B**. Before the trial began, this Court was in possession of and had reviewed the medical records from Dr. Frampton Henderson as they were presented to the Court for in camera review on November 17, 2020 and were agreed upon as Item 39 of the Joint Trial Exhibits in the January 2021 trial, attached to this Order as **Exhibit C**. It is also important to note that on several occasions since the Temporary Settlement Agreement, the attorneys have stipulated that the conclusion of Respondent's case could be submitted based on the Affidavits already a part of the file.

The hope and intention was that the Temporary Settlement Agreement, attached to this Order as **Exhibit D**, would resolve all matters of contention between the parties and allow for a

resolution without further litigation. In this Agreement, the parties were required to report the progress of the Agreement to the Court by July 16, 2021. Mr. Weatherly provided updates on the Petitioner and regular Accountings to the Court. Neither Respondent nor his counsel filed or communicated any disagreements or concerns about the Agreement by the progress report deadline nor did they request the trial to be re-scheduled.

On February 12, 2021, Petitioner filed a Petition for Temporary Attorneys' Fees and Costs with the Court asking for approval of a temporary payment of fees and costs for Petitioner from the Trust. This Petition was hand delivered to Respondent's attorneys on the same date. Respondent's attorneys did not file a response or opposition to the Petition for Temporary Attorneys' Fees and Costs. Mr. Detwiler emailed the Judicial Law Clerk and Clerk of Court on March 8 and March 11, 2021, inquiring about the status of the Petition and each time copied Bess Durant. The Court is not aware if she responded to those emails but the file does not contain any response.

On July 27, 2021, approximately five months after the filing of the Petition, believing that the Petition was uncontested and that the Temporary Agreement was working well, having heard nothing to the contrary, the Clerk of Court for the Richland County Probate Court in an administrative act, sent an email that included all attorneys involved that asked Petitioner's counsel to prepare a proposed Order, attached to this Order as Exhibit E. Respondent's attorneys immediately opposed the request and promptly filed a memo opposing any attorneys' fees and costs. This Court has yet to award any attorneys' fees and costs for Petitioner in this matter.

On July 27, 2021, Petitioner's counsel filed a Notice of Motion and Motion to Amend Temporary Settlement Agreement, seeking to increase Petitioner's monthly budget due to Petitioner's need for additional care.

On August 5, 2021, Respondent's counsel filed a Memorandum in Opposition to the Petition for Attorneys' Fees and Costs, questioning the Accounting and requesting a status conference.

A Zoom status conference was then scheduled in the matter for October 12, 2021. Participating in the Zoom status conference were attorneys Detwiler and Weatherly for the Petitioner and attorneys Sowell and Durant for Respondent. At this status conference, attorney Sowell stated that Respondent and Respondent's counsel denied that the Agreement was still in

effect and indicated that no further payments would be made to the Special Trustee, prompting this Court to hold an in person emergency hearing in the matter on the same day.

Present at the emergency hearing on October 12, 2021 were Respondent and his counsel, attorneys Sowell and Durant; attorney Detwiler, as counsel for the Petitioner; and attorney Weatherly, as counsel for the Petitioner and Special Trustee. A copy of the Transcript from this hearing is attached as **Exhibit F**.

During the course of this hearing, Respondent and his counsel were focused on the position that the Agreement was no longer in affect and the Respondent's need to reconvene the trial in the matter in order to show further evidence in support of Respondent's position, primarily focused on his reputation and character, as evidenced by attorney Durant's statement:

Ms. Durant: [Mr. Walkup] wants to tell you his side of the story as soon as possible. He feels his name's been dragged through the mud, he wants to make you sure that he is not the person that he is alleged to be.

Later in the hearing, Respondent stated the following:

Mr. Walkup: My next concern is my own well-being. This has been the most difficult situation that I've ever gone through in my life. I wake up every middle of the night, every night, lose sleep. This person has a physical disability and I've card for her and I still care for her and love her, but the reality is she has no conscious about telling false information under oath.

In an effort to clarify Petitioner's position, Mr. Detwiler stated:

Mr. Detwiler: Your Honor, I think I have already made an offer to stipulate that these witnesses are going to testify that Bill Walkup is a fine upstanding person and that he manages money very well, and I don't think anyone is going to dispute that.

Approximately half way through the emergency hearing, Respondent asked the Court directly about attorneys' fees and costs. Respondent's attorneys did not object or interject in the exchange. The following is a portion of the transcribed hearing:

Mr. Walkup: May I ask this question, please?

The Court: Certainly.

Mr. Walkup: Did I understand that there was a request for the fees to be paid by me by these attorneys in July?

Mr. Detwiler: Yes. Absolutely. And I also made a corresponding request that, if not, they be paid by the Trust.

The Court: You and they, with Jane's obvious involvement, can agree to anything different. At the end of the day, at the end of your trial in December, I've got lots of decisions to make. You're giving them all to me to make, unless you agree to something else yourselves, which is the foundation of this agreement. Try this out for a while and see if it can work. I thought it was, wonderfully. So I'm shocked it was over in your mind and you're ready to go back to litigation mode. Nothing great comes of litigation, but you'll get an answer. You remain in control of your own situation, until you give it all to me. But you are in no way going to blow up this temporary agreement based on some aggrieved feelings. And I will put that in an Order as my ruling on your request for the fate of the Temporary Agreement.

Mr. Sowell: I understand, but I reiterate that I think it's already over and I don't really think you have the jurisdiction to do that, but...

The Court: Ok.

Mr. Sowell: Respectfully...

The Court: No, let's go to the Code.

Mr. Sowell: I will...

The Court: No, let's go to the Code.

Mr. Sowell: ...receive your Order.

The Court: Let's go to the Code. 62-7-111. You gave me... You invoked my jurisdiction when this lawsuit was filed and you answered and we had a half of a hearing. You entered into what I can be described as a non-judicial settlement agreement.

Mr. Sowell: I agree with that.

The Court: Ok. In the Reporter's Comments: "While the SCTC..." South Carolina Trust Code...

Mr. Sowell: Temporary settlement agreement. I don't think we entered into a non-judicial settlement agreement. I think we entered into a temporary settlement agreement.

The Court: Mr. Sowell, I don't know what we are doing. I thought we were absolutely, before you interjected your need to argue the temporariness and termination of the settlement agreement, in a very good place, with your client agreeing that he had no problem with the settlement agreement. So, I don't know what we're doing.

Mr. Sowell: I can't help that. I know what I'm doing.

The Court: That sounds insulting.

Mr. Sowell: Well, I can't...

The Court: So, I'm not sure how to receive that either.

Mr. Sowell: I'm just saying that I have to make these arguments, because I believe they are correct. I respect the Court and I will respect the Court's rulings.

The Court: Then give me the Code section that supports your argument and position contrary to what I am trying to accomplish today.

Mr. Sowell: Well, it was not a Court ordered settlement.

The Court: I didn't say it was.

Mr. Sowell: And I understand what you say...

The Court: Why don't you read the Code section with me before we argue further.

Mr. Sowell: I mean, I don't have it so I can't read it. You can read. I can guess... I don't have it.

The Court: Do you not have digital access to the...?

Mr. Sowell: Well, maybe. (To Ms. Durant) Do we? Do we have it? (To the Court) Ok, I'll read it.

The Court: Why don't we take a moment and I'll show it to you in chambers.

Mr. Sowell: Ok.

The parties then met in chambers to allow Mr. Sowell to read the code section about jurisdiction and the Temporary Agreement. A conversation was held in chambers between the Court and all attorneys, where this Court addressed all attorneys about the need to attempt settlement negotiations and the issue of attorneys' fees and costs, expressing this Court's concern that Respondent did not understand that a potential outcome was that he personally could be responsible for the attorneys' fees and costs of Petitioner. Respondent's attorneys were told that if the trial proceeds and Respondent is not successful, this Court will award attorneys' fees and costs for the Petitioner and Respondent may be required to pay all or a portion personally. The issue of the award of attorneys' fees and costs to the Petitioner and whether or not the Trust pays or Respondent pays personally is still an issue to be decided. The emphasis to Mr. Sowell and Ms. Durant in chambers was to require that they make sure that their client understands the potential going forward, as Respondent seemed confused in the courtroom. Any misunderstanding of this statement or its meaning or context can be placed directly on the very contentious nature of the Emergency Hearing.

The attorneys returned to the courtroom and the hearing continued, during which Respondent agreed to the need for Petitioner to have more caregiver time and the need to increase the budget for caregivers and supplies for Petitioner.

On October 29, 2021, this Court issued an Order Regarding Emergency Hearing where the Agreement was amended and the conclusion of the trial on the merits of the matter was scheduled for December 21 and 22, 2021.

Pursuant to Respondent's Motion for Recusal, this Court issued an Order to Stay Proceedings on December 16, 2021, stating that all proceedings and pending motions in this matter were stayed, the conclusion of the trial was continued, and the Temporary Settlement Agreement filed on January 6, 2021, and amended on October 29, 2021, was to stay in place until the Motion for Recusal was resolved.

LAW REGARDING RECUSAL/DISQUALIFICATION

1. "A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 2(A), CJC, Rule 501, SCACR.
2. "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instance where the judge has a personal bias or prejudice concerning a party or a party's lawyer, or a personal knowledge of disputed evidentiary facts concerning the proceeding." Canon 3(E)(1)(a), CJC, Rule 501, SCACR.
3. "A judge *shall* hear and decide matters assigned to the judge except those in which disqualification is required." Canon 3(B)(1), CJC, Rule 501, SCACR (emphasis added).
4. "A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party." *Murphy v. Murphy*, 319 S.C. 324, 461 S.E.2d 39 (1995).
5. "Such bias must stem from an extrajudicial source and result in decisions based on information other than what the judge learned from his participation in the case. It is not enough for a party seeking disqualification to simply allege bias. The party must show some evidence of bias or prejudice." *Roper v. Dynamique Concepts, Inc.*, 316 S.C. 131, 447 S.E.2d 218 (Ct.App.1994)
6. "A judge must exercise sound judicial discretion in determining whether [her] impartiality might reasonably be questioned." *State v. Cheafham*, 349 S.C. 101, 111, 561 S.E.2d 618, 624

(2002).

7. "If there is no evidence of judicial prejudice, a judge's failure to disqualify himself will not be reversed on appeal." *Ellis v. Procter & Gamble Dist. Co.*, 315 S.C. 283, 433 S.E.2d 856 (1993).
8. "In the final analysis, while appellate courts will accord "great weight to the trial judge's assurances of his own impartiality, [they will] find a judge's impartiality might reasonably be questioned when his factual findings are not supported by the record." *Id.* at 285, 433 S.E.2d at 857.
9. In *Shaw v. State*, 276 S.C. 190, 277 S.E.2d 140 (1981) our Supreme Court addressed the authority of a trial judge to resolve a motion for disqualification where he is the subject. The court held:

Our Court has apparently not specifically considered the authority of a judge to resolve a motion for disqualification of which he is the subject. After much consideration of the authorities, we conclude that as a general rule the judge, in determining whether to proceed, must accept as true the factual allegations of a motion to disqualify. However, this does not prevent the judge from exercising his right to consider the legal sufficiency of those facts. (Citations omitted). Additionally, the fair meaning of any remark must be interpreted in the light of the context in which it is uttered in determining whether the remarks show personal bias or prejudice on the part of the judge sufficient to require that he be disqualified. (Citation omitted).

10. "While our Supreme Court has not extensively treated the question of the legal sufficiency of facts necessary to warrant the disqualification of a judge, the federal courts have done so. In the federal arena, the courts have held, as has our Supreme Court, that the alleged bias must be personal as distinguished from judicial." *Davis v. Board of Sch. Comm'rs*, 517 F.2d 1044 (5th Cir.1975); *Roper*, 447 S.E.2d 218.
11. "Likewise, the bias must stem from extrajudicial sources and result in a decision on the merits based on considerations other than what the judge learned from his participation in the case. *Id.* A motion to recuse may not be predicated on the judge's rulings in the case before him or on rulings in a related case, nor on his demonstrated tendency to rule in any particular manner, or on a particular judicial leaning or attitude derived from his experience on the bench." *United States v. Grinnell Corp.*, 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966); *Berger v. United States*, 255 U.S. 22, 31, 41 S.Ct. 230, 232, 65 L.Ed. 481 (1921).

12. "It is axiomatic that the expectation of a fair and impartial tribunal is a basic tenet of all cherished notions of due process embodied in the United States Constitution." *In re Murchison*, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955).
13. "Timeliness is essential to any recusal motion. To be timely, a recusal motion must be made at counsel's first opportunity after discovery of the disqualifying facts." *Davis v. Parkview Apartments*, 409 S.C. 266, 289, 762 S.E.2d 535, 547 (2014) (citing *Duplan Corp. v. Milliken, Inc.*, 400 F.Supp. 497, 510 (D.S.C.1975)).

ANALYSIS OF FACTS AND LAW

1. Respondent's basis for recusal, under Canon 2(A) and Canon 3(E)(1)(a), CJC, Rule 501, SCACR, rests on the alleged impropriety of the Court pre-judging the matter to award attorneys' fees and costs before Respondent has had a chance to provide final evidence and rest his case. As stated above, the instances cited by Respondent are the email from the Clerk of Court on July 27, 2021, to Petitioner's counsel to prepare a proposed order granting their Petition for attorneys' fees and costs and a statement made by the Court in chambers to the attorneys during the October 12, 2021, Emergency Hearing, regarding Respondent paying attorneys' fees and costs should the trial continue and the Court rule against him.
2. The email from the Clerk of Court requesting a proposed order was an administrative act and given the surrounding facts at that time, as laid out above, is a normal administrative act. Moving issues along in what appeared to be an uncontested matter is not a sign of bias or prejudice or a prejudging by this Court. No order has been issued.
3. The issue of attorneys' fees and costs is a matter that this Court has jurisdiction to decide. S.C. Code Ann. § 62-7-1004, 1976, as amended, states that "the court, as justice and equity may require, may award costs and expenses, including reasonable attorneys' fees and costs, to any party, to be paid by another party or from the trust that is the subject of the controversy."
4. Additionally, the parties have both plead for an award of attorneys' fees and costs.
5. For this Court to remind any party that attorneys' fees and costs are still an available remedy, should equity or justice so require, is not a matter of bias or prejudice, but what this Court saw as a necessary reminder given the position of the parties at the Emergency Hearing and the confusion exhibited by the Respondent.

6. This Court does not personally know the Petitioner or the Respondent. This Court had no knowledge of the Petitioner or the Respondent, his business, his character, his reputation, or his investment company prior to the Trial.
7. This Court has heard the testimony of Petitioner and Petitioner's three witnesses. This Court has heard the testimony of the Respondent. This Court has read the Affidavits and reports of all known potential witnesses of the Respondent. This Court has reviewed all fifty-two joint court exhibits. In addition to the trial, this Court has held approximately four to five hearings in this matter.
8. This Court has no personal bias or prejudice against Respondent or his counsel and no personal bias or prejudice for the Petitioner or her counsel, the witnesses they have called or intend to call, or the case they are presenting.
9. This Court has made no decision, issued any order, or given any directive based on extrajudicial evidence. To the contrary, all decisions made, orders issued, and directives given are based solely on the voluminous evidence already of record and properly before this Court.
10. Because this Court finds no personal bias or prejudice other than that based on mere conjecture, it is imperative for this Court to hear this matter, whose litigation has been before it since the Petitioner's Complaint was first filed July 20, 2020.

THEREFORE THE COURT ORDERS THE FOLLOWING:

- A. Having reviewed the record of this case and considered the matters before it, the Court finds that recusal should be **DENIED**.
- B. The Temporary Settlement Agreement filed on January 6, 2021, and amended on October 29, 2021, shall remain in place until final judgment.
- C. "[T]he denial of a motion for disqualification is interlocutory and reviewable only after an appeal from final judgment." Simpson v. Simpson, 377 S.C. 519, 660 S.E.2d 274 (Ct. App. 2008) (citing Rogers v. Wilkins, 275 S.C. 28, 29-30, 267 S.E.2d 86, 87 (1980)).
- D. The conclusion of the trial in this matter shall be held on **June 15, 2022, at 12:00P.M.**

IT IS SO ORDERED.

April 28, 2022
Columbia, South Carolina

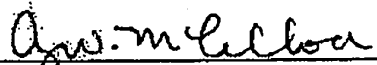

Amy W. McCulloch, Probate Judge
Richland County Probate Court

EXHIBIT E

Dee Hardwick

From: Rick Detwiler
Sent: Monday, May 16, 2022 5:22 PM
To: AMY MCCULLOCH; Amy Kelly
Cc: MATTHEW SHEARER; Lori Elrod; Alex Weatherly; Biff Sowell; Bess DuRant
Subject: RE: Baskin V. Walkup- 2020-GC-40-72

Dear Judge McCulloch,

Here are the concerns and questions we have for Ms. Nunn regarding Ms. Baskin's current circumstances:

1. Could you please compare Ms. Baskin's current living circumstances with those from your last encounters with her?
2. How is Ms. Baskin doing now? Does she seem happy? Satisfied with her living circumstances?
3. Do you believe Ms. Baskin is currently in a safe living environment?
4. Do you see any evidence that Ms. Baskin has been unduly influenced by anyone, including her caregivers?
5. Do you see any evidence that anyone has been or is taking advantage of Ms. Baskin as a vulnerable adult?

As always, we thank you for your consideration.

Rick

CALLISON  TIGHE 

RICHARD C. DETWILER MEMBER

Palmetto Armory Building PHONE 803.404.6900
1812 Lincoln Street DIRECT 803.404.6964
Columbia, SC 29201 CELL 803.331.3418
FAX 803.404.6902

MAILING ADDRESS

P.O. Box 1390 VCARD
Columbia, SC 29202-1390

CONFIDENTIAL COMMUNICATION: The information contained in this message may contain legally privileged and confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Thank you.

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

IN THE PROBATE COURT
CASE NO. 2020-GC-40-72

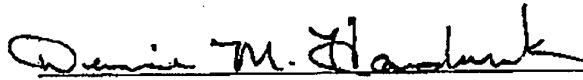
FILED
2022 JUN 30 P 12:40
AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

CERTIFICATE OF SERVICE

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served copies of the Petitioner's proposed Order and Rule to Show Cause and Notice of Motion and Motion for Order and Rule to Show Cause (Contempt) Or, In The Alternative, Motion to Enforce Settlement on counsel of record by causing copies of same to be emailed to them at the below email addresses and placed in the United States Mail, first-class postage affixed, to the following address on June 30, 2022:

Thornwell P. Sowell, Esquire
Bess J. DuRant, Esquire
Sowell & DuRant, LLC
1325 Park Street, Suite 100
Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


Denise M. Hardwick

Columbia, South Carolina

March 1, 2022

Clemmons, Sarah

From: McLean, Mac
Sent: Tuesday, April 25, 2023 2:18 PM
To: Jennifer Chastain; Clemmons, Sarah
Subject: Regina Carol Edney - Oconee County Probate Court Letter dated 4.18.2023
Attachments: DM 7674460-v1 Regina Carol Edney - Oconee County Probate Court Letter dated 4.18.2023 with invoice and form.PDF; DM 7674790-v1 Order for appointment of GAL.DOCX

Jennifer Chastain and Sarah Clemmons –

We received the attached letter from Oconee Probate Court. The topic of this email is the Probate Court's request that a Guardian ad litem for Lila McCoy be appointed (a family member / or friend / or uninterested party). And the request is that, once appointed, the GAL signs a renunciation/bond waiver form which supports the appointment of Jennifer Chastain.

My instinct is to ask Dale Dalton – the person who was GAL for Lila McCoy in the conservatorship action – to serve as GAL here for this limited purpose. I suppose that some of the nieces could do it, but Dale Dalton strikes me as the logical person.

If that sounds good, I suspect either Sarah Clemmons or Jennifer Chastain might be a good person to reach out to Ms. Dale Dalton – and send her the Form #130ES to sign accepting the role and we can submit the Form #130ES to the Probate Court.

Once appointed, the GAL would then sign the renunciation/bond waiver form and we can submit that to open the Estate.

I attach the GAL form for review and comment.

Let me know what you all think!

Best,

Mac McLean
(864) 240-3292

HAYNSWORTH SINKLER BOYD

Arthur F. "Mac" McLean III | Attorney
Certified Tax Specialist
Direct 864.240.3292 | mmclean@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.
ONE North Main, 2nd Floor | Greenville, SC 29601
Main 864.240.3200 | Fax 864.240.3300

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blog](#)

) IN THE PROBATE COURT

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Civil Action No. 2020-GC-40-72

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This Motion is masquerading as a Baskin Motion, but in effect, it is a motion seeking relief for Weatherly and Moseley, over which this Court has no jurisdiction. Next, bringing a lawsuit is not a ground for removal as trustee, despite Baskin's pleas to the contrary. Baskin cannot proceed with her Motion for these grounds alone. This Court need go no further with this Motion. But if this Court looks at the substance of the Motion, it is evident that the claims ring hollow.

While Baskin's Motion makes numerous scurrilous allegations, it appears to be based on four grounds, all of which are erroneous. The thrust of Baskin's Motion is that Walkup violated the Agreement because he filed a separate complaint and represented himself as the Trustee of Baskin's Trust. The irony is rich that Baskin is relying on the first provision of the Agreement, which provides "[t]he litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation of rights in regards to litigation, including the issue of attorney's fees." Walkup has continually relied on that provision when Baskin continued to ask this Court for attorney's fees while the matter was stayed, but now that her Special Trustee (Weatherly) and Power of Attorney/Head Caretaker (Moseley) is facing liability in another jurisdiction, she now relies on this provision. Regardless, each of Baskin's four grounds is meritless.

First, Baskin alleges that Walkup has violated the Agreement by "initiating suit in Lexington County, alleging facts out of the same transaction and occurrences, in violation of the stay agreed to and affirmed by the Orders of this Court." Baskin is misguided. As discussed above, she relies on the language in the Agreement that states "*[t]he litigation in this matter is stayed* and all issues not decided are held in abeyance with full reservation of rights in regards to litigation, including the issue of attorney's fees." (Emphasis added.) Walkup has not engaged in "litigation in this matter," unlike Baskin who continues to ask this Court for her attorney's fees.

To the contrary, Walkup's Complaint involves new parties, new allegations, and is pending in another jurisdiction. Baskin's main argument falls flat.

Second, Baskin contends that Walkup has violated the Agreement by filing the Complaint as "Trustee of the Eldridge Baskin Testamentary Trust." Walkup is the Trustee of the Eldridge Baskin Trust. The Agreement does not provide otherwise. As stated in the Agreement, Walkup is tasked with managing the trust funds. If he believes that they are being squandered by Moseley, under the watch of Weatherly, he has a fiduciary duty to stop such conduct. He is the trustee, and he is exercising his role of managing the trust funds by ensuring any malfeasance with the funds must stop.

Third, Baskin contends that Walkup has violated the Agreement by bringing a "specious lawsuit . . . in an attempt to chill and impede" the Special Trustee and Power of Attorney/Head Caregiver from their respective duties and friendship with Baskin. This statement is incorrect and hyperbolic. Walkup's Complaint was brought after substantial consideration. Walkup believes that Weatherly and Moseley have breached their duties to Baskin. (See Complaint attached as Exhibit A to Baskin's Motion.) If Moseley and Weatherly are "chilled" by Walkup's actions then they should not be Baskin's Power of Attorney and Special Trustee, respectively. Moreover, if Walkup's Complaint is "specious" and "demonstrably false," Moseley and Weatherly should file a motion to dismiss in the Circuit Court. Baskin cannot run to this Court to protect Moseley and Weatherly in another case in another jurisdiction. The wrong party (Baskin) is seeking relief from the wrong court (this Court).

Fourth, Baskin states that Walkup has violated the Agreement by initiating another lawsuit in another forum to avoid the jurisdiction of this Court about matters before this Court. Again, Baskin presents a flawed argument. Walkup is seeking monetary damages from Moseley and

Weatherly for the wrongful conduct in which they have engaged. This matter is properly in the Circuit Court. S.C. Const. Art. V, § 11. Walkup is not required to bring such claims – nor could he – before this Court.

The balance of Baskin's Motion are arguments against the allegations in Walkup's Complaint. Respectfully, it is up to the Circuit Court to rule on these arguments. The allegations levied against Moseley and Weatherly state wrongful conduct committed against Walkup. Moseley and Weatherly – not Baskin – should respond to these allegations. Walkup is the master of his complaint, and he chose to bring it in the Court of Common Pleas in Lexington County. It did not violate any provision of the Agreement, nor is it any attempt to avoid the jurisdiction of this Court.

In sum, Walkup properly filed his Complaint against Moseley and Weatherly in Lexington County. It contains new allegations against new parties seeking relief under causes of action that are properly before the Circuit Court. The Agreement has no bearing on Walkup's filing of the Complaint. Moreover, it is suspect that Baskin, not Moseley or Weatherly, is the one that is challenging the Complaint. The Complaint is replete about how these people have engaged in wrongful behavior to the detriment of Baskin, yet she is seeking this Court's relief to protect them. Baskin filed this Motion on June 30, 2022 – only three days after Weatherly was served on June 27, 2022. Moseley was not served until July 6, 2022. (See Affidavits of Service for Weatherly and Moseley, attached hereto as **Exhibit A**.) Research of the claims asserted by Walkup was precipitous before this Motion was filed.

Respectfully, this Court has no jurisdiction over Walkup's Complaint, and Baskin's arguments to the contrary are incorrect. Walkup has committed no violation of the Agreement. This Court should dismiss Baskin's motions.

SOWELL & DuRANT, LLC

By: s/Bess J. DuRant
Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street, Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for William B. Walkup

Columbia, South Carolina
July 13, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	Plaintiff,
vs.	)	
	)	
William B. Walkup,	)	
	)	
	)	Defendant.
_____	)	

EXHIBIT A

**DEFENDANT’S MEMORANDUM IN OPPOSITION TO MOTION
FOR ORDER AND RULE TO SHOW CAUSE (CONTEMPT) OR
IN THE ALTERNATIVE, MOTION TO ENFORCE
SETTLEMENT AGREEMENT, AND FOR SANCTIONS**

Affidavits of Service for Weatherly and Moseley

STATE OF SOUTH CAROLINA]
COUNTY OF Lexington]
William B. Walkup,]
Individually and AS]
Trustee of the Eldridge]
Baskin Testamentary Trust]
PLAINTIFF]
W. Alex Weatherly, Jr.]
and Michele Mosley]
DEFENDANTS]

AFFIDAVIT OF SERVICE

DOCKET # 2022-CP-32-02073

IN THE COURT OF Common Pleas

PERSONALLY APPEARED before me JOHN M. KNOTTS who, upon first being duly sworn, says that he served the Summons And Complaint

_____ in this action
upon W. Alex Weatherly, Jr., by delivering a copy of the said documents to
W. Alex Weatherly, Jr. (in person/a person of discretion) who accepted service, at
1812 Lincoln ST. Suite 200 Columbia, SC on the
27 day of June, 2022, that he knows the person served to be the person

mentioned and described in the above pleadings; and that the deponent is not a party to this action.

John M. Knotts
JOHN M. KNOTTS

SWORN to before me this 8th
day of July, 2022
Aimee M. McCarty [SEAL]
Notary Public for South Carolina
My commission expires 3-29-28

STATE OF SOUTH CAROLINA]
COUNTY OF Lexington]
William B. Walkup,]
Individually and as]
Trustee of the Eldridge]
Baskin Testamentary Trust]
PLAINTIFF]
W. Alex Worthley, Jr.]
and Michele Moseley]
DEFENDANTS]

AFFIDAVIT OF SERVICE

DOCKET # 2022-CP-32-02073

IN THE COURT OF Common Pleas

PERSONALLY APPEARED before me JOHN M. KNOTTS who, upon first being duly sworn, says that he served the summons and complaint

_____ in this action

upon Michele Moseley, by delivering a copy of the said documents to

Dickey Moseley Husband, (in person/a person of discretion) who accepted service, at

1805 Forest Trace Dr. Columbia, SC on the

6 day of July, 2022, that he knows the person served to be the person

mentioned and described in the above pleadings; and that the deponent is not a party to this action.

John M. Knotts
JOHN M. KNOTTS

SWORN to before me this 8th
day of July, 2022

Frank M. L... [SEAL]

Notary Public for South Carolina

My commission expires 3-29-28

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MATTER OF:
Jane E. Baskin

IN THE PROBATE COURT

**RESCHEDULED
NOTICE OF MOTION HEARING**

CASE NUMBER: 2020 GC40 00072

DATE: August 22, 2022

TIME: 11:30 a.m.

PLACE: Richland County Judicial Center
1701 Main Street
Courtroom 2-F
Columbia, South Carolina, 29201

FILED
2022 AUG -21 P 2:03
CLERK OF PROBATE
RICHLAND COUNTY, S.C.

PURPOSE OF MOTION HEARING*:

THIS MOTION HEARING HAS BEEN SCHEDULED TO HEAR AND DECIDE THE NOTICE OF MOTION AND MOTION FOR ORDER AND RULE TO SHOW CAUSE (CONTEMPT) OR IN THE ALTERNATIVE, MOTION TO ENFORCE SETTLEMENT, AND FOR SANCTIONS, AS FILED BY ATTORNEY RICHARD C. DETWILER.

PLEASE TAKE NOTICE THAT THIS MATTER WAS ORIGINALLY SCHEDULED FOR AUGUST 16, 2022, HOWEVER HAS BEEN RESCHEDULED TO AUGUST 22, 2022

Executed this 2nd day of August 2022.

Print Name: Lori Elrod, Clerk of Probate

Address: P.O. Box 192

Columbia, SC 29202

FOR A TRANSCRIPT OF THE PROCEEDINGS, YOU ARE REQUIRED TO PROVIDE A COURT REPORTER

NOTE: Probate Court recommends that all interested parties be represented by counsel licensed to practice law in South Carolina. If any interested party wishes to represent him/herself, he/she will be required to adhere to the *South Carolina Rules of Civil Procedure* and *South Carolina Rules of Evidence*.

*When sending Notice of Hearing to interested parties upon whom pleadings were not required to be served, attach the petition or motion to be held.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Jane E. Baskin,

Plaintiff,

vs.

William B. Walkup,

Defendant.

IN THE PROBATE COURT

CASE NO. 2020-GC-40-72

FILED
2022-04-10 A 10:12
CLYDE W. COLLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.

**SUPPLEMENTAL AND/OR SECOND
AMENDED ANSWER AND
COUNTERCLAIM**

Defendant William B. Walkup ("Defendant" or "Walkup") hereby supplements and/or amends his amended answer to the Complaint ("Complaint") and asserts a counterclaim for attorney's fees and costs in this action and denies each and every allegation thereof not hereinafter specifically admitted, qualified, or explained, and further alleges as follows:

FOR A FIRST DEFENSE

1. Defendant admits the allegations of paragraph 1 of the Complaint.
2. Defendant admits the allegations of paragraph 2 of the Complaint.
3. Paragraph 3 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the same and demands strict proof thereof.
4. Defendant admits the allegations of paragraph 4 of the Complaint.
5. Responding to paragraph 5 of the Complaint, Defendant admits that Plaintiff Jane E. Baskin ("Plaintiff" or "Baskin") suffers from a severe physical disability, but denies that Plaintiff's mind is clear and that she is capable of making decisions for herself.
6. Responding to paragraph 6 of the Complaint, Defendant craves references to the referenced will and trust instrument, and to the extent the allegations of paragraph 6 of the Complaint are inconsistent with said documents, Defendant denies the same and demands strict proof thereof.

7. Responding to paragraph 7 of the Complaint, Defendant craves references to the referenced will and trust instrument, and to the extent the allegations of paragraph 7 of the Complaint are inconsistent with said documents, Defendant denies the same and demands strict proof thereof.

8. Defendant admits the allegations of paragraph 8 of the Complaint.

9. Responding to paragraph 9 of the Complaint, Defendant admits that Mr. Baskin passed away and that a trust corpus was left for Plaintiff. Defendant denies the remaining allegations of paragraph 9 of the Complaint.

10. Defendant denies the allegations of paragraph 10 as stated. To the extent there is any relation, Mr. Eldridge Baskin's heirs may be distant cousins of Defendant's mother, upon information and belief.

11. Defendant denies the allegations of paragraph 11 of Complaint.

12. Paragraph 12 of the Complaint incorporates prior paragraphs. To the extent a response is required, Defendant reincorporates his responses to prior paragraphs.

13. The allegations of paragraph 13 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, Defendant craves references to the cited statute and relevant case law and other statutes, and to the extent the allegations of paragraph 13 are inconsistent with said statute, relevant case law, and other pertinent statutes, Defendant denies the same and demands strict proof thereof.

14. Defendant denies the allegations of paragraph 14 and all of its subparts of the Complaint.

15. Defendant denies allegations of paragraph 15 of the Complaint.

16. Defendant denies the allegations of paragraph 16 of the Complaint.

17. Defendant denies the allegations of paragraph 17 of the Complaint.

18. Defendant denies the allegations of paragraph 18 of the Complaint.
19. Defendant denies the allegations of paragraph 19 of the Complaint. Defendant construes the second paragraph under the number 19, but above the number 20, to be part of paragraph 19. This second paragraph under number 19 is also denied.
20. Defendant denies the allegations of paragraph 20 of the Complaint.
21. Defendant denies the allegations of paragraph 21 of the Complaint.
22. Paragraph 22 of the Complaint incorporates prior paragraphs. To the extent a response is required, Defendant reincorporates his responses to prior paragraphs.
23. Defendant denies the allegations of paragraph 23 of the Complaint.

FOR A SECOND DEFENSE

24. Plaintiff fails to state a cause of action for which relief can be granted.

FOR A THIRD DEFENSE

25. Defendant pleads the prudent investor rule, and at all times acted in reasonable reliance on the provisions of the trust. *See* S.C. Code Ann § 62-7-933.

FOR A FOURTH DEFENSE

26. Defendant pleads the applicable statute of limitations.

FOR A FIFTH DEFENSE

27. Defendant pleads S.C. Code Ann. § 62-7-1005. All claims for breach of trust fail because this Complaint was brought more than one year after the date Plaintiff and her representative were sent a report that adequately disclosed the existence of a potential claim for breach of trust, which is expressly denied.

FOR A SIXTH DEFENSE

28. Defendant pleads waiver and all other available equitable defenses.

FOR A SEVENTH DEFENSE

29. Defendant pleads estoppel.

FOR AN EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Attorney's Fees and Costs)

30. Defendant incorporates all allegations previously stated into this defense and counterclaim.

31. Defendant seeks attorney's fees and costs as allowed under section 62-7-1004 of the South Carolina Code of Laws and any other available source for attorney's fees and costs.

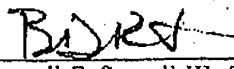
FOR A NINTH DEFENSE

32. Defendant pleads that Jane Baskin is being unduly influenced by Michele Moseley and others for the specific purpose of injuring the trust and Defendant. Upon information and belief, Jane Baskin brought the current lawsuit because of the undue influence imposed upon her by Michele Moseley and others for the specific purpose of injuring the trust and Defendant.

WHEREFORE, having fully answered the Complaint, William B. Walkup prays that this matter be dismissed, for an award of his attorney's fees and costs, and for such other and further relief as is just and proper.

SOWELL & DuRANT, LLC

By:


Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street
Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for Defendant William B. Walkup

Columbia, South Carolina
August 4, 2022

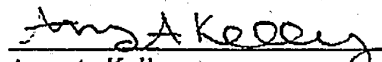
STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	
	)	
Plaintiff,	)	
vs.	)	
	)	CERTIFICATE OF SERVICE
William B. Walkup,	)	
	)	
	)	
Defendant.	)	
	)	

I, the undersigned paralegal of the law offices of Sowell & DuRant, LLC, attorneys for *Defendant William B. Walkup*, do hereby certify that I have served all counsel in this action with a copy of the documents specified below by emailing a copy of same to the following addresses:

Documents: Supplemental and/or Second Amended Answer or Counterclaim

Counsel Served: Richard C. Detwiler, Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Attorneys for Plaintiff

W. Alex Weatherly, Jr., Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Special Trustee for Jane E. Baskin



Amy A. Kelly

August 4, 2022

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- 580

matter of law, because these statutory requirements were not imposed on Walkup as the Trust was created well-before the creation of the Trust Code. All of these claims are brought pursuant to section 62-7-813 of the South Carolina Code, which specifically states it applies to an “irrevocable trust created on or after the effective date of this article, or of revocable trust which becomes irrevocable whether by the death of the settlor or by the terms of the trust on or after the effective date of this article[.]” S.C. Code Ann. §62-7-813(b), (c). The present version of the article became effective on January 1, 2014, and the first version was enacted in 2005. *See* S.C. Code Ann. § 62-7-101. The trust at issue became irrevocable in 1990 when the settlor died. Thus, this irrevocable trust was not created on or after the effective date of this article (January 1, 2014), and therefore, section 62-7-813 has no application to the present matter.

2. Walkup has not engaged in any actions or omissions which may provide grounds for his removal as trustee. Under section 62-7-706(b), a court may remove a trustee if:

- (1) the trustee has committed a serious breach of trust;
- (2) lack of cooperation among cotrustees substantially impairs the administration of the trust;
- (3) because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that the removal of the trustee best serves the interests of the beneficiaries; or
- (4) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

Here, Baskin complains that Walkup should be removed pursuant to subsections (1), (3), and (4). However, the record does not support any such conclusion.

First, Walkup has not committed any “serious breach of trust” which is defined under the Trust Code as “either: a single act that causes significant harm or involves flagrant misconduct, or

a series of small breaches, none of which individually justify removal when considered alone, but which do so when considered together.” S.C. Code Ann. § 62-7-103(24). There has been no act that causes significant harm or involves flagrant misconduct. Additionally, there have been no breaches, let alone, “series of small breaches” that when considered together constitute a “serious breach of trust.” Baskin’s complaint that she does not receive every item she requests is insufficient to remove Walkup as trustee because “[f]riction between the trustee and beneficiary is ordinarily not a basis for removal.” S.C. Code Ann. § 62-7-706 cmt. Friction is built into the trustee-beneficiary relationship as the trustee holds the money that the beneficiary wants; otherwise, the settlor would simply give the money to the beneficiary outright.

Next, there is no “unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively[.]” *See* S.C. Code Ann. § 62-7-706(b)(3). There is no evidence to the contrary, nor could there be as Walkup’s administration of the Trust is laudable. *See* Affidavit of Julian Walker attached and incorporated herein as **Exhibit A**. Moreover, the removal of Trustee Walkup does not “best serve[] the interests of the beneficiary.” S.C. Code Ann. § 62-7-706(b)(3), (4). As noted in the comments to section 62-7-706, the “term ‘interests of the beneficiaries’ means the beneficial interests as provided in the terms of the trust, not as defined by the beneficiaries.” *See* testimony of Anne Webster and Affidavit of Kathy Parr attached and incorporated herein as **Exhibit B**. With respect to the Trust’s enunciated beneficial interests, the Last Will and Testament of Eldridge Baskin, which includes the Trust, states as follows:

The sole purpose of the trust created hereunder being *to provide for the well being of Jane E. Baskin so long as she shall live*. This will and the provisions thereof are to be construed in the light of this purpose and while this shall not have the effect of limiting in any way the power, authority or discretion of the trustee hereunder, it shall at all times be borne in mind by the trustee when considering the matter of any encroachment upon the principal of the trust created hereunder.

(Art III, Last Will and Testament.) Surely, Eldridge Baskin's interpretation of "well being" would not include Baskin's living destitute. If she were to receive 24/7 care at her house, her monthly budget would be \$15,900.00 *See* testimony of William B. Walkup. At the age of 76, Baskin has a life expectancy of 12.34 years. S.C. Code Ann. § 19-1-150. The net value of the trust corpus is approximately \$400,000. *See* testimony and charts of William B. Walkup. If the current projected net value of the assets collect a rate of 3% per year, the funds will run out in about 26 months, which is significantly shorter than her life expectancy. *See* testimony and charts of William B. Walkup. It is fair to say that Mr. Baskin would not want his daughter, living without any money or living in a government funded nursing facility. Walkup is doing whatever he can to keep Baskin from living without means. The record is replete with evidence that every action of Walkup with respect to Baskin and the Trust is to provide for her well being. *See* Ex. A, Affidavit of Julian Walker and testimony of Al Moses. There is no competent, credible evidence to the contrary.

Finally, the removal of the trustee is inconsistent with a material purpose of the trust and a suitable successor trustee is not available. *See* S.C. Code Ann. § 62-7-706(b)(4). Eldridge Baskin specifically chose Bill Walkup to be the trustee and did not offer any successor trustee. Baskin was already a successful investment advisor and friend of the family. If Eldridge Baskin wanted the possibility of a successor trustee to replace Walkup, he could have included one, but he did not, which in and of itself speaks volumes. A material purpose of the trust was to provide for the care of Jane Baskin, who has cerebral palsy, a debilitating and degenerative disease. An extensive amount of money has been expended to take care of Baskin since 1990, and a substantial amount will be needed to take care of her, considering her life expectancy. The work to secure these kinds of funds is Walkup's daily job. *See* Affidavits of L.E. Spradlin and Sinclair Lewis and testimony of Al Moses and Smoke Kanipe. Moreover, no suitable successor trustee is available to replace Walkup. Baskin's suggested successor trustee lives in Rockbridge, Virginia, which is

approximately five hours from Columbia. His CV reports that he worked in banking, but it does not explain in what capacity. A residential loan officer at a bank has very differing duties than an investment banker. Baskin has not presented a suitable successor trustee.

3. Section 62-7-1005 of the South Carolina Code bars this action. It provides, in pertinent part that, “a beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust.” On October 6, 2018, Walkup’s former counsel, Benjamin Bruner, provided Baskin’s counsel with a three year accounting beginning August 2015, 2016, 2017, and a partial of 2018. *See* October 6, 2018 letter from Ben Bruner to Alex Weatherly, without enclosures, attached and incorporated herein as **Exhibit B**.¹ These accountings disclosed all necessary financial information to determine if Baskin had any claim against Walkup. Moreover, these accountings were never challenged and were acceptable to Baskin. In fact, Mr. Bruner testifies, “[d]uring my in-person meetings, phone calls, letters, and e-mails with Mr. Weatherly, all of the documents and information that were requested of Mr. Walkup or me by Mr. Weatherly, on behalf of Ms. Baskin, were provided to Mr. Weatherly.” (Exhibit E, Affidavit of Ben Bruner, ¶6.) All claims relating to these years are barred by section 62-7-1005 as this Complaint was filed well-over the one year limit, which would have been on October 6, 2019.

4. Any claims against Walkup regarding the investment or management of trust property “entered into by the trustee for the trustee’s own personal account or which is otherwise affected by a conflict between the trustee’s fiduciary and personal interests” is barred under Section

¹ A full copy of the October 6, 2018 letter, with the enclosures, is Exhibit 25 in the Exhibit Notebook. Walkup craves reference to the enclosures of the October 6, 2018 letter.

62-7-802(b)(3) because Baskin did not bring her lawsuit within the time allowed by section 62-7-1005 of the South Carolina Code.

5. All claims against Walkup are barred under Section 62-7-1006 because he, at all times, acted in reasonable reliance on the terms of the trust, and therefore, cannot be liable to Baskin for any breach of trust, which is expressly denied. *See* S.C. Code Ann. § 62-7-1006 (“A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.”). The terms of the trust are clear and give Walkup substantial powers.

6. Attorney’s fees and costs should be awarded to Walkup as he is the prevailing party and justice and equity require such an award. *See* S.C. Code Ann. § 62-7-1004 (“In 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, to any party, to be paid by another party or from the trust that is the subject of the controversy.”).

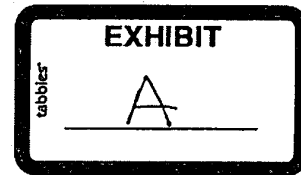
This motion is based upon the pleadings and evidence in this case, as well as case law and statutory law referenced herein.

SOWELL & DuRANT, LLC

By: Thornwell F. Sowell III
Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street, Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for William B. Walkup

Columbia, South Carolina
August 4, 2022



STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Jane E. Baskin,)

Plaintiff,)

vs.)

William B. Walkup,)

Defendant.)

IN THE PROBATE COURT

CASE NO.: 2020-GS-40-72

FILED
OCT 18 P 12:44

AMY W. McCULLOCH
CLERK OF COURT
RICHLAND COUNTY, S.C.

**AFFIDAVIT OF
JULIAN W. WALKER, JR.**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

PERSONALLY APPEARED BEFORE ME, Julian W. Walker, Jr., sworn deposes and states:

1. I am Julian W. Walker, Jr., and I reside at 4119 Stevens Road in Columbia, South Carolina 29205.
2. I am a member of the South Carolina Bar and a graduate of Duke University Law School.
3. For 23 years I was the trust executive officer at First National Bank of South Carolina, South Carolina National Bank, and Wachovia Trust of South Carolina.
4. This affidavit is presented on behalf of William B. Walkup, as trustee of the Eldridge Baskin Trust.
5. As a predicate for making this affidavit, I have met with Bill Walkup and his attorneys both in person and by telephone. I have reviewed the Last Will and Testament of Eldridge Baskin, which includes the referenced trust, and other documents, correspondence,

pleadings and materials related to the trust, including the transcripts of the depositions of both Jane Baskin and William B. Walkup, and relevant sections of the South Carolina Trust Code.

6. Jane Baskin requests the Court to remove trustee Bill Walkup, relying upon South Carolina Trust Code (SCTC) Sec. 62-7-706, Removal of Trustee. To fully understand and appreciate the meaning of this code section, one must note the meaning of "interests of the beneficiaries" found in SCTC Sec. 62-7-103 (7). "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust. The REPORTERS'S COMMENT amplifies as follows: The term "interests of the beneficiaries" means the beneficial interests provided in the terms of the trust, not as defined by the beneficiaries.

7. It is my trustee expert opinion that in this case the beneficiary Jane Baskin has attempted to define and determine the beneficial interests of the Eldridge Baskin Trust for her without regard to or respect for her father's intentions regarding those interests expressed in the terms of the trust, including his appointment of William B. Walkup as trustee of the trust.

8. It also is my opinion that the trustee Bill Walkup has administered effectively and efficiently the trust in the best interests of beneficiary Jane Baskin provided by her father in the terms of the trust and has done so for 30 years by bearing in mind the trust language as follows: "the sole purpose of the trust created hereunder being to provide for the well being of Jane E. Baskin so long as she shall live."

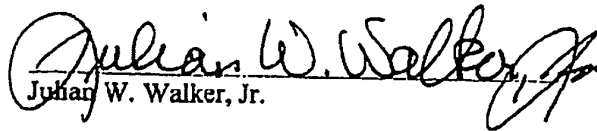
9. It also is my opinion that (1) the trustee's investment and management of the relatively modest assets that originally funded the trust 30 years ago and (2) the trustee's distribution and expense payment disciplines over the same 30 years providing benefits for the beneficiary in the discretion of the trustee deemed by him to be suitable for her then current needs and consistent with the "sole purpose of the trust" resulting in the present significantly

increased value of the trust now sufficient to provide the full-time professional care she needs continuing for the rest of her life — constitutes a truly remarkable administration record for the trustee.

10. It also is my opinion that (1) no evidence can be found of any damages caused by the trustee to the interests of the beneficiary provided in the terms of the trust and the SCTC; (2) even if the Court were to agree with the plaintiff beneficiary that one or more of the alleged acts by the defendant trustee did occur, no single act alone or series of acts together caused any significant harm to the interests of the beneficiary provided in the terms of the trust and the SCTC or thus constituted any flagrant misconduct by the trustee; and (3) since the terms of the trust do not specify the trustee's compensation, the trustee's compensation is and has been reasonable and fair under all of the known circumstances.

11. I am competent to testify to the matters stated herein.

FURTHER HE SAYETH NOT.


Julian W. Walker, Jr.

Sworn this 15 day of December, 2020


Printed Name: Monica Gende
Notary Public for State of South Carolina
My Commission Expires: 9/8/2025

BRUNER, POWELL, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW
1735 ST. JULIAN PLACE, SUITE 200

POST OFFICE BOX 61110
COLUMBIA, SOUTH CAROLINA 29260-1110

TELEPHONE 803-252-7693

FAX 803-254-5719

WWW.BRUNERPOWELL.COM

WARREN C. POWELL, JR., P.A.*

HENRY P. WALL

E. WADE MULLINS III, P.A.

WESLEY D. PEEL, P.A.

JOSEY R. FLOYD, P.A.

BENJAMIN C. BRUNER, P.A.

* ALSO ADMITTED IN DISTRICT OF COLUMBIA

** OF COUNSEL

EXHIBIT

B

FILED

JAMES P. BRUNER (RETIRED)
BRIAN J. ROBINSON, P.A.**

CATLIN C. HEYWARD

CHRISTOPHER J. CLARK

STEVEN R. SPERLWERS

AMY W. MCCULLOUGH

AUTHOR'S E-MAIL: BRUNER@BRUNERPOWELL.COM
RICHLAND COUNTY, S.C.

2020 DEC 18

October 6, 2018

W. Alex Weatherly, Jr., Esquire
Callison, Tighe & Robinson, LLC
P.O. Box 1390
Columbia, SC 29202

Re: **Eldridge Baskin Trust**
BPWM File No. 11-2885.100

Dear Alex:

I write in response to your August 13, 2018 letter, in which you outline changes which Ms. Baskin proposes to the administration of the Trust created under the Will of Eldridge Baskin. I will address each of the eight points you raise in turn.

I. Request for an Accounting of all Income and Expenditures by the Trust for the Past Three Years.

You expressed a concern with transparency in the reporting of Trust income and expenditures for at least the past three years. On May 4, 2017, in response to a prior request, we provided you a detailed description of the current trust assets, values and bank account balances; the previous four (4) years of tax returns (which show the amount of Trust income each year); and an accounting of all expenditures to or on behalf of Ms. Baskin during the prior twelve (12) months. The three-year accounting you have requested, and which is enclosed, includes the same tax returns and format of accounting. If there are any specific documents other than the ones provided which you believe are required for you to have a clear picture on what the Trustee is distributing to or on behalf of Ms. Baskin, please advise.

II. Request for Limited Contact

Your client has asked that the Trustee "limit his contact with her solely to personal interaction having nothing to do with finances (i.e., family matters, etc.) and such interaction as is necessary for him to make the distributions he is obligated to make under the Trust." I confess I am not sure what, as a practical matter, your client is requesting. As you are aware, Ms. Baskin's father was Mr. Walkup's mother's first cousin. All of Mr. Walkup's interaction with Ms. Baskin has been either in his capacity as Trustee, as her family member, or both. Limiting his contact to family matters or to Trust matters would have no practical impact. We need more clarification on this point to understand exactly what is being requested.

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III. Disbursement of Annuity Funds

Ms. Baskin has requested that the annuity payments received by Mr. Walkup be disbursed directly to her. Mr. Walkup worked diligently for months after Eldridge Baskin's death to secure this annuity for Ms. Baskin. As you will see on the enclosed documents, the annuity benefit is currently \$362.82 per month. In the past, the Trustee applied those funds to Ms. Baskin's living expenses. Based upon Ms. Baskin's demand that the money be disbursed to her rather than the Trustee using the money to pay her expenses as he has in the past, the Trustee is willing to disburse the money directly to her monthly after it is received. The Trustee will begin doing this immediately in lieu of the \$120 per month cash disbursements.

IV. Disbursement of Trust Income

According to your letter, Ms. Baskin wants "the authority, acting either alone or through her personally selected attorney-in-fact, to make arrangements for where she lives, who her caregivers are, etc." I am not aware of anything Mr. Walkup has done to prevent her from doing that.

As to disbursement of income, the operative terms of the Trust provide, "So long as my daughter, Jane E. Baskin, shall live, the trustee shall pay to or apply for the benefit of my said daughter all of the net income of the trust in such manner as my trustee shall deem suitable." Thus, your interpretation that the Trustee "is obligated to pay 'all of the income' to her" is inaccurate. Nothing in the trust document obligates the Trustee to pay all income directly to Ms. Baskin. Rather, the Trustee's obligation is to either pay net income to Ms. Baskin or apply that net income for the benefit of her as the Trustee deems suitable. He has done that year after year since the inception of the Trust in 1990. As you can see from the enclosed documents, there is no net income of the Trust which has not been either paid to or applied for the benefit of Ms. Baskin.

The reason why Mr. Baskin gave the Trustee broad discretion to pay bills directly, rather than disburse the money to Ms. Baskin, was his deep concern about Ms. Baskin's ability to manage her finances. Indeed, it was those concerns which led Ms. Baskin's father to form the Trust in the first place and ask Mr. Walkup to serve as Trustee. Events during Mr. Walkup's tenure as Trustee have proven the concerns Ms. Baskin's father had were legitimate. For example, Ms. Baskin asked the Trustee at one time to pay off over \$10,000 in credit card charges she ran up on fourteen (14) different credit cards. When the Trustee asked her what she bought, Ms. Baskin finally responded, "Things." Since she was not willing to provide any documentation to support the charges or to warrant the Trustee exercising his discretion to encroach upon Trust principal, those expenses were not paid.

Michelle Moseley, who we understand is the attorney-in-fact to whom you refer, has recently become highly involved in Ms. Baskin's affairs. While I understand based on our

conversations that Mrs. Moseley has nothing but good intentions, you must also be aware that Mrs. Moseley has apparently hired herself and is submitting invoices directly to the Trustee demanding payment \$20/hr. for walking the dog and \$75 for cleaning Ms. Baskin's apartment. This sort of self-dealing raises suspicions not only because of Ms. Baskin's physical impairment and need for assistance but also because the caregivers assisting Ms. Baskin charge only \$13 per hour and clean while they are there. Furthermore, certain facts stated in your letters indicate Ms. Baskin and/or Mrs. Moseley are making representations to you that are either inaccurate or are flat out lies. In your May 1, 2018 letter, you said Jenny Vega, one of Ms. Baskin's caregivers, is not available at certain times on weekends, holidays, etc. After receiving that letter, the Trustee asked Ms. Baskin whether Ms. Vega ever took any vacation, whether Ms. Vega was asked to work longer hours, whether Ms. Vega refused to work additional hours, whether the Trustee was asked to have Ms. Vega work longer hours, whether the Trustee was asked to hire additional help, and whether any prior request was made of the Trustee to install a new air conditioning unit. The response to each question was "No."

In March of last year, Anne Webster sent you and Mr. Walkup an e-mail disproving the accusations Ms. Baskin has made against Mr. Walkup. Ann is Jane's first cousin. Each year until recently, Ann would come to Columbia, pick up Jane, and take her to North Carolina so they could visit for two weeks. During that time, Ann would care for Jane. In her email, Anne explained that Ms. Baskin claimed Mr. Walkup took items from her apartment because she could not find a copy of a check that may never have existed in the first place. She never had two inches of standing water in her apartment. Mr. Walkup never hurt her toe; Ms. Baskin injured her foot when she fell one night and did not tell Mr. Walkup about it because she did not want him to know about it. And finally, Ms. Baskin claims Mr. Walkup "is mean" to her because he will not give her free access to the money in the Trust. Notably, Ann explained, "Please recognize that when Jane gets terribly upset, she makes charges the way, a child does, without realizing that facts will not back her up. Sometimes she has false memories of situations. At other times she lies to support her agenda. That this behavior comes from a person who elicits sympathy because of her physical condition often obfuscates the truth of the issue." If you have any legitimate issues to raise, I am happy to discuss them with my client. The issues that have been raised, however, have all been disproven.

You also said Mr. Walkup refused to complete installation of the HVAC system which, according to your clients, was purchased some time ago, delivered, but never installed. I now have a clearer understanding of this issue after discussing it with Mr. Walkup. What you describe as a "pittance" offered toward that repair was not for the air conditioning unit. It was the reasonable cost to complete the wiring and connect the gas to the furnace. The contractor who installed the furnace connected all duct work, and when he returned to the house to finish connecting the gas he found that the locks on the house had been changed. He then had a severe stroke and is still in the hospital. The work remaining to complete the installation will take 1 to 2 hours and is not expensive. That is the work for which the Trustee was offering to pay. Who is saying the Trustee refuses to complete the repair? Despite the representations your client and her attorney-in-fact

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have made about Mr. Walkup, the Trustee is willing to complete the repair to the furnace. As noted below, if your client would like the Trustee to fund replacement of the HVAC system, she is certainly free to make that request with supporting documentation. Your letter did not include any quotes.

The Trustee has always paid Ms. Baskin's living expenses, either from Trust net income or, when he deemed appropriate, from Trust principal, and he has every intention of continuing to pay Ms. Baskin the net income or applying it for her benefit as he deems suitable, just as the Trust terms provide.

V. Disbursements of Principal & Authority to Make Living Arrangements

You state Ms. Baskin's position that the Trustee has an obligation to make reasonable distributions of principal from the Trust to provide for her well-being. Historically, the Trustee has, in fact, exercised his discretion to make reasonable and necessary distributions from Trust principal when appropriate. At the same time, he has exercised his discretion to deny paying for expenses that were not warranted. Rent, utilities, and medical expenses, among others, have been paid while credit card bills for "things" have not. On average over the past three years, the Trust has generated a net income of \$916.33 per year. The Trustee exercised his discretion to encroach on principal an average of \$19,519 per year to cover Ms. Baskin's living expenses—after applying annuity funds to pay her living costs and other needs. The Trustee intends to continue abiding by the Trust terms for the benefit of Ms. Baskin, even if she disagrees.

In your letter, you recognize the extraordinary job Mr. Walkup has done managing the Trust assets. For over twenty-eight years the Trust and annuity funds have paid for all of Ms. Baskin's expenses, and as you rightly point out the Trust still more than doubled in value. Mr. Walkup's management of the trust made it possible to buy Ms. Baskin a lift chair, a mattress, appliances, a car, and everything else she has asked for excepts paying off the fourteen credit cards. Your statement that the Trust will triple in value if circumstances do not change fails to acknowledge that Ms. Baskin's circumstances have, in fact, changed and continue to change. Ms. Baskin's cost of living has grown in recent years with rent and caretakers. In addition, the cost of care she needs will rise considerably in the very near future. Skilled care in an assisted living facility can run \$100,000 per year.

Your claim that Ms. Baskin is being deprived of basic life necessities is news. The Trust pays Ms. Baskin's rent, utilities, medical bills, drug costs, phone bills, care giver expenses, and dog boarding costs. In addition, Ms. Baskin receives cash each month, birthday money, Christmas money, and she received cash when she traveled to North Carolina to visit her cousin. If there are basic life necessities of which Ms. Baskin is being deprived, please specify what those are.

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As I stated above, the Trustee intends to continue abiding by the Trust terms and reserves his right to exercise his discretion with respect to encroaching on principal. The Trustee is amenable to considering an annual budget if Ms. Baskin would like to propose one.

VI. Requests for Additional Distributions

You also state Ms. Baskin wants the freedom to make requests for distributions over and above the net income and annual principal distribution. Ms. Baskin is, and has always been, free to request that the Trustee make additional disbursements. When those additional disbursements would require the Trustee to encroach on principal, Ms. Baskin will need to provide documentation to satisfy the Trustee that Trust principal is not being invaded due to irresponsible or unnecessary spending.

With respect to the Summerlea Drive house, please provide the quotes so we can understand what work is being proposed and why. The Trustee also would like the opportunity to have someone inspect the HVAC system. There is currently no power to the furnace, and that must be reconnected before the system can be operated and properly evaluated. The Trustee needs this additional information before he can make a determination on the matter.

While your letter suggests the Trustee is preventing Ms. Baskin from renting or selling the home, I note that most companies these days allow owners to finance a new HVAC system. It may well be that Ms. Baskin can have the new system she wants installed, finance it, and pay for it out of rental income from the house or from the sale of the house. Has Ms. Baskin considered that option? She would not need the Trustee's agreement to do that. I discussed with you the possibility of the Trust extending a loan to Ms. Baskin to pay for the system secured by a mortgage, as opposed to a disbursement from Trust principal. Either way, Ms. Baskin would be borrowing money to install the new system. The latter is an option we can discuss further if you would like.

VII. Future Selection of Caregivers, Living Expenses, etc.

You also say Ms. Baskin would like the freedom to choose her own caregivers, her expenditures for other living expenses, her residence, etc. She has that freedom, but like everyone else she is limited by her means. Without charging any additional fee, Mr. Walkup has assisted with the vetting and hiring of caregivers, paying bills, etc. He has managed to find skilled caregivers who cook, clean and care for Ms. Baskin at a reasonable hourly rate. That has netted Ms. Baskin significant savings over decades, which leaves more principal in the Trust to cover her future needs. By contrast, the caregivers Ms. Baskin's power of attorney has found charge at least 150% per hour for the same service. Nonetheless, because Ms. Baskin says she no longer wants Mr. Walkup hiring her caregivers, he will stop.

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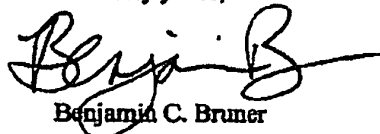
The Trustee plans to continue paying living expenses (e.g., rent, utilities, medical bills, phone bill) directly. He has serious concerns about the viability of simply handing over to Ms. Baskin the amount of money she is requesting. With the disbursement of annuity payments, Ms. Baskin will have increased cash flow to spend as she chooses, understanding that spending habits may affect the Trustee's decision on future disbursements from principal. In addition to disbursing the annuity, the Trustee will agree to pay Ms. Baskin's necessary living expenses as he has in the past, with the exception of the cash she received each month. The Trustee is willing to discuss an interim arrangement with Ms. Baskin where she takes more responsibility for her finances and reports all income and expenditures but in the meantime he will continue paying those expenses directly. In other words, Ms. Baskin has the freedom to choose caregivers, where she lives, and other living expenses, provided the costs are prudent, and the Trustee will pay those expenses directly so long as they are reasonable. At this time, it is unclear to us exactly how much money your client is requesting and what she means by "living expenses." Please provide a proposed budget to help shed light on that.

VIII. Plan for a Successor Trustee.

Mr. Walkup takes issue with the claim that he indicated multiple times he should retire. He did not, and those statements are false. Nonetheless, the Trustee is open to exploring whether we can agree on who will succeed him as Trustee when he can no longer serve. Please provide the names you propose, and I will discuss them with him.

I trust this responds to the points you raised in your letter. The Trustee is willing to consider reasonable steps moving forward, provided we can find arrangements that adequately address his concerns. As a starting point, however, if your client is demanding more money from the Trust we will need a proposed annual budget, list of needs not being met, and outstanding debts. If you would like to discuss any of these issues, please write or call me anytime.

Sincerely yours,



Benjamin C. Bruner

BCB/gh

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Jane E. Baskin,)

Plaintiff,)

vs.)

William B. Walkup,)

Defendant.)

IN THE PROBATE COURT

CASE NO. 2020-GC-40-72

2022 AUG -9 A 11:42

FILED
CLERK OF COURT
JANIS P. BENTLEY, CLERK
JANIS P. BENTLEY, CLERK

**REPLY TO DEFENDANT'S
MOTION FOR DIRECTED VERDICT**

Plaintiff submits this Reply to Defendant's Motion for Directed Verdict. For the following reasons, Defendant's Motion should be denied and judgment should be entered for Plaintiff.

At the trial of this case, Plaintiff presented substantial evidence that William Walkup ("Trustee" or "Defendant") demonstrated an unfitness, unwillingness and a persistent failure to administer the Trust effectively, (a) by refusing to make adequate distributions for Plaintiff's ongoing needs; (b) by inappropriate investment of trust funds, favoring the remainder beneficiaries over the Plaintiff; (c) by failing to provide regular, adequate accountings to the trust; and (d) by committing serious breaches of trust, pursuant to S.C. Code Ann. § 62-7-706(b)(1), specifically through self-dealing and conflicts of interest; and (e) by his irreparably broken relationship with the beneficiary, evidenced by, among other things, his taking Plaintiff against her will to be evaluated at the Jennie Lynn assisted living facility and trying to force her to live in a place not of her choosing. The Plaintiff has demonstrated that the Defendant's acts and omissions have led to the irreparable deterioration of the relationship between the Trustee and the

beneficiary. For these reasons, the Plaintiff's best interest are served by the Trustee's removal, pursuant to S.C. Code Ann. § 62-7-706(b)(3).

In Defendant's Motion for Directed Verdict, the Defendant argues that all claims brought pursuant to S.C. Code Ann. § 62-7-813 fail as a matter of law because the statute applies only to an irrevocable trust created on or after the effective date of this article, or of a revocable trust which becomes irrevocable whether by death of the settlor or by the terms of the trust on or after the effective date of this article, and that the Eldridge Baskin Trust ("Trust") was created and became irrevocable in 1990, at the death of the Testator and Settlor Eldridge Baskin.

This issue was addressed previously by the Court in its Order Denying Defendant's Motion for Summary Judgment, filed December 22, 2020. This Court noted that, while S.C. Code Ann. § 62-7-813 was enacted after the creation of the Trust, and the requirements are not retroactively effective, a review of South Carolina law at the time of the Trust's creation makes clear the duty of a trustee to keep the beneficiaries reasonably informed, which includes providing accountings. This duty has carried through all enactments and revisions of the South Carolina Code. See, e.g. S.C. Code Ann. § 62-7-303 (1987), superseded by S.C. Code Ann. § 62-7-813 (2005) (part of the Article 7, Uniform Trust Code enactment). Additionally, there has been and remains a general common law duty to keep the beneficiaries informed. See Restatement (Second) of Trusts Section 173 (1959). Further, the Probate Court is a court of equity pursuant to S.C. Code Ann. § 62-7-106, and it is clear that a beneficiary cannot protect her interest without a requirement that the trustee provide

accountings and other documentation for her review. Therefore, although the Plaintiff has plead and presented at trial substantial evidence of specific breaches in relation to S.C. Code Ann. § 62-7-813, she has also plead a general breach of trust under S.C. Code Ann. § 62-7-706, and has presented sufficient evidence of such conduct to this Court.

The Defendant also argues that S.C. Code Ann. § 62-7-802(b)(3) bars the commencement of this action in relation to the Trustee investment or management of Trust property "entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests" because it was not brought within the specified time frame of S.C. Code Ann. § 62-7-1005. The Plaintiff presented substantial evidence that the Defendant had provided only three "accountings" to her during the thirty years prior to bringing this suit and that none of those, and none since, provided sufficient information about the amount of income produced and distributed, the growth of and principal distributed, the rate of return, or the true fees charged by the Defendant for managing the trust and, separately, for managing the investment portfolios in which he invested the trust funds. The determination of whether the Trustee adequately disclosed the existence of potential claim for breach of trust must be made by the trier of fact, based upon the evidence presented at trial. See S.C. Code Ann. § 62-7-1005(b). Additionally, this same rationale applies to the argument that S.C. Code Ann. § 62-7-1005 bars this action in relation to claims made regarding accountings for the years

beginning August 2015, 2016, 2017 and a partial accounting for 2018, as well as the financial reports produced during the pendency of this litigation.

Defendant further argues that there is no evidence to support the premise that he has engaged in any action that requires removal under S.C. Code Ann. § 62-7-706(b)(1),(3), and (4) and that the Trustee acted in reasonable reliance on the terms of the Trust, pursuant to S.C. Code Ann. § 62-7-1006. To the contrary, the Plaintiff has presented substantial evidence that the Trustee has not administered the Trust in keeping with its terms and purpose, which states that the trust is "to be held, administered and distributed as hereinafter provided *for the sole benefit of my daughter, Jane E. Baskin, the sole purpose of the trust created hereunder being to provide for the well being of Jane E. Baskin so long as she shall live.*" Last Will and Testament of Eldridge Baskin, Article III.

The Plaintiff proved, by the overwhelming preponderance of the evidence presented at the trial of this case, the following:

1. At the date of Mr. Baskin's passing, the trust corpus had a value of approximately \$175,000, \$40,000 of which was a rental home. Since that time, the Trust has grown to a value of about \$575,000. The remainder beneficiaries under paragraph 3 of Article III of the Will are all the Trustee's cousins.

2. When this action was brought, Plaintiff's sole income was about \$475 in Social Security benefits. She was also the beneficiary of a \$381 annuity resulting from her Father's long service with the United States Internal Revenue Service, but the Trustee received that money, placed it in the trust account, and disbursed it out to the Plaintiff as

he saw fit, treating it as a trust disbursement. See, Deposition testimony of William B. Walkup, November 17, 2020, at 101/8-104/23. The Trustee also received funds from the sale of some of Plaintiff's inherited, non-trust property, which he also took and used for her care, "to allow the trust . . . to grow to meet her future needs" . . . instead of allowing Ms. Baskin to decide how to spend her own money. Id. He required Ms. Baskins to submit receipts for the purchase of her Depends undergarments, a requirement which he did not find demeaning in the least (Walkup Dep. 86/9-88/20).

3. In the thirty (30) years, prior to the initiation of this suit, the Trustee provided three incomplete reports on the financial condition of the Trust, and in each instance only after the Plaintiff hired a lawyer to obtain them. Walkup Dep. 27/13-29/15; 160/22-161/9. Defendant's company, Walkup & Associates, generated statements of certain Trust assets, but those were never sent to Ms. Baskin. Dep. 164/14-165/16. The third and last "accounting" was provided only after this Court ordered the disclosures, but what was received were several tax returns, check ledgers, account statements, a "balance sheet," and the like. See Trial Exhibit 32, (DuRant letter of October 12, 2020 to the Court with enclosures.) From this "information dump," as Mr. Kenneth Wingate termed it, one cannot discern the fees charged, the income generated, the growth in principal, what was spent, and whether the distributions to Ms. Baskin were from income or principal.

4. Mr. Walkup is 82 years old (Walkup Dep. 6/14-6/15). He has never been the trustee for someone with significant physical disabilities like Jane Baskin (Walkup Dep. 25/22-26/2). He never did any investigation into what the Plaintiff's needs were, never hired a professional to assess those needs, has no experience in caring for

someone with cerebral palsy, and was not professionally qualified to assess the Plaintiff's needs (Walkup Dep. 81/24-82/25; 83/19-84/24).

5. Mr. Walkup has not spoken to Jane Baskin in 2½ years (Walkup Dep. 55/7-8). He believed over five years ago that Ms. Baskin needed 24/7 care, but refused to provide her that additional care unless she agreed to move into a nursing home (Walkup Dep. 109/6-110/15; 111/9-112/18). He does not recall anyone asking him to provide Ms. Baskin more help than the 42 hours of care the Trust was paying for, although he admitted being aware that Michele Moseley was providing care without pay (Walkup Dep. 113/2-115/14; 117/16-24).

6. On or about February 17, 2017, the Trustee assaulted Plaintiff by grabbing her by the arm, physically requiring her to stand up (aggravating a pre-existing toe injury), and taking her against her will to be evaluated by a nursing home, Jenny Lynn (Walkup Dep. 58/15-59/17).

7. Mr. Walkup testified that he did not know an annual accounting to the beneficiary was required by the Trust Code until Alex Weatherly wrote him a letter in 2017 or 2018, and even after that only provided the third such "accounting" after this suit was filed (Walkup Dep. 29/14-30/17). After testifying that he did not send Ms. Baskin an annual financial statement for her Trust because he did not know he had to, he then said he did not account to her because he did not think she would understand it. Walkup Dep. 71/15-72/1. Walkup testified that he did not believe Ms. Baskin was capable of understanding a profit and loss statement, a tax return or a financial statement unless it was put in simple terms. Walkup Dep. 176/14-20. She could, however, understand with

professional help, yet in the thirty (30) years since taking over the trust he never took the time to walk her through where the trust stood, what he had done with the trust funds, or anything about the administration of the trust (Walkup Dep. 177/1-25).

8. Mr. Walkup testified that he receives a trustee fee for managing the Trust, and invests the trust funds in partnerships in which he or his company has an equity interest from which he also receives a management fee (Walkup Dep. 76/9-76/10). Approximately 60%, or \$310,000 of the Baskin Trust is invested in a fund called "Equity 95". Dep. 33/5-13. Walkup's company is a partner in the fund and also receives a fee for managing the fund (Walkup Dep. 32/5-17). Equity 95 Partnership is focused on growth not income. See Walkup Dep. 33/24-35/21; 37/10-24; 39/4-9. See also, Equity 95 2018 Audited Financial Statements, Note 1 ("The Partnership investment objective is to seek capital growth"), provided by Ms. DuRant to the Court by letter of October 12, 2020.

9. The Baskin Trust earns gross (not net) income of about \$12,000 to \$14,000 per year on \$575,000, or about 2% per year, before expenses (Walkup Dep. 45/14-25). Mr. Walkup takes a fee of about one-third (1/3) of that trust income, or \$4,000 per year, for managing the trust, plus an additional .9% for managing Equity 95 and an ETrade account in which Trust money is invested (Walkup Dep. 16/19-25; 36/20-23; 76/9-14; 168/1-13).

10. Walkup was unfamiliar with the South Carolina Trust Code, never read it (Walkup Dep. 26/11-27/15).

The Plaintiff also presented the testimony of Mr. Kenneth Wingate, a witness who the Court noted "has an incredible reputation, experience and education in all these

areas." Tr. p. 209, ll. 18-20. Mr. Wingate testified that, after reviewing the records of the case, including Mr. Walkup's deposition transcript, he had formed the following opinions in five primary areas:

1. **Quality of Sufficiency of Accountings.**

A ... what has been provided is essentially no accounting whatsoever. The fact that -- and again, I'm referring as assumed facts taken from the deposition of Mr. Walkup, that until 2007 or '8, Rita Cullum in representing Ms. Baskin, requested information that there was no accounting given. And then from that point in time until into 2018 and beyond when Mr. Weatherly began to represent Ms. Baskin and again information was asked for, there was not anything that I saw as a sufficient and accurate accounting of information until 2020. Then what was provided in 2020, according to what I saw in the October 2020 email to the Court from Ms. DuRant, was an enormous hodgepodge of information that I, and forgive my informal terminology, but in trust and estate litigation, I would refer to this as an information dump. There were bank statements, there were tax returns, there were loose ends. But to the extent that an accounting is intended, in my opinion, to represent this is the beginning asset, that this is the income, this is the growth, this is the ending balance, this is what things have been used for or spent on, this is the way I have approached the management of a trust, I do not see that the regularity or the quality of what was provided to Ms. Baskin and to the Court qualifies as an accounting per South Carolina Trust Code.

Trial Trans. p. 212, ll. 3-25 and p. 213 ll. 1-6.

2. **Self-Dealing.**

A ... First, I see that there's been reference to Ms. Baskin being living in an apartment building which Mr. Walkup or his company Walkup and Associates owns or has an ownership interest in. Secondly, I see that a substantial amount, in fact, I think the record says 60 percent currently of the assets of the trust are invested in an investment known as Equity 95, of which I believe Mr. Walkup testified that he has a majority interest. And thirdly, that there's another asset called Columbia Cash Reserve, again in which he is an owner, though the ownership percentages are unclear from the record. And all of those being entities from which he or his company is

receiving fees but for which those fees were not separately accounted and reported. So it's impossible to know what the fees have been. And therefore, to the extent that the South Carolina Trust Code says that if an asset is invested in a business or an entity or a security in which the trustee has an ownership interest, there's a presumption of conflict of interest that can be overcome with evidence of an accounting for what the various fee structures and ownerships had been, but I do not believe that those were reported. So my assumption and therefore my opinion is that the standard of avoiding conflicts of interest and avoiding self-dealing has not been observed in this instance.

Trial Trans. p. 215, ll. 6-25 and p. 216 ll. 1-11.

3. Duty of Loyalty.

Q Can you tell us whether Mr. Walkup has complied with the responsibilities that are set forth in 62-7-802?

A My opinion is that no, he has not. And the basis for that is, in addition to what I've already said, the fact that there is an opening statement in 802 that says that a trust is to be administered solely for the interests of the beneficiary. And I think a combination of the terms of the will for Eldridge Baskin which created this trust for his daughter Jane, which, in my opinion, underscore the sole benefit for Jane so much so that the remainder beneficiaries under that will are simply the people who will be the intestate heirs who then exist at the time of Jane's death, wording to that effect. And the fact -- again I'm assuming this fact from the transcript and therefore an important basis for my opinions -- that Mr. Walkup is a relative of Eldridge Baskin, first cousin once removed per the testimony, and that therefore, those remaindermen also for whom the assets remaining on hand at Jane's death would pass would also be relatives of Mr. Walkup. So pointing out Jane as the sole beneficiary, the circumstances of her life in existence to which Mr. Walkup testified with respect to her physical condition and needs, and the remainder beneficiaries being relatives of his own and the investment vehicles being vehicles of his own, I do have the opinion that the duty of loyalty has not been met.

Trial Trans. p. 217, ll. 11-25 and p. 218 ll. 1-17.

4. **Relationship of Trustee and Beneficiary.**

A Under the South Carolina Trust Code, the standard applicable to a trustee is to know the beneficiary and his or her circumstances to thoughtfully have strategy of meeting those needs financially and to do so in a way that is, my words again, "reasonable and proper and skillful." And to the extent that communication has obviously broken down, and per the testimony -- and again, I'm assuming this as a fact -- that Mr. Walkup said he had not spoken directly to Ms. Baskin in more than two years. And given the fact that there has been some verbal, if not, as alleged, physical abuse taken place at some level with respect to grabbing, to the extent that there has been a breakdown of communication, that in and of itself is an enormous impediment to a trustee being able to fulfill any fiduciary duties whatsoever.

A What appears from the record to me is that there is a disregard, disrespect for Ms. Baskin in that he testified, and therefore I assume as a fact, for example, that audited financial statements which do exist, but which were not provided to Ms. Baskin, were not provided for her to review or read because he felt that she didn't have the capacity to understand them, and therefore, to do so, would be of no benefit. So between the verbal and physical touching or whatever terminology I should use in that case, the efforts to forcibly remove her from her home which she owns outside of this trust, his effort to -- again, I'm assuming this as a fact -- take an annuity that is payable directly to her outside of the trust and to subsume it into the trust as a trust asset, and the placing her in an apartment of which he is an owner if not a majority owner, and pushing for her even then to move into a 24/7 care facility against her stated wishes, amounts to such a conflict and inability to communicate as to arise to a breakdown and failure of execution of fiduciary duty.

Trial Trans. p. 218, ll. 24-25, p. 219, ll. 1-15, p. 219, ll. 24-25, p. 220. l. 1-21.

5. **Investment Strategy.**

Q You mentioned the investment strategies employed by Mr. Walkup. Could you speak to that issue.

A Yes, I would. From his testimony, and therefore I'm assuming as a fact, that currently 60 percent of the total trust corpus is invested in that security or company called Equity 95. And according to his testimony, and therefore an assumption is, that it's stated written purpose is growth. And given the fact that Columbia Cash Reserve and the other entity which was mentioned already, the apartment, are all assets that are first of all illiquid. In fact, for Equity 95, his testimony, and therefore an assumption of fact by me, is that one can only withdraw investments from Equity 95 one time per year at the end of the year with an advance request, and then only if paying accounting charges in order to liquidate that interest. So with Equity 95, Columbia Cash Reserve and the other investments that are there, the vast majority, a minimum of 60 percent. And the way I could piece it together from the accounting information, and greater than 60 percent, substantially greater than 60 percent interest, is invested solely for growth. And therefore, the small amount of income that is generated per the tax returns averaging approximately \$14,000 per year on a portfolio with an aggregate value of reportedly at least \$575,000, that equates to a 2 percent or less income rate that is being generated, and then on assets that are risky in my opinion, don't meet the standard of liquidity and the needs of the beneficiary and therefore are improper.

Q Okay. And relate that, if you will, that strategy you've just described, relate that to the terms of the will that call for the trustee to distribute all of the net income and the discretion to distribute principal.

A Sure. This will, this testamentary trust, is as was just stated an all income - all net income and discretionary principal to be distributed to the beneficiary. My understanding from his testimony, and therefore I'm assuming it as a fact, is that Ms. Baskin is currently 74 years old and is in difficult physical condition, and therefore, it becomes part and parcel of the analysis of what level of risk is tolerable for these assets if suddenly liquidity were needed, what would be the ability to liquidate it, what is the possibility that asset values could decrease in an unusual economy as we've experienced recently. And the combination of lack of liquidity, lack of security of those investments, exposure to risk or change in value given the age and life circumstances of the beneficiary, I think do not equate to proper management of this trust by a prudent fiduciary standard applicable under South Carolina law.

Q Does it matter to you as someone who practices in this area that a will – or excuse me, a trust that requires the distribution of income, but makes discretionary the distribution of principal, does it matter to you that the investment strategy has been for growth as opposed to production of income?

A It does. Again underscored by the terminology in the will that this is a trust intended for the sole benefit of Jane -- if I may refer to her by first name for simplicity -- and the fact of her then known and still existing condition, is one that warrants a more income than growth strategy and one that warrants security over risk as a key investment strategy.

Q In summary, has William Walkup served Jane Baskin well as her trustee?

A In my opinion, no.

Trial Trans. p. 220, ll. 22-25, p. 221, ll. 1-25, p. 222, ll. 1-25 and p. 223 ll. 1-23.

SUMMARY

The deposition testimony of the Defendant, William B. Walkup, alone provides ample evidence to deny his Motion for Directed Verdict and to render verdict for the Plaintiff. Mr. Walkup admits that he has not provided regular accountings to the Plaintiff. He has provided financial information on the Trust only when Ms. Baskin hired lawyers to ask for it. This admission alone is enough for his removal under the law prior to the enactment of the South Carolina Trust Code which was essentially codified in South Carolina Code Ann. § 62-7-706 and § 62-7-813, making mandatory his duty to inform and report regularly in a manner which allows for the distributees to be "reasonably informed about the administration of the trust and the material facts for them to protect their interest." Mr. Walkup even admitted that to accomplish this requirement of § 62-7-813, the beneficiary should be provided "financial statements and annual reports" (Dep.

171/10-17). Mr. Walkup admitted that he never provided such information to Ms. Baskin, except when lawyers demanded it on her behalf (Dep. 171/18-172/14). The Court need not make any further inquiry into the Trustee's acts. He should be removed on this basis alone.

Beyond Mr. Walkup's failure to regularly account to the Plaintiff for the Trust, he has demonstrated an abject unfitness, unwillingness and persistent failure to administer the Trust effectively, allowing for his removal pursuant to South Carolina Code Ann. § 62-7-706(b)(3). Mr. Walkup testified that he has not talked to or even seen Jane Baskin, except in Court, for several years. Over his thirty-plus years as Trustee, he never made any investigation into her needs and never hired a professional to assess those needs. He has no experience in caring for someone with cerebral palsy and is not professionally qualified to assess the Plaintiff's needs (Dep. 81/24-82/25; 83/9-84/24).

Mr. Walkup recognized the Plaintiff's need for additional care even before he moved her from her home on Summerlea Drive to an apartment that he owned, yet consciously failed over the following years to provide her with that higher level of care he knew she needed (Walkup Dep. 110/8-13). Walkup has demonstrated a complete lack of respect for the Plaintiff, demonstrated by the fact that he says that a reason he did not send trust accountings to her was because he believed she could not understand them; his forceably standing Ms. Baskin up and making her go to the Jenny Lynn facility against her will; and his requiring Ms. Baskin to submit receipts for the purchase of her Depends undergarments (which he said was not demeaning at all).

Finally, while the Trustee boasts of his growing the Trust from \$175,000 to \$575,000 over the thirty years he has been in charge, this is overshadowed by the fact that he has only paid out of the Trust enough for Ms. Baskin to barely survive, refusing to provide her the care that he knew she needed. Until this Court encouraged the Temporary Settlement Agreement, Ms. Baskin was not able to buy adequate food and supplies, live in her own house, or hire adequate caregiving services. Bragging about the Trust's growth also ignores the Trustee's self-dealing and conflicts of interest. He pays himself fees for managing a Trust which invests in partnerships from which he also extracts management fees and in which he invests his own funds. He moved Ms. Baskin against her will into an apartment he owns, out of the house she preferred to live in, paying himself rent for over the last five years. And while boasting of the geometric growth of the Trust, he does not boast that it only throws off income of about two percent (2%) per year before expenses (primarily, his fees). It cannot be ignored that the terms of the Trust require him to pay all of the income of the Trust to or for the benefit of the Plaintiff. By investing in "growth" funds, rather than "income" producing investments, he maintains discretionary control over the money he doles out to the Plaintiff, protecting what is left for the remaindermen, his cousins.

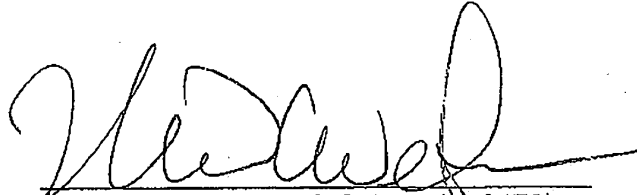
For the reasons set forth above, the Trustee should be removed.

ATTORNEYS' FEES AND COSTS

The Plaintiff also seeks the recovery of all of her attorneys' fees and costs for having to bring this action, seek an accounting and have the Trustee removed. It must be noted that every step of the way, the Trustee has fully litigated these issues, as well

as many issues not in the pleadings, despite his obvious failing as Trustee, as set forth above. Furthermore, as the Court has been made aware, Mr. Walkup has sued the Court's Special Trustee, Alex Weatherly, and Ms. Baskin's attorney-in-fact, Michele Moseley, in the Lexington County Court of Common Pleas. In that case, he alleges a "conspiracy" between the Special Trustee and Michele Moseley, the very same baseless allegation asserted in his Amended Answer and Counterclaims here. In addition, the Trustee's counsel subjected the Plaintiff, suffering from cerebral palsy, to three and one-half hours of deposition questions. She took the deposition of the Plaintiff's lawyer (now Special Trustee), Alex Weatherly, for nearly five hours. She took the deposition (videotaped) of Ms. Baskin's attorney-in-fact and caregiver, Michele Moseley, for five hours, on the theory that Ms. Moseley was unduly influencing the Plaintiff, an allegation for which no evidence whatsoever was presented at trial. The Trustee's counsel has noticed depositions and sent subpoenas to the Plaintiff's physicians, filed unnecessary Motions to Compel, filed unsubstantiated "Emergency Motions" based upon spurious anonymous allegations, and otherwise litigated this case in an effort to wear down (and out-live) the Plaintiff. As a result, the Plaintiff's legal fees have been unnecessarily high and, frankly, just unnecessary. Separately, an Affidavit of Attorneys' Fees and Costs will be submitted to the Court. It is estimated they now exceed \$100,000. Nonetheless, it is estimated that Plaintiff's fees are less than half of what the Defendant has spent in this litigation. This Court has the power to award attorneys' fees in this case and the Plaintiff

respectfully request that all of her attorneys' fees and costs be assessed to the Defendant, individually.

A handwritten signature in black ink, appearing to read 'Rick Detwiler', written over a horizontal line.

Richard C. Detwiler (S.C. Bar No. 6473)
CALLISON TIGHE & ROBINSON, LLC
P.O. Box 1390
Columbia, SC 29202
Telephone: 803-404-6900
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR PLAINTIFF.

Columbia, South Carolina

August 9, 2022

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF RICHLAND)

CASE NO. 2020-GC-40-72

FILED

Jane E. Baskin,)

Plaintiff,)

vs.)

William B. Walkup,)

Defendant.)

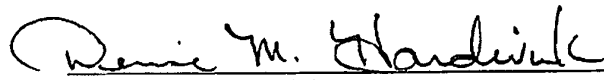
CERTIFICATE OF SERVICE

2022 AUG -9 A 11:43
CLERK OF COURT
PROBATE JUDGE
RICHLAND COUNTY, S.C.

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served a copy of **Plaintiff's Reply to Defendant's Motion for Directed Verdict** on counsel of record by causing a copy of same to be emailed to the below email addresses and placed in the United States Mail, first-class postage prepaid, addressed as follows, on August 9, 2022:

Thornwell P. Sowell, Esquire
Bess J. DuRant, Esquire
Sowell & DuRant, LLC
1325 Park Street, Suite 100
Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


Denise M. Hardwick

Columbia, South Carolina

August 9, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	
	)	Civil Action No. 2020-GC-40-72
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANT'S MOTION TO INCLUDE
	)	ACCOUNTING SUMMARY AS TRIAL
William B. Walkup	)	EXHIBIT 57
	)	
Defendant.	)	
	)	
	)	
	)	

Defendant William B. Walkup ("Defendant" or "Walkup") hereby moves for an Order to include Exhibit 57 as a trial exhibit in the above referenced matter. Exhibit 57 is a summary of the accounting of the Trust created for Jane Baskin. A copy of Exhibit 57 is attached hereto as **Exhibit A**. This summary of Walkup's accounting was sent to the Court prior to the continuation of the trial, and Baskin's counsel was aware of it before the trial. The summary of the accounting should be marked as Exhibit 57 and included in the trial record.

As a preliminary matter, Walkup is under the belief from the Court that the summary of the accounting is already in the trial record as the Court instructed him to bring a "[f]ull accounting of Trust assets" to the trial. (See email from Lori Elrod to counsel for both parties, dated June 9, 2022, attached hereto as **Exhibit B**.) To that end, counsel for Walkup sent the Court this accounting summary, copying opposing counsel, on August 4, 2022. (See email from Amy Kelly to the Honorable Amy McCulloch with attachments, dated Aug. 4, 2022, attached hereto as **Exhibit C**.) To confirm that the accounting summary was made part of the trial record, Walkup's counsel's office sent an email to the Court asking for clarification that the accounting summary

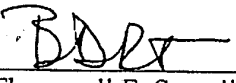
was made part of the trial record, to which the Court responded, "I have printed for the file." (See email string between Amy Kelly and Lori Elrod, dated Aug. 8, 2022, attached hereto as **Exhibit D.**)

Because of this communication from the Court and because the Court ordered the submission of this accounting summary, Walkup considers that the accounting summary is part of the trial record. For the purpose of clarity, Walkup's counsel believes this document should be marked, rather than simply being in the trial file. Consequently, Walkup asks that this Court mark the accounting summary as Exhibit 57.

Counsel for Baskin has objected to including Exhibit 57 as a trial exhibit, stating "[i]t contains a narrative that is argumentative and contains opinions, and its author is not authenticated. The plaintiff was not afforded an opportunity to cross-examine the Trustee about this exhibit and it was not introduced into evidence at trial." (See email from Rick Detwiler to the Court and counsel, dated Aug. 9, 2022.) To alleviate his concerns about the narrative and any opinions, Walkup can mark this exhibit as Defendant's Exhibit 1. Next, it is specious to claim it is not authenticated. It should be clear that the author is William Walkup as the Court instructed him to have this document for the trial. In case there is any doubt, be it known that William Walkup is the author of Exhibit 57. Finally, Baskin's counsel had every opportunity to call Walkup to cross-examine him on his accounting. Just as Walkup's counsel had every opportunity to cross-examine Alex Weatherly about the Special Trustee accountings that he has been submitting to the Court. Similarly, Mr. Weatherly's accountings are just as much a part of the trial record as Walkup's accountings. Baskin's counsel's arguments that the accounting summary that this Court instructed Walkup to submit before the trial are meritless and driving up the attorney's fees about which he complains.

Respectfully, this Court should mark and admit the accounting summary (as requested by this Court) as Exhibit 57 or Defendant's Exhibit 1.

SOWELL & DuRANT, LLC

By: 
Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street, Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for William B. Walkup

Columbia, South Carolina
August 10, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	Plaintiff,
vs.	)	
	)	
William B. Walkup,	)	
	)	
	)	Defendant.
	)	

EXHIBIT A

**DEFENDANT'S MOTION TO INCLUDE ACCOUNTING
SUMMARY AS TRIAL EXHIBIT 57**

Proposed Exhibit 57

EXHIBIT57

CURRENT VALUES 7/31/22	COST	VALUE	LONG TERM GAIN	TAX
COST FOR ETRADE	\$78,903.35	\$372,133.73		27.8%
COST FOR E-95	\$34,374.00	\$147,817.00		
TOTALS	\$113,277.35	\$519,950.73	\$406,673.38	\$113,055.20
TOTAL ASSETS	\$531,723.80			
TOTAL DEBT	(\$134,036.00)			
NET ASSETS	\$397,687.80			

The figures above show that out of the total current values of assets of \$519,950.73 there are gains of \$406,673.38 and these assets will have to be sold to fund the trust distributions to Jane and to pay down debt and to pay the taxes of \$113,055. Sales will have to occur ahead of the needs to insure that debts are properly collateralized.

The calculations of the # of months the funds will last do not take into account the high rate of inflation we are experiencing

ELDRIDGE BASKIN TR 7/31/22

ETRADE ACCT	\$369,848.00 NET OF DEBT OF \$2285.73
EQUITY 95	\$147,817.00
LOAN ACCT	(\$134,036.00)
WELLS FARGO	\$5,838.17
COLUMBIA CASH RESERVES	\$8,220.63
TOTAL ASSETS	\$397,687.80
CALLISON VALUES UNKNOWN	
FINAL NET	\$397,687.80

NOTE - WE HAVE REQUESTED AN UPDATE OF THE CALLISON TRUST BUT HAVE BEEN TOLD IT HAS NOT BEEN COMPLETED AND THE LAST REPORT WE RECEIVED WAS FOR APRIL 2022

NOTE THAT THE ASSETS ARE GOING TO HAVE TO BE SOLD IN BATCHES TO PAY DOWN THE DEBT AND PAY EXPENSES. AND THAT WILL CAUSE LARGE TAX BILLS FOR THE TRUST OF APPROXIMATELY \$110,000 OVER THE NEXT 30 MONTHS. (\$3670 / MO) WITH 24/7 CARE AT HOME AND A TOTAL BUDGET OF \$12332 PER MO AND TAXES OF \$3670/ MO THE EXPENSES TOTAL \$15,900/MO. INVESTING THE FUNDS AT 3% THE FUNDS WILL LAST 26 MONTHS. AT A NURSING FACILITY WITH \$9000/ MO EXP THE FUNDS WOULD LAST 47 MONTHS

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	
	)	
Plaintiff,	)	
vs.	)	
	)	
William B. Walkup,	)	
	)	
	)	
Defendant.	)	
_____	)	

EXHIBIT B

**DEFENDANT'S MOTION TO INCLUDE ACCOUNTING
SUMMARY AS TRIAL EXHIBIT 57**

Email from Lori Elrod to counsel for both parties, dated June 9, 2022

Amy Kelly

From: Lori Elrod <Elrod.Lori@richlandcountysc.gov>
Sent: Thursday, June 9, 2022 4:09 PM
To: Biff Sowell; Amy Kelly; Alex Weatherly; Bess DuRant; Dee Hardwick; 'Rick Detwiler'
Subject: Trust of Jane Baskin 2020-GC-40-00072

Dear All,

In preparation for the hearing next week, please be advised that the following will need to be brought to the hearing:

- Conclusive list of remainder beneficiaries to the Trust for finality;
- Full accounting of Trust assets to include the rental income and all investment accounts with all supporting documentation, and
- Any witnesses that participated in the preparation of the accounting or investing so they can answer any questions that the Court or other parties have to the investing.

Lori Elrod
Clerk of Probate
Richland County Probate Court
P.O. Box 192
Columbia SC 29202
www.richlandcountysc.gov/probate

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	Plaintiff,
vs.	)	
	)	
William B. Walkup,	)	
	)	
	)	Defendant.
	)	

EXHIBIT C

**DEFENDANT'S MOTION TO INCLUDE ACCOUNTING
SUMMARY AS TRIAL EXHIBIT 57**

*Email from Amy Kelly to the Honorable Amy McCulloch with
attachments, dated August 4, 2022*

Amy Kelly

From: Amy Kelly
Sent: Thursday, August 4, 2022 12:55 PM
To: AMY MCCULLOCH
Cc: Lori Elrod; Rick Detwiler; Dee Hardwick; Alex Weatherly; Bess DuRant; Biff Sowell
Subject: RE: Baskin v. Walkup Case No. 2020-GC-40-72 Status Report
Attachments: 8-4-2022 Letter to Judge McCulloch sending Summary of Trust Assets as of 7-31-2022.pdf; Summary of Trust Assets as of 7-31-2022.pdf

Judge McCulloch,

Attached is a letter from Biff Sowell and the summary of the financials referenced in the letter.

Thank you,
Amy Kelly

Amy A. Kelly
Director of Administration/Paralegal, SOWELL + DuRANT

1325 Park Street, Suite 100
Columbia, SC 29201

803.722.1100 | sowelldurant.com

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SOWELL + DURANT

August 4, 2022

VIA EMAIL: MCCULLOCH.AMY@richlandcountysc.gov

The Honorable Amy McCulloch
Richland County Probate Judge
Richland County Judicial Center
1701 Main Street
2nd Floor, Suite 207
Columbia, SC 29201

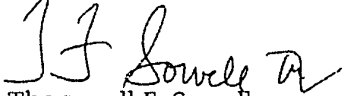
Re: Jane E. Baskin v. William B. Walkup
Probate Case No. 2020-GC-40-72
Our File: 8050/1501

Dear Judge McCulloch,

Attached to this email is a current summary of the Trust assets as of July 31, 2022. We have copied Mr. Detwiler and Mr. Weatherly on the email forwarding same.

Thank you for your consideration.

Very truly yours,


Thornwell F. Sowell

TFS:aak

Enclosure

cc: Rick Detwiler, Esquire (via email)
Alex Weatherly, Esquire (via email)
Lori Elrod (via email)

THORNWELL F. SOWELL

Member

sowellldurant.com

803.722.1100



a South Carolina Limited Liability Company

803-722-1101 (direct)

bsowell@sowellldurant.com

1325 Park Street, Suite 100

Columbia SC 29201

CURRENT VALUES 7/31/22	COST	VALUE	LONG TERM GAIN	TAX
COST FOR ETRADE	\$78,903.35	\$372,133.73		27.8%
COST FOR E-95	\$34,374.00	\$147,817.00		
TOTALS	\$113,277.35	\$519,950.73	\$406,673.38	\$113,055.20
TOTAL ASSETS	\$531,723.80			
TOTAL DEBT	(\$134,036.00)			
NET ASSETS	\$397,687.80			

The figures above show that out of the total current values of assets of \$519,950.73 there are gains of \$406,673.38 and these assets will have to be sold to fund the trust distributions to Jane and to pay down debt and to pay the taxes of \$113,055. Sales will have to occur ahead of the needs to insure that debts are properly collateralized.

The calculations of the # of months the funds will last do not take into account the high rate of inflation we are experiencing

ELDRIDGE BASKIN TR 7/31/22

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LOAN ACCT	(\$134,036.00)
WELLS FARGO	\$5,838.17
COLUMBIA CASH RESERVES	\$8,220.63
TOTAL ASSETS	\$397,687.80
CALLISON VALUES UNKNOWN	
FINAL NET	\$397,687.80

NOTE- WE HAVE REQUESTED AN UPDATE OF THE CALLISON TRUST BUT HAVE BEEN TOLD IT HAS NOT BEEN COMPLETED AND THE LAST REPORT WE RECEIVED WAS FOR APRIL 2022

NOTE THAT THE ASSETS ARE GOING TO HAVE TO BE SOLD IN BATCHES TO PAY DOWN THE DEBT AND PAY EXPENSES. AND THAT WILL CAUSE LARGE TAX BILLS FOR THE TRUST OF APPROXIMATELY \$110,000 OVER THE NEXT 30 MONTHS. (\$3670 / MO) WITH 24/7 CARE AT HOME AND A TOTAL BUDGET OF \$12332 PER MO AND TAXES OF \$3670/ MO THE EXPENSES TOTAL \$15,300/MO. INVESTING THE FUNDS AT 3% THE FUNDS WILL LAST 26 MONTHS AT A NURSING FACILITY WITH \$9000/ MO EXP THE FUNDS WOULD LAST 47 MONTHS

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO.: 2020-GC-40-72
Jane E. Baskin,	)	
	)	
	)	Plaintiff,
vs.	)	
	)	
William B. Walkup,	)	
	)	
	)	Defendant.
	)	

EXHIBIT D

**DEFENDANT'S MOTION TO INCLUDE ACCOUNTING
SUMMARY AS TRIAL EXHIBIT 57**

Email string Amy Kelly between Lori Elrod dated Aug. 8, 2022

Amy Kelly

From: Lori Elrod <Elrod.Lori@richlandcountysc.gov>
Sent: Monday, August 8, 2022 3:19 PM
To: Amy Kelly
Cc: Rick Detwiler; Dee Hardwick; Bess DuRant; Biff Sowell
Subject: RE: Baskin v. Walkup Case No. 2020-GC-40-72 Status Report

I have printed for the file

From: Amy Kelly <akelly@sowelldurant.com>
Sent: Monday, August 8, 2022 11:57 AM
To: Lori Elrod <Elrod.Lori@richlandcountysc.gov>
Cc: Rick Detwiler <rickdetwiler@callisontighe.com>; Dee Hardwick <deehardwick@callisontighe.com>; Bess DuRant <bdurant@sowelldurant.com>; Biff Sowell <bsowell@sowelldurant.com>
Subject: FW: Baskin v. Walkup Case No. 2020-GC-40-72 Status Report

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ms. Elrod,

Please advise if these accounting are part of the trial record. If not, we want to supplement the trial record to include them as part of that record.

Thanks
Amy

Amy A. Kelly
Director of Administration/Paralegal, SOWELL + DuRANT

1325 Park Street, Suite 100
Columbia, SC 29201

803.722.1100 | sowelldurant.com

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From: Amy Kelly
Sent: Thursday, August 4, 2022 12:55 PM
To: AMY MCCULLOCH <MCCULLOCH.AMY@richlandcountysc.gov>
Cc: Lori Elrod <Elrod.Lori@richlandcountysc.gov>; Rick Detwiler <rickdetwiler@callisontighe.com>; Dee Hardwick <deehardwick@callisontighe.com>; Alex Weatherly <alexweatherly@callisontighe.com>; Bess DuRant <bdurant@sowelldurant.com>; Biff Sowell <bsowell@sowelldurant.com>
Subject: RE: Baskin v. Walkup Case No. 2020-GC-40-72 Status Report

Judge McCulloch,

Attached is a letter from Biff Sowell and the summary of the financials referenced in the letter.

Thank you,
Amy Kelly

Amy A. Kelly
Director of Administration/Paralegal, SOWELL + DuRANT

1325 Park Street, Suite 100
Columbia, SC 29201

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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
William B. Walkup,	)	
	)	
Defendant.	)	
	)	

**REPLY TO DEFENDANT'S
MOTION TO INCLUDE ACCOUNTING
SUMMARY AS TRIAL EXHIBIT 57**

Plaintiff, in reply to the Defendant' Motion referenced above, would show as follows:

1. On Thursday, June 9, 2022, two months prior to trial, the Court requested, among other things, a "full accounting of trust assets to include the rental income and all investment accounts with all supporting documentation" See, Email from Lori Elrod, June 9, 2022.
2. In the afternoon of August 4, 2022, the day prior to trial, the Defendant sent proposed Exhibit 57. At trial, proposed Exhibit 57 was not authenticated or proffered through the testimony of any witness. It is neither dated nor signed.
3. Proposed Exhibit 57 does not provide the information specifically requested by the Court. It does not include the information on rental income and it does not provide any supporting documentation, as requested by the Court.
4. Furthermore, proposed Exhibit 57 contains entries never before seen in prior reports, such as a reference to a tax liability of \$113,055.20, without informing the reader as to whether this is state or federal tax obligation, or both; whether the tax is

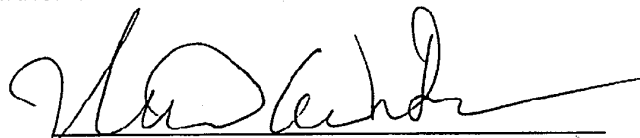
contingent or now currently due; when the tax is due; or if this is just a projection of possible taxes if certain assets are liquidated.

5. Proposed Exhibit 57 also includes narratives which the Court is asked to presume to be true, without any potential for cross-examination by the Plaintiff.

6. The Defendant suggests that Plaintiff's counsel could have called Mr. Walkup to cross-examine him about this proposed exhibit. However, it was the Defendant's responsibility to introduce the exhibit properly in his case in chief. Plaintiff's counsel made clear at trial that the Exhibit was not accepted as admissible. The Defendant cannot shift this burden to the Plaintiff.

7. To the extent that the Court accepts proposed Exhibit 57 into evidence as a trial exhibit, it should recognize and duly note the exhibit's inherent deficiencies, consistent with all of the other reports and "accountings" previously submitted by the Trustee, and therefore should accept it only as evidence of the Trustee's continuing failure to provide proper accountings to the Plaintiff and, now, to this Court.

For the foregoing reasons, proposed Exhibit 57 should be excluded as evidence. If admitted, it should be viewed as further evidence of the Defendant's failure to account to the Plaintiff and the Court.



Richard C. Detwiler (S.C. Bar No. 6473)
CALLISON TIGHE & ROBINSON, LLC
P.O. Box 1390
Columbia, SC 29202
Telephone: 803-404-6900
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR PLAINTIFF

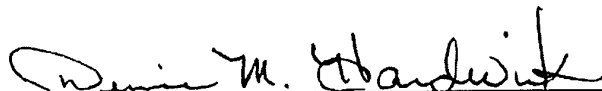
Columbia, South Carolina
August 9, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
William B. Walkup,	)	
	)	
Defendant.	)	
_____	)	

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served a copy of **Plaintiff's Reply to Defendant's Motion to Include Accounting Summary as Trial Exhibit 57** on counsel of record by causing a copy of same to be emailed to the below email addresses and placed in the United States Mail, first-class postage prepaid, addressed as follows, on August 10, 2022:

Thornwell P. Sowell, Esquire
 Bess J. DuRant, Esquire
 Sowell & DuRant, LLC
 1325 Park Street, Suite 100
 Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


 Denise M. Hardwick

Columbia, South Carolina

August 10, 2022

STATE OF SOUTH CAROLINA

) IN THE PROBATE COURT

COUNTY OF RICHLAND

) CASE NO.: 2020-GC-40-72

Jane E. Baskin,

)
)
) Plaintiff.)
)

vs.

William B. Walkup,

)
)
) Defendant.)
)

**AFFIDAVIT OF
WILLIAM B. WALKUP**

PERSONALLY APPEARED BEFORE ME, William B. Walkup, who being sworn
deposes and states:

1. I am William B. Walkup, and I am the defendant in this matter. I am Trustee of the Eldridge Baskin Trust ("Trust"), for which Jane Baskin is the beneficiary. I am competent to testify to the matters stated herein.

2. Counsel for Ms. Baskin went to great lengths to try to make the case that I improperly invested in growth rather than income. He referred to Mr. Wingate's testimony that criticized my investment methods. The reality is that if I had used Mr. Wingate's methods the Trust funds would have been exhausted years back. Here are the facts that show that their statements are off base and filled with incorrect information.

3. I started with \$130,000 and a rundown rental house. Over these years I have spent all of the approximately \$430,000 of income on Jane's needs and her house. I have also spent approximately \$430,000 of principal on Jane's needs. I still have \$407,000 of unrealized long term capital gains (principal) in the assets. So if you add the \$175,000 to the \$860,000 and then add the current value of \$397,000 you come to a total of \$1,432,000. I also produced for Jane approximately \$230,000, so far, by fighting a 6 month battle with Washington to get her an annuity

that she would not have gotten. It has given her Medicare and cash. In 2021 it gave her \$7,716 of benefits. That brings the total to \$1,662,000. The true statement Weatherly made in one of his letters in 2018 was " Mr. Walkup has done an outstanding job of managing the money." And keep in mind that the Trust will have to pay about \$113,000 of taxes on the \$407,000 and we will have to continue to sell those assets and pay taxes and payoff the debt while meeting Jane's expenses. And with the latest proposed expenses on the house to make it handicap accessible the funds will now last an estimated 33 months. And that does not account for inflation or worsening physical and medical needs for Jane. And it assumes Ms. Spires and her dog will continue to live there and be there every hour of every night without pay for the rest of Jane's time before the funds run out. The net assets are about \$397,000 after deducting the debt. Now these lawyers and Ms. Moseley are proposing spending another \$15,000 on the house, which is not a trust asset, because it is not handicap accessible. And the house has been willed to Ms. Moseley and we know who is doing all the work on the house like the renovations of 2020 and 2021, Ms. Moseley's brother and husband.

4. The money is going to run out because Jane's life expectancy is far beyond that of the funds.

FURTHER HE SAYETH NOT.

William B. Walkup
William B. Walkup

Sworn this 12th day of August, 2022

Amy A. Kelly
Printed Name: Amy A. Kelly
Notary Public for State of South Carolina
My Commission Expires: May 27, 2024

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	RETURN TO LATE-FILED
	)	AFFIDAVIT OF WILLIAM B. WALKUP
William B. Walkup,	)	
	)	
Defendant.	)	
_____	)	

This is a Return to the late-filed Affidavit of William B. Walkup, submitted on August 12, 2022 "as a supplement to the record in this case." The record is closed and no further supplements to the record should be allowed. However, Mr. Walkup's Affidavit exposes a central fallacy in his position.

The Trustee asserts that his duty requires that the funds in the Eldridge Baskin Trust be made to last until Ms. Baskin's last dying breath. There are only three possible outcomes to this position. First, the last penny of the Trust is spent on the day Ms. Baskin passes away, an outcome that is not likely. Second, there are funds left in the Trust at Ms. Baskin's passing, which would mean that a portion of the Trust was not used for her benefit (that remaining amount being unknowable) and Mr. Walkup's cousins become the windfall beneficiaries.

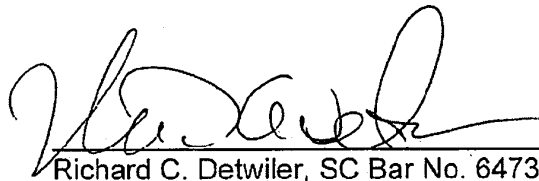
The third potential outcome is the acceptance of the fact that we are mere human, and not God. We do not know what the future holds. Should the Trust funds be strung out to last twelve months? or thirty-six months? seventy-two months? or longer? Ms. Baskin may or may not outlive the funds in the Trust set up by her father solely for her benefit. Yet, the Trustee has presented no

evidence, and it is clear that he has made no effort to determine what conditions Ms. Baskin would have to live under if the funds did run out before her passing. Operating with those blinders on, the Trustee's goal is to force Ms. Baskin to live under conditions that are, in fact, no better than, and perhaps worse than, the conditions she would have to live under if she were a Medicaid recipient. This is a goal fabricated by the Trustee, not found anywhere in the Trust's directives. The Trustee cannot proclaim that he has the arbitrary duty to make the Trust assets last long enough to assure that Ms. Baskin never has to go on Medicaid and, then, in order to accomplish that result, deprive Ms. Baskin of a meaningful lifestyle, in her own home with her beloved dog, "Lambchop." Would this not be living under conditions that are in fact worse than the conditions she would have to live under if she were already on Medicaid?

The position advanced by the Trustee in his "supplemental" Affidavit is fundamentally flawed. Ms. Baskin does not live lavishly, nor does she now seek to do so. She merely wants to live in the comfort of her home, in peace. If the funds do not outlive her, she will still have her modest income, her house, and whatever Medicaid and other benefits that might then be available to her. In the meantime, she has forestalled being forced into an institutional setting by the Trustee in pursuit of a goal with an uncertain outcome.

For these reasons, and those demonstrated by the evidence at trial, the Trustee should be removed.

[SIGNATURE ON FOLLOWING PAGE]



Richard C. Detwiler, SC Bar No. 6473
CALLISON TIGHE & ROBINSON, LLC
P.O. Box 1390
Columbia SC 29202-1390
Telephone: 803-404-6900
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

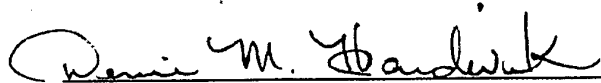
August 15, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
William B. Walkup,	)	
	)	
Defendant.	)	
	)	

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served a copy of **Plaintiff's Return to Late-Filed Affidavit of William B. Walkup** on counsel of record by causing a copy of same to be emailed to the below email addresses and placed in the United States Mail, first-class postage prepaid, addressed as follows, on August 15, 2022:

Thornwell P. Sowell, Esquire
 Bess J. DuRant, Esquire
 Sowell & DuRant, LLC
 1325 Park Street, Suite 100
 Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


 Denise M. Hardwick

Columbia, South Carolina

August 15, 2022

IN THE COURT OF PROBATE COURT

Civil Action No. 2020-GC-40-72

**PETITION IN SUPPORT OF AWARD
OF ATTORNEY'S FEES AND
REIMBURSEMENT OF EXPENSES**

SOWELL & DuRANT, LLC

By:

Thornwell F. Sowell III, SC Bar No. 5197
Bess J. DuRant, SC Bar No. 77920
1325 Park Street Suite 100
Columbia, South Carolina 29201
(803) 722-1100
bsowell@sowelldurant.com
bdurant@sowelldurant.com

Attorneys for Defendant William B. Walkup

637

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF RICHLAND) CASE NO.: 2020-GC-40-72

Jane E. Baskin,

Plaintiff,

vs.

William B. Walkup,

Defendant.

CERTIFICATE OF SERVICE

I, the undersigned paralegal of the law offices of Sowell & DuRant, LLC, attorneys for *Defendant William B. Walkup*, do hereby certify that I have served all counsel in this action with a copy of the documents specified below by emailing a copy of the same to the following addresses:

Documents: Defendant's Petition in Support of Attorney's Fees and Reimbursement of Expenses

Counsel Served: Richard C. Detwiler, Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Attorneys for Plaintiff

W. Alex Weatherly, Jr., Esquire
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, SC 29202-1390
Special Trustee for Jane E. Baskin


Amy A. Kelly

August 19, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Petitioner,	)	REPLY TO DEFENDANT'S
	)	MEMORANDUM IN OPPOSITION TO
vs.	)	MOTION FOR ORDER AND
	)	RULE TO SHOW CAUSE
William B. Walkup,	)	OR
	)	IN THE ALTERNATIVE,
Respondent.	)	MOTION TO ENFORCE SETTLEMENT,
	)	AND FOR SANCTIONS

In his Memorandum in Opposition, Defendant asserts that the Complaint he filed in the Court of Common Pleas of Lexington County, in his capacity as Trustee of the Eldridge Baskin Trust, is unrelated to this action pending before the Probate Court. Attached as **Exhibit A** is the letter from Mr. Walkup's lawyer in the Lexington County case, Jake Moore, dated April 13, 2022, in which he references the Probate Court litigation throughout while threatening to bring the suit he ultimately filed. In that letter, Mr. Moore proposed as follows:

I believe Mr. Walkup is willing to resign as trustee so long as Mr. Weatherly and Ms. Mosely resign their positions with Ms. Baskin. I would propose that an independent third party selected by the Probate Court or selected by the parties be appointed as an irrevocable guardian and conservator. This individual or entity would handle all money matters as well as physical needs until such arrangement is modified by the Probate Court.

So, Mr. Walkup proposed to enter into an agreement, without Jane Baskin's input, to dramatically and "irrevocably" alter Ms. Baskin's rights in the Trust, her rights to choose her own agents, and her rights to control her own person.

Mr. Moore goes on to acknowledge the significant fees which have been incurred by both sides in the Probate Court litigation and states, "if the parties were paid their fees, I believe the amounts paid would eat up what remains in the Trust." Mr. Moore concludes with the following:

If the present Probate litigation and appeals continue and if the additional actions I am contemplating take place, it appears that litigation will go on for quite some while and the costs have the potential to become enormous to everyone."

In other words, with this not-so-veiled threat to bankrupt everyone involved with the cost of litigation, the Defendant's sole purpose is to effect an outcome in the Probate Court litigation.

Shortly thereafter, the Defendant made good on this threat and filed the Lexington County suit in his effort to influence the result of this Probate Court litigation, in violation of the stay. In his suit, he alleges vaguely that Mr. Weatherly and Ms. Moseley have conspired to unduly influence Ms. Baskin to initiate the Probate Court litigation and to modify Ms. Baskin's will and Power of Attorney. This is exactly the same allegation made in this litigation. A review of Mr. Walkup's "Supplemental and/or Second Amended Answer and Counterclaims," filed on the eve of trial, reflects the following amendment:

FOR A NINTH DEFENSE

32. Defendant pleads that Jane Baskin is being unduly influenced by Michele Moseley and others for the specific purpose of injuring the trust and Defendant. Upon information and belief, Jane Baskin brought the current lawsuit because of the undue influence imposed upon her by Michele Moseley and others for the specific purpose in injuring the trust and Defendant.

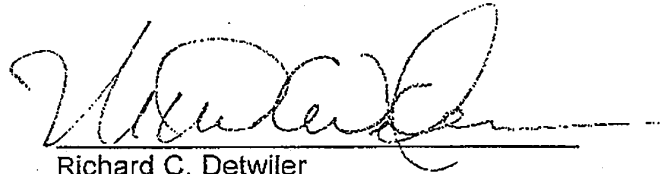
To suggest that the Lexington County lawsuit does not arise out of the same transaction and occurrences, is not intended to influence the matters pending before this Court, and is not essentially the same case as that which is currently pending here is disingenuous. Mr. Walkup has violated the stay and should be sanctioned.

In his Memorandum in Opposition, Mr. Walkup also asserts that “if Walkup’s Complaint is ‘specious’ and ‘demonstrably false,’ both Moseley and Weatherly should file a Motion to Dismiss in the Circuit Court. Attached as **Exhibit B** is exactly that Motion filed on July 26, 2022, pursuant to Rules 12(b)(1), 12(b)(3), 12(b)(6), 12(b)(7), and 12(b)(8). Indeed, as can be seen by the Motion to Dismiss, Mr. Walkup’s Lexington County lawsuit is specious, demonstrably false, and procedurally improper.

This Court heard the remainder of the Defendant’s case on August 5, 2022. He presented no evidence – none – of any “undue influence” of Ms. Baskin. In fact, the Court’s Guardian *ad litem* specifically testified as to the opposite – that Ms. Baskin is a strong-willed woman with a mind of her own. The Guardian testified that she saw no evidence of undue influence. The Plaintiff respectfully requests that this Court specifically address this allegation in its forthcoming order.

For the reasons set forth in the Plaintiff’s Motion and the response hereinabove, this Court should enforce its prior Order and Mr. Walkup should be sanctioned for violating the stay.

[SIGNATURE ON FOLLOWING PAGE]



Richard C. Detwiler
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Facsimile: (803) 404-6901
ATTORNEYS FOR PLAINTIFF

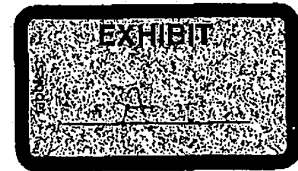
Columbia, South Carolina

August 19, 2022



S. Jahue Moore*
James Edward Bradley†
Sheila McNair Robinson
Christian G. Spradley
William H. Edwards
Stanley L. Myers
Jane H. Downey*
S. Jahue Moore, Jr.
William B. Fortino
Ralph Nichols Riley, Jr.
John C. Bradley, Jr.

April 13, 2022



Melissa K. Moore
Lester McGill Bell, Jr.
Bryan C. Lettner
Sierra D. Carlin
Lawrence D. Turner
Brendan J. Green

Retired
J. Mark Taylor**
Robert D. Hazel†
C. David Sawyer, Jr.†
Billy C. Coleman (1916-2019)

BOTH VIA E-MAIL: alexweatherly@callisontighe.com/michele@mdmoseley.com

W. Alex Weatherly, Jr.
Callison Tighe & Robinson, LLC
P.O. Box 1390
Columbia, SC 29202-1390

Michele Mosely
1417 Red Sunset Ln
Blythewood, SC 29016

RE: Bill Walkup

Dear All:

I have been hired by Bill Walkup to look into ancillary matters related to the present litigation in Richland County. I am seriously concerned about some of what I have seen.

It appears to me Jane Baskin is a vulnerable elderly adult. Certainly you know the law regarding vulnerable adults. It also appears there are serious questions as to the revocation of a power of attorney; the preparation of a new power of attorney; preparation of wills; the existence and payment of money from trust funds; and the provisions of appropriate care.

Looking into the matter, the issues appear serious and voluminous. I did not want to start with ancillary legal action without providing an opportunity to speak with everyone regarding the possibility of providing a resolution to this matter.

I believe Mr. Walkup is willing to resign as trustee so long as Mr. Weatherly and Ms. Mosely resign their positions with Ms. Baskin. I would propose that an independent third party selected by the Probate Court or selected by the parties be appointed as an irrevocable guardian and conservator. This individual or entity would handle all money matters as well as physical needs until such arrangement is modified by the Probate Court.

I understand there has been significant fees incurred by both sides. If the parties were paid their fees, I believe the amounts paid would eat up what remains in the trust. Consuming the trust

1700 Sunset Boulevard, West Columbia SC 29169 | PO Box 5709, West Columbia SC 29171

TEL 803.796.9160 FAX 803.791.8410 www.mbmllawsc.com

*Member of American Board of Trial Advocates *Fellow of the American Academy of Matrimonial Lawyers. *Certified Specialist in Bankruptcy & Debtor/Creditor Law *Retired

2 | Page

W. Alex Weatherly, Jr.

Michele Mosely

RE: Bill Walkup

April 11, 2022

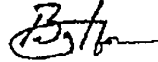
with attorney's fees simply doesn't make sense.

I would propose the parties find a mediator in this matter.

I would appreciate your reviewing the content of this letter and contacting me so that we might sit down together and possibly reach some kind of rational accord. If the present Probate litigation and appeals continue and if the additional actions I am contemplating take place, it appears that litigation will go on for quite some while and the costs have the potential to become enormous to everyone.

Please let me hear from you at your convenience.

Yours very truly,

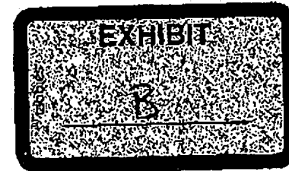


S. Jahue Moore

SJM/arj

cc: Bill Walkup *via e-mail*

Biff Sowell *via e-mail*



ELECTRONICALLY FILED - 2022 Jul 26 4:48 PM - LEXINGTON - COMMON PLEAS - CASE#2022CP3202073

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
	)	
William B. Walkup, Individually and	)	CASE NO.: 2022-CP-32-02073
As Trustee of the Eldridge Baskin	)	
Testamentary Trust,	)	
	)	
Plaintiff,	)	MOTION TO DISMISS
	)	PURSUANT TO RULE 12(b)
vs.	)	
	)	
W. Alex Weatherly and	)	
Michele Moseley,	)	
	)	
Defendants.	)	

PLEASE TAKE NOTICE that the undersigned counsel for the Defendants will, on the tenth (10th) day from the day hereof, or as soon as counsel may be heard, move before this Honorable Court for an order dismissing the Complaint in this matter or on one or more of the following grounds.

1. **Rule 12(b)(1) - Lack of Jurisdiction over the subject matter:**

The Plaintiff asserts his claims "as Trustee of the Eldridge Baskin Testamentary Trust." The claims asserted in the Complaint involve, either directly or indirectly, the administration of the Eldridge Baskin Testamentary Trust. See, ¶¶ 4, 5 and 7 of the Complaint. The beneficiary of the Trust is Jane E. Baskin. Ms. Moseley is her attorney-in-fact and a caregiver. The administration of a trust is a matter within the exclusive jurisdiction of the Probate Court. See, S.C. Code Ann. § 62-1-302 and 62-7-201. The administration of the Trust is currently a matter pending before the Probate Court in Richland County. See, *Jane E. Baskin vs. William B. Walkup*, Case No. 2020-GC-40-0072. The Defendant Weatherly is now the Special Trustee of the Trust,

appointed by the Probate Court in Richland County, South Carolina. Plaintiff asserts that the Defendants "commenced a scheme . . . to disturb the effective administration of the Trust . . ." Complaint ¶7. The Plaintiff in this action is the Defendant/Respondent in the Probate Court action. Jurisdiction lies within the Probate Court. This Court has no jurisdiction over this matter.

2. Rule 12(b)(3) – Improper Venue:

This case involves the administration of the Eldridge Baskin Testamentary Trust, currently the subject of litigation in Richland County. The Trust emanates from the Last Will and Testament of Eldridge Baskin, which Will was probated in Richland County. The beneficiary of that Trust is Jane E. Baskin, a resident of Richland County. Defendant Weatherly is the duly appointed Special Administrator for the Eldridge Baskin Testamentary Trust in Richland County, subject to the oversight of the Richland County Probate Court. Mr. Weatherly is a lawyer who practices in Richland County. The only connection with Lexington County is the fact that Mr. Weatherly resides in Lexington County. Mr. Weatherly waives any right to have this matter heard in Lexington County. Venue properly lies in Richland County. As noted above, subject matter jurisdiction lies in the Richland County Probate Court.

3. Rule 12(b)(6) – Failure to State Facts Sufficient to Constitute a Cause of Action.

Plaintiff brings this action "individually and as Trustee of the Eldridge Baskin Testamentary Trust." He alleges a "campaign of undue influence" to have Jane Baskin change her Will and her Power of Attorney, claims which the Plaintiff has no standing to bring.

He claims that this "campaign and conspiracy" by the Defendants "gravitated into an action in Probate Court commenced on July 20, 2020 to remove Plaintiff as Trustee" Complaint, ¶10. Of course, being named a Defendant in that suit does not give rise to a cause of action.

He alleges that "Moseley has manipulated funds from the Eldridge Baskin Testamentary Trust . . ." (Complaint, ¶11), an allegation that has never been made in the Probate Court action but one which has a place only in the Probate Court.

He alleges that the Defendants "have maligned and slandered the good name of the Plaintiff both individual (sic) and in his capacity as Trustee" (Complaint, ¶15), yet he provides no specific facts of such defamation: He does not state what was said, to whom it was said, when it was said, or how it harmed him. To state a valid defamation claim, Plaintiff must plead facts with specificity to support each of the following elements: (1) a false and defamatory statement; (2) the unprivileged statement was published to a third party; (3) the publisher was at fault; and (4) either the statement was actionable irrespective of harm or the publication of the statement caused special harm. *Fleming v. Rose*, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). That is, Plaintiff must plead facts with specificity establishing what the alleged false statements were, who made the statements, whether the statements were unprivileged, and to whom the alleged defamatory statements were published. *McNeil v. S.C. Dep't. of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (Ct. App. 2013).

He alleges that there has been a wrongful interference with the contractual relationship, *i.e.*, his ability to make money as the Trustee of the Eldridge Baskin

Testamentary Trust (Complaint, ¶22), yet he fails to mention that the Probate Court has relieved him of most of his duties as Trustee, but not restricted his compensation.

There are no facts alleged in the Plaintiff's Complaint which constitute a cause of action actionable in this matter.

4. Rule 12(b)(7) - Failure to Join a Party under Rule 19.

The Plaintiff asserts claims with respect to Jane E. Baskin, in her personal capacity and as the sole beneficiary of the Eldridge Baskin Testamentary Trust. Without explaining his standing to do so, Plaintiff asserts that the Defendants have engaged in "a campaign of undue influence to take advantage of Jane Baskin, who is a vulnerable adult . . ." (Complaint, ¶9), yet Ms. Baskin is not a party to this action. Plaintiff complains Defendant Weatherly "made Defendant Moseley the Power of Attorney for Jane Baskin . . ." and "amended the Jane Baskin Will to leave Ms. Baskin's house . . . to Moseley," but Plaintiff fails to explain how he has a right to bring such a claim, especially without Ms. Baskin as a party. Such allegations cannot amount to a cause of action which can even be asserted by Plaintiff but, even if they did, they cannot be asserted without Jane Baskin being made a party to this case.

5. Rule 12(b)(8) - Another action is pending between the same parties for the same claim.

The Complaint correctly alleges there is currently an action pending in the Probate Court of Richland County, commenced on July 20, 2020, to remove the Plaintiff as the Trustee of the Eldridge Baskin Testamentary Trust. Complaint, ¶10. See, Jane E. Baskin vs. William B. Walkup, Case No. 2020-GC-40-0072. As a result of that litigation, the Plaintiff's authority as the Trustee of the Eldridge Baskin Testamentary Trust has been substantially limited, and W. Alex Weatherly, Jr., the Defendant here, was appointed

Special Trustee by Agreement of the parties, and affirmed by subsequent Order of the Richland County Probate Court. This action now brought by the Plaintiff complains that the Defendants here "commenced a scheme . . . to disturb the effective administration of the Trust . . ." Complaint, ¶17. The "effective administration of the Trust" is precisely the issue currently pending in the Probate Court. Furthermore, there is a Motion pending in the Probate Court to enforce that Court's Order staying all further litigation relating to the Eldridge Baskin Testamentary Trust, specifically actions such as this one.

NOW, THEREFORE, based upon the foregoing, this case should be dismissed pursuant to Rule 12(b)(1), (3), (6), (7) or (8).

s/Richard C. Detwiler

Richard C. Detwiler (S.C. Bar No. 6473)
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Facsimile: (803) 404-6902
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina

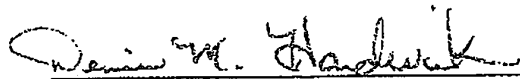
July 26, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
	)	
Jane E. Baskin,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CERTIFICATE OF SERVICE
	)	
William B. Walkup,	)	
	)	
Defendant.	)	
_____	)	

I, Denise M. Hardwick, an employee of Callison Tighe & Robinson LLC, Attorneys for the Plaintiff, do hereby certify that I served a copy of **Plaintiff's Reply to Defendant's Memorandum in Opposition to Motion for Order and Rule to Show Cause or In the Alternative, Motion to Enforce Settlement, and For Sanctions** on counsel of record by causing a copy of same to be emailed to the below email addresses and placed in the United States Mail, first-class postage prepaid, addressed as follows, on August 19, 2022:

Thornwell P. Sowell, Esquire
 Bess J. DuRant, Esquire
 Sowell & DuRant, LLC
 1325 Park Street, Suite 100
 Columbia, South Carolina 29201

bdurant@sowelldurant.com
bsowell@sowelldurant.com


 Denise M. Hardwick

Columbia, South Carolina

August 19, 2022

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
Jane E. Baskin,	)	
	)	
Plaintiff,	)	SECOND
	)	AMENDED AND SUPPLEMENTAL
vs.	)	PETITION FOR ATTORNEYS'
	)	FEES AND COSTS
William B. Walkup,	)	
	)	
Defendant,	)	

The Plaintiff, Jane E. Baskin, by and through her undersigned counsel, presents this Second Amended and Supplemental Petition for Attorneys' Fees and Costs, seeking an award of her attorneys' fees and costs, incurred in the course of this litigation, and would show further unto this Honorable Court as follows:

PROCEDURAL HISTORY

1. The action was brought on July 20, 2020 seeking the removal of the Trustee and an accounting of the testamentary trust established by Plaintiff's father, Eldridge Baskin.

2. This action was preceded by several years of negotiations by Ms. Baskin through her counsel, W. Alex Weatherly, Jr., seeking a resolution of the issues without litigation. Specifically, Ms. Baskin sought to be returned to her home and a monthly allowance to cover her care and living expenses. These negotiations were to no avail, the Defendant Trustee refused to do either.

3. After suit was filed, substantial discovery was conducted by the Defendant Trustee, William B. Walkup, which included much written discovery and almost fifteen hours of depositions taken of the Plaintiff, Mr. Weatherly, Michele Moseley (the Plaintiff's attorney-in-fact) and the Plaintiff's personal physician. The majority of Defendant's discovery efforts were devoted to issues not raised in the pleadings - undue influence¹ and Ms. Baskin's competency.

4. The trial of the case was commenced in January 2021 for two full days. The evidence proved that Mr. Walkup as Trustee failed for over thirty years to provide any reasonable accounting to the Plaintiff. On two occasions in the thirty years prior to this litigation, some tax returns and other information were shared, but only after demand was made by Ms. Baskin's attorney. No annual accountings were ever generated by the Trustee, and a thorough accounting in proper form has yet to be filed with the Court or presented to the Trust beneficiary, Ms. Baskin.

5. At the end of the second day, the Court strongly encouraged the parties to settle. On the morning of the third day of trial, the undersigned counsel made a written offer of settlement which was initially rejected without a counterproposal. However, thereafter, a settlement was reached on the third day of trial, but only after help from the Court. A copy of the "Temporary Settlement Agreement," filed January 6, 2021 is attached as Exhibit A.

¹ In June 2022 on the eve of trial, for the first time, Defendant moved to amend his Answer and Counterclaim asserting against Jane Baskin alleging that Ms. Baskin was unduly influenced by Michele Moseley "and others." No evidence in support of these allegations was presented at trial.

6. The temporary settlement reached after three days of trial and months of discovery must be compared to the offer sent by Mr. Weatherly to Mr. Walkup's then attorney, Benjamin C. Bruner, dated May 13, 2019, attached as Exhibit B. This comparison reveals that under the Court's supervision the parties agreed, after substantial litigation costs, that Ms. Baskin was to receive monthly distributions from the trust that actually represented what Ms. Baskin, through her attorney Mr. Weatherly had offered to accept over eighteen months prior to the trial. Mr. Walkup also agreed to allow Mr. Weatherly to step in as Special Trustee. Stated another way, after all of this expensive litigation, Ms. Baskin prevailed.

7. A status conference (via Zoom) following up from the Temporary Settlement Agreement was held on October 12, 2021. There, Defendant took the position that the Agreement had "expired" and he had no further obligations thereunder. As a result of this position, heard by all for the first time at the status conference, the Court called an emergency hearing for that afternoon.

8. At the emergency hearing, defense counsel reiterated Defendant's position. Defense counsel also asserted that Alex Weatherly, acting as Special Trustee, had "breached" his agreement as Special Trustee.

9. Following the emergency hearing, the Court issued its Order Regarding Emergency Hearing, dated October 29, 2021, rejecting the allegations made about Mr. Weatherly's performance as Special Trustee and reaffirming the Temporary Settlement Agreement.

10. Also at the emergency hearing, defense counsel urged the Court to

set the conclusion of the trial at the earliest possible moment. The Court obliged and set the remainder of the trial to be heard on December 21-22, 2021.

11. Just before the trial was to reconvene, the Defendant filed a Motion for Recusal, asking Judge McCulloch to recuse herself from the case. This led the Court to issue its "Order to Stay Proceedings" on December 16, 2021, five days before the trial was to recommence.

12. Two weeks later, following the Order to Stay and while his Motion for Recusal was pending, the Defendant filed an "Emergency Motion for Intervention of GAL for Jane Baskin," on December 30, 2021. The "Emergency Motion" was based upon information from an anonymous source which was nothing more than speculation, innuendo and hearsay. The undersigned, on behalf of the Plaintiff, sought discovery limited to issues raised in the Emergency Motion filed by the Defendant. The Defendant refused to respond, asserting that the case was stayed.

13. The Court denied the Defendant's Motion for Recusal by Order filed on April 28, 2022. In its Order, the Court provided an excellent partial recitation of the case's procedural history. Referring to the Temporary Settlement Agreement, the Court said, "***The hope and intention was that the Temporary Settlement Agreement . . . would resolve all matters of contention between the parties and allow for a resolution without further litigation.***" Order Denying Motion for Recusal, pp. 2-3.

14. Unfortunately, the Court's hope and intention were dashed by the

Defendant. Since entering into the Temporary Settlement Agreement, the Defendant has escalated his litigious and dilatory behavior. He first demanded an immediate reconvening of the trial, then filed his Motion for Recusal to delay the trial. He filed the "Emergency Motion" based on an anonymous innuendo, speculation and hearsay, then refused to respond to discovery directed to determine what facts supported that motion.

15. On June 13, 2022, Defendant then filed a Motion to Amend his Answer and Counterclaim to assert that Michele Moseley had unduly influenced Ms. Baskin to bring this suit and change her will.

16. Then, one week later, on June 20, 2022, Defendant filed a Complaint in Lexington County Court of Common Pleas making identical allegations, but asserting claims against this Court's Special Trustee, Alex Weatherly, and Ms. Moseley. See, Complaint, attached as **Exhibit C**.

17. On August 5, 2022, the trial recommenced and the Defendant was provided the opportunity to present additional evidence. He proffered no evidence to contradict the fact that he had failed to provide appropriate accountings through his thirty-year tenure as Trustee. He provided no evidence to contradict the fact that he had used the Trust to control Ms. Baskin's person, moving her into an apartment unit that he owned which, according to this Court's *Guardian ad litem*, Michelle Nunn, was wholly inappropriate for Ms. Baskin's disabilities. He provided no evidence to refute his own prior testimony that, despite his admission that Ms. Baskin's needed additional care, he had refused

to provide it for her. He provided no evidence to refute the fact that he refused to provide her with enough money to buy food, clothes and Depends undergarments. And he proffered no evidence of the undue influence of Ms. Baskin by Ms. Moseley or anyone else he alleged in his Amended Answer and his Lexington County lawsuit. Instead, his principle defense was to offer a witness to testify that the Trustee had a duty to make sure Ms. Baskin never had to resort to Medicaid, an argument the logic of which is hard to follow since its practical effect is to justify the Trustee's forcing Ms. Baskin to live under conditions that were worse than if she already was on Medicaid.

18. Following the close of the record, the Defendant has continued to bombard the Court with additional exhibits which he asks to "supplement" the record, including an argumentative Affidavit, proffering testimony he did not present at trial in a manner intended to foreclose cross-examination.

19. Mr. Walkup turned a somewhat routine claim for an accounting and his removal into complex litigation involving multiple, unnecessary depositions, discovery, motions and four full days of trial. The magnitude this litigation took on was completely unnecessary and avoidable, but for the Defendant's actions.

20. Significantly, after almost two years of litigation, Mr. Walkup has learned nothing: Mr. Walkup has failed to provide any appropriate accountings of the Trust since the trial of this case in January of 2021, a period of fifteen (15) months. On June 9, 2022, this Court specifically instructed the Defendants to

provide at the hearing a "Full accounting of Trust asset to include the rental income and all investment accounts with all supporting documents." See, Email from Lori Elrod, dated June 9, 2022. Mr. Walkup failed to provide the requested information and documentation. On the other hand, Mr. Weatherly, acting as the Special Trustee, has filed monthly accountings.

21. Since this litigation commenced, Ms. Baskin has incurred total fees and costs of \$129,625.80. See, Amended and Supplemental Affidavit in Support of Petition for Attorneys' Fees attached as Exhibit D. The fees charged do not include any time billed for Alex Weatherly. These fees and costs were largely unnecessary and caused by the actions of the Defendant Walkup, his unwillingness to seek a compromise, his turning a simple dispute into complex litigation, and his steadfast refusal to cooperate with his beneficiary.

STANDARD FOR AWARD OF ATTORNEYS FEES

22. S.C. Code Ann. § 62-7-1004 provides:

In 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, to any party, to be paid by another party or from the trust that is the subject of the controversy.

23. Our Supreme Court set forth the standard for determining an award of attorneys' fees in *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). In that case, the court held that in awarding reasonable attorney's fees, there are six factors to be considered (citations omitted). Consideration should be given to all six criteria in establishing reasonable attorney's fees; none of these six factors is

controlling. *Id.* at 385.

24. In the *Baron* decision, the Supreme Court upheld the award of the trial court, which had articulated and analyzed each of the six factors as follows:

(1) The Nature, Extent and Difficulty of the Legal Services Rendered.

Upon its evaluation of the nature, extent and difficulty of the legal services, the trial court determined that Baron had to expend considerably more time and effort on the case because the defendants had transformed a simple collection action into complex litigation.

(2) The Time and Labor Necessarily Devoted to the Case.

The trial court concluded that "a review of the statements and affidavits of Baron's trial attorney indicate clearly that the time and labor spent were reasonable and not duplicative." The respondents did not dispute this conclusion.

(3) The Professional Standing of Counsel.

The circuit court's determination that Baron's trial attorney is an experienced, skilled attorney, of high professional standing in the community was based upon a careful review of the affidavits of Baron's expert and its trial attorney, which included the attorney's resume. Respondents did not contest the trial court's determination.

(4) The Contingency of Compensation.

Not applicable since this was not a contingency case.

(5) The Fee Customarily Charged in the Locality for Similar Legal Services.

Based upon a review of the attorney's resume, affidavits and its familiarity with attorney' fees customarily charged in this legal community, the trial court found that the rate [charged] was appropriate. The Beneficial Results Obtained.

The trial court decided that the total benefits obtained by Baron include a sizeable judgment (\$16,151) and the avoidance of nearly half a million dollars in liability on the

counterclaims. The Court of Appeals concluded that Baron sought over \$70,000 and recovered only \$16,151, thus the beneficial result was not significant.

Baron, 297 SC 382, 385-386.

APPLICATION OF STANDARD

25. Applying the standard set forth in *Baron*, the Plaintiff would show as follows:

(a) *Nature, Extent and Difficulty of Legal Services Rendered.* In this case, like *Baron*, this litigation was made unnecessarily complex by the defendant's strategy of attacking Ms. Baskin's attorney-in-fact, suggesting undue influence, and by calling into question Ms. Baskin's competency, when none of those issues was even raised in the pleadings. The Defendant has attacked the Court's neutrality. Defendant filed an "Emergency Motion" without supporting evidence. The Defendant filed a Complaint against the Special Trustee and the attorney-in-fact making the same allegations as here. Finally, after four days of trial, the Defendant failed to refute the allegations of the Complaint and presented no evidence of "undue influence."

(b) *Time and Labor Necessarily Devoted to the Case.* The time and labor expended on Ms. Baskin's behalf by her counsel were reasonable and not duplicative. Indeed, while Mr. Weatherly's time is shown on the statement, no charges for that time are included. Had his time been included, the fees would be an additional \$65,310. Counsel's efforts were largely spent in response to the unfounded (and unpled) allegations made by the defendant, the unnecessary discovery conducted by Defendant's counsel; the unwarranted motions practice; and the unfounded and

dilatory positions taken by the Defendant. Plaintiff's fees should also be compared with the Defendant's, which, on information and belief, exceed \$350,000.

(c) *Professional Standing of Counsel.* The undersigned counsel is an experienced trial lawyer in good standing in the legal community, with thirty-six years as a practicing lawyer handling general litigation, including trust litigation, as reflected in his affidavit made a part of this Petition. Likewise, Mr. Weatherly is a well-known and respected lawyer who has been practicing for a similar length of time. He had a twenty-two (22) year career as a Certified Public Accountant, as well, and practices in the areas of Trusts and Estates.

(d) *The Contingency of Compensation.* Like *Baron*, this is not a contingency case, at least not in the typical sense, but this factor should be considered. The undersigned counsel and his firm undertook this case because it was the right thing to do, knowing that Ms. Baskin could not pay for our services. Ms. Baskin needed a lawyer. Had Ms. Baskin not prevailed, counsel understood that they likely would never have been paid. And while the amount requested is substantial, it is so because of the Defendant's actions, as explained elsewhere herein.

(e) *Fees Customarily Charged in the Locality for Similar Services.* The fees charged are those customarily charged in this legal community. It must also be noted that much of the time shown on the itemized statement provided to the court for *in camera* review was "no-charged," including all of Mr. Weatherly's time through the trial in January of 2021. Since that time, Mr. Weatherly has acted as Special Trustee, doing essentially what Mr. Walkup should be doing. He has not yet been paid. Those charges will be submitted for the Court's approval separately.

(f) *Beneficial Results Obtained.* Finally, the benefits obtained for Ms. Baskin in the Temporary Settlement Agreement were *more than* she had offered to settle the dispute for eighteen months prior to bringing suit, as previously noted. As of the date of this Petition, the Court has not issued a final ruling. Whatever that may be, the Court's ruling should be considered in relation to where Ms. Baskin was at the time the Complaint was filed.

26. Ms. Baskin has no ability to pay her attorneys' fees and costs, but she is the beneficiary of a trust controlled by the Defendant believed to be worth in excess of \$500,000.² She would have been unable to bring this action to seek redress before the Court but for the undersigned counsel agreeing to do so without a retainer or periodic payment of fees and costs, at great risk. Since 2017, Mr. Weatherly has represented Ms. Baskin without being paid, because she could not afford payment. He does not seek payment of any pre-suit fees now. However, since this litigation began, counsel still has received no payment and has advanced over \$12,600 in litigation costs to protect Ms. Baskin's rights.

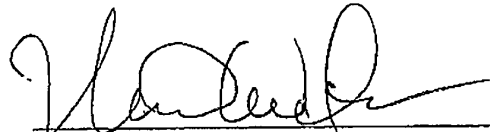
27. On the other hand, Mr. Walkup has the ability to pay Ms. Baskin's fees and costs, as well as his own. He has shown no restraint in how much he is willing to pay his lawyers to pursue this matter. At every hearing and at trial, he has had two lawyers and their paralegal at the table. He had a previous lawyer pre-suit. And he hired a fourth lawyer to bring the civil action against the Special Trustee and Ms. Moseley. It is estimated that Mr. Walkup has spent in excess of \$350,000 in this

² As noted, the Trustee has provided no real accounting of the Eldridge Baskin Trust. What he has provided contained internally conflicting information, no accounting for income vs. principal distributions, and no accounting for the Trustee's actual fees, derived directly and indirectly.

litigation. Mr. Walkup testified that he (or his Company) has under management over \$100 million in assets from third parties, including the Plaintiff. According to his testimony, he receives a fee of .9% (.009) for managing these assets, which would amount to fees in excess of \$900,000 yearly. This is *in addition* to the trustee fees he charges the Eldridge Baskin Trust.

28. Ms. Baskin's counsel has a right to be paid reasonable fees and suit costs for bringing this action on behalf of Ms. Baskin. Funds are available to pay the undersigned's fees and costs from the Trust, but ultimately the Defendant Walkup, not the Trust, should be responsible for Ms. Baskin's fees and costs. Plaintiff and her counsel request an award of attorneys' fees be made, to be paid by the Defendant.

NOW, WHEREFORE, having fully petitioned this Court as set forth above, the Plaintiff respectfully requests an award of her attorneys' fees and costs in the total amount of \$129,625.80, to be paid by the Defendant.



Richard C. Detwiler (S.C. Bar No. 6473)
CALLISON TIGHE & ROBINSON, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Facsimile: (803) 404-6902
Email: RickDetwiler@CallisonTighe.com
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

August 19, 2022

EXHIBIT A

STATE OF SOUTH CAROLINA } FILED IN THE PROBATE COURT
COUNTY OF RICHLAND } Estate Number: 2020-GC-40-0072

IN THE MATTER OF THE TRUST }
OF JANE E. BASKIN }
2021 JAN -6 P 1:35
AMY W. MCCULLOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C. TEMPORARY
SETTLEMENT AGREEMENT

1. The litigation in this matter is stayed and all issues not decided are held in abeyance with full reservation 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.
3. Alex Weatherly shall be Special Trustee of the Jane E. Baskin Trust.
4. William B. Walkup agrees to pay the 2020 property taxes and shall provide the amount of \$513.84 to Alex Weatherly for him to pay the 2020 property taxes.
5. The agreed upon budget per month is as follows:

\$4810.00	Caregivers
\$150.00	Mortgage beginning in February
\$300.00	Electricity
\$60.00	Water
\$120.00	Cable
\$75.00	Cellphone
\$120.00	Pharmacy
\$75.00	Vet Bills
\$250.00	Boost/Depends (Supplies)
\$75.00	House Insurance
\$50.00	Property Taxes
\$650.00	Food/Dog Food and treats
\$250.00	Clothing/ Toiletries
\$150.00	Dining Out
\$150.00	Miscellaneous
\$7,285.00	
6. The parties agree that this budget shall be reduced by the personal income Ms. Baskin receives of \$860.00.
7. The parties agree that William Walkup, as Trustee, shall provide Ms. Baskin, as a beneficiary, \$6,425.00 per month to be paid to Alex Weatherly, as Special Trustee, for him to distribute as needed for the care of Ms. Baskin. The check shall be made payable to Callison & Tighe Trust Account and is to be deposited into their trust account for disbursement in accordance with the above budget.

8. William B. Walkup will provide a check for January 2021 in the amount of \$6,428.00 and shall be provided to Alex Weatherly by January 7, 2021.
9. Jane E. Baskin will move from her current residence at Atrium Place apartments into her home at 316 Summerlea Drive, Columbia, South Carolina 29203 by February 1, 2021.
10. The parties agree that this settlement agreement will be a temporary solution to determine its feasibility moving forward and the parties will report to the Court in 6 months' time with a progress report by July 16, 2021.

Jane E. Baskin

Jane E. Baskin, Beneficiary

Michele Moseley
Michele Moseley

Alex Weatherly
Alex Weatherly

Richard C. Delwiler
Richard C. Delwiler

William B. Walkup Trust
William B. Walkup, Trustee

Thomwell F. Sowell
Thomwell F. Sowell

Bess J. DuRant
Bess J. DuRant

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1-6-2021
Date

1/6/21
Date

1/6/21
Date

1/6/21
Date

EXHIBIT B

FILED

2021 FEB 12 P 2:00

CLERK OF COURT
JUDICIAL DISTRICT OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

May 13, 2019

Benjamin C. Bruner, Esquire
Bruner Powell Wall & Mullins, LLC
Post Office Box 61110
Columbia, South Carolina 29260-1110

Re: Eldridge Baskin Trust
Our File No. 6660.001
BPMW File No. 11-2885.100

Dear Ben:

I am writing in response to your email to me last week to discuss the points raised in your letter dated October 6, 2018.

Before outlining Ms. Baskin's current position regarding this matter, I would like to respond to a few of the comments made in your letter.

A. RESPONSES TO OCTOBER 6, LETTER:

I. Request for an accounting of all income expenditures by the Trust for the past three (3) years. Thank you for providing the information you sent with the October 6 letter and previously on May 4, 2017. In reviewing the accounting information, we are unable to locate how Mr. Walkup deposited a check in the amount of approximately \$13,600, which Jane received from the sale of property which she specifically asked Mr. Walkup to deposit. Is there another account into which these funds were deposited? Did we receive the information on all accounts held by the Trust? Please ask Mr. Walkup to respond to this question specifically.

II. Request for limited contact. You requested clarification on the point as to why Ms. Baskin has asked Mr. Walkup to limit his contact with her. Simply stated, Ms. Baskin fears Mr. Walkup. According to Ms. Baskin, he is aggressive with her and tries to exert undue influence over her regarding the choices he wants her to make regarding her finances and other matters. He is not her representative, he is not her agent, and she feels that he has tried to insert himself in that capacity in the past. In order that she need not undergo the emotional stress which he causes her, and in order that there may be an independent individual involved in observing the interaction between Ms. Baskin and Mr. Walkup regarding her finances, she requests that he interact with her through her agent, Michels Mosley, or through me as her attorney.

EXHIBIT

28

1812 Lincoln Street, P.O. Box 1330, Columbia, South Carolina 29202
Tel. 803.404.5800, Fax 803.404.5902

1812 Lincoln Street, P.O. Box 1330, Columbia, South Carolina 29202
Tel. 803.404.5800, Fax 803.404.5902

Walkup 00183

III. Disbursement of annuity funds. Presently, Mr. Walkup sends Ms. Baskin a check for the annuity payment which is disbursed from one of the accounts held by her trust. She has no verification that the amount she is receiving is in fact equal to the amount of the annuity payment or that the annuity payment is in fact going into the Trust and then being disbursed to her. Her preference would be that arrangements be made so that the annuity checks are paid directly to her and sent to her by the issuer of the annuity. In lieu thereof, she requests that copies of the annuity checks received by Mr. Walkup be provided to her along with the checks that he is sending her.

IV. Disbursement of Trust income. You make a number of statements in this extensive section of your letter concerning which you have no personal knowledge and which are no doubt based on Mr. Walkup's opinion. Ms. Baskin would challenge Mr. Walkup's assertions regarding the motivations of her father. Ms. Baskin has said there are substantial facts surrounding how Mr. Baskin's Will was executed which would indicate that Mr. Walkup initially tried to cut Ms. Baskin out of the Will altogether and only after Mr. Baskin, while on his deathbed, demanded that Mr. Walkup change the Will so as to include the Trust for Ms. Baskin, did Mr. Walkup have Ben Boyd, the attorney which Mr. Walkup hired, revise the Will.

Ms. Baskin resents Mr. Walkup's continued assertions about the \$10,000 credit card charges. The fact that he serves as her trustee does not give him the right to know every little thing about her finances. Had he properly supported her through the Trust, she would have felt no need to use her credit card in order to cover her expenses. In the grand scheme of things, the \$10,000 was not covered by Mr. Walkup from the Trust but by Ms. Baskin. Furthermore, the expenses were merely for items Mr. Walkup should have been paying for anyway.

Regarding Mr. Walkup's assertions concerning what statements have and have not been made by Ms. Baskin's caregivers, let me simply assure you that statements have been made by caregivers that are contrary to those facts which Mr. Walkup relayed to you.

As to the HVAC system, Ms. Baskin has received three (3) different estimates, copies of which are enclosed. Only the most expensive of the estimates is willing to provide financing. It would be a savings to the Trust and Ms. Baskin if the less expensive option could be selected and financed through the Trust. One of the HVAC companies who inspected the work performed by the contractor hired by Mr. Walkup has also given ample evidence of the substandard nature of the work performed by Mr. Walkup's contractor. Given that the home is heated by gas, and the recent news events concerning the improper repair and maintenance of gas heated living facilities here in the Columbia area, it is shocking to think that Mr. Walkup would have exposed Ms. Baskin to the dangers of an inadequately heated and maintained gas furnace.

V. Disbursements of principal and authority to make living arrangements. Mr. Baskin made it clear in his Will that, "...the sole purpose of the trust created [under the Will] to provide the well being of Jane B. Baskin so long as she shall live". Notwithstanding the discretion given to Mr. Walkup as trustee, Mr. Baskin made it clear that this purpose was to be, "...born in mind by the trustee when considering the matter of any encroachment upon the principal of the trust created [under the Will]."

Walkup 00184

It is clear from the paucity sums that Mr. Walkup has distributed on behalf of Ms. Baskin, and from the unbelievable growth in the principal of the trust, that he has managed it primarily for the benefit of the remainderman and not for Ms. Baskin.

As to the remaining assertions made in your letter, all I can say is that the testimony of witnesses will bear out who is right about those statements.

Enclosed is the proposed budget that Ms. Baskin would like the trustee to abide by in making encroachments upon the principal of the trust for her benefit.

VI. Request for additional distributions. As mentioned previously, enclosed are estimates for the proper repair of the HVAC system, along with the report of one inspector who has indicated that the work done thus far by Mr. Walkup's HVAC contractor has been substandard.

VII. Future selection of caregivers, living expenses, etc. Ms. Baskin is delighted to know that Mr. Walkup will stop hiring caregivers who he charges with the task of acting as his "spies" in order to try to build a case for him to try to have Ms. Baskin committed.

VIII. Plans for successor trustee. You indicate that Mr. Walkup says that the statements that he should retire are false. Prior to your involvement in this matter, Mr. Walkup made those exact statements to me. Accordingly, he is obviously getting to the age where he is not able to remember what he has or has not said. If Mr. Walkup is ready to retire, we are glad to provide information regarding who acceptable potential successors might be.

B. DEMANDS BY MS. BASKIN:

Having responded to the assertions made in your prior letter, Ms. Baskin hereby demands the following:

1. Mr. Walkup should either return the \$13,600 that she gave him to deposit on her behalf or show exactly where it was deposited and demonstrate how it has been utilized exclusively for her benefit.

2. Ms. Baskin desires to hire Edward Herbert to complete the installation and repair of the HVAC system at the Summerlea residence. Ms. Baskin wants Mr. Walkup's immediate commitment to pay the cost of the repairs in accordance with Mr. Herbert's estimate.

3. Since the time of your letter, Mr. Walkup has raised the rate paid to Ms. Baskin's primary caregivers to \$15.00 per hour. He has also re-hired caregivers that he has in the past terminated because he thought they were inadequate. Per your statements above regarding the selection of future caregivers, Ms. Baskin demands the immediate right to hire all future caregivers and to receive Mr. Walkup's assurance that so long as they are paid not more than \$15.00 per hour during normal working hours and not more than \$20.00 per hour for last minute work on the weekends, that he will make such payments.

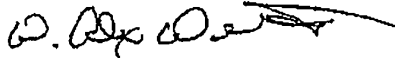
Walkup 00185

4. Ms. Baskin demands that Mr. Walkup immediately begin disbursing her a monthly amount of \$6,500 in order to cover the cost consistent with the monthly budget outlined in the enclosed statement.

5. Ms. Baskin demands that Mr. Walkup provide her with quarterly statements showing all Trust receipts and disbursements for all accounts.

Please do not hesitate to contact me if you would like to discuss these demands. Otherwise, please confirm in writing that Mr. Walkup will begin immediately to comply therewith.

Yours sincerely,



W. Alex Weatherly, Jr.

WAWjr/tsl
Enclosures

Waikup 00186

Jane Baskin Monthly Budget

Description	Amount
Caregiving	\$4,700.00
Rent	\$1,200.00
Electricity	\$100.00
Water	\$30.00
Cable	\$60.00
Cell Phone	\$50.00
Pharmacy	\$122.00
Miscellaneous	<u>\$238.00</u>
	\$6,500.00

Walkup 00187

Herbert Heating & Air

205 Juárez Court • Columbia, SC 29206 803-606-5041



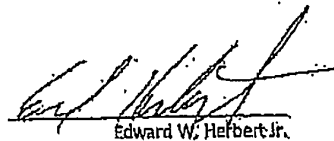
February 18, 2019

Attn: Michelle Moseley and Alex Weatherly

Address for work completed — 316 Summerlea Rd.

Upon inspection of the Heating and Air unit at the above referenced address, the following items should be addressed as they are not up to code.

1. Wiring at condenser unit not up to code
2. Line set is not the right size for cooling system.
3. Duct work needs to be replaced as it's rusted out in places.
4. Insulation on duct is not up to R Factor
5. Drain line is not up to code
6. No flue line connected to gas furnace. Flue line cannot be installed into old chimney. Has to have a power vent installed to blow flue gasses to outside
7. Gas furnace is 80,000 btu with a 5 ton drive. Too much air flow for square footage of house.
8. No gas line connected to gas furnace.
9. Unit not level on pad



Edward W. Herbert Jr.

MM368

Licensed • Bonded • Insured • Gaspex® • Airflex® • Service and installation on all makes and models

Walkup 00188

EXHIBIT C

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) C.A. No.:

William B. Walkup, Individually and
As Trustee of the Eldridge Baskin
Testamentary Trust,
Plaintiff,
vs.
W. Alex Weatherly, Jr. and
Michele Moseley
Defendants,

**COMPLAINT
(Jury Trial)**

The Plaintiff above-named complaining of the Defendants herein alleges that:

FOR A FIRST CAUSE OF ACTION

1. Plaintiff William B. Walkup is a resident of Richland County. He owns Walkup and Associates, an investment advisory firm in Columbia. He is a graduate of the University of South Carolina with B.S. and M.S. degrees, and he is a Certified Investment Counselor.
2. Defendant W. Alex Weatherly, Jr. is a resident of Lexington County.
3. Defendant Michele Moseley is a resident of Richland County.
4. Plaintiff is a duly appointed Trustee of the Eldridge Baskin Testamentary Trust, made for the benefit of Jane Baskin. Plaintiff was cousin to Eldridge Baskin before his death and specifically chosen by Eldridge Baskin to serve as Trustee of the referenced Trust.
5. For the last thirty-two (32) years Plaintiff has faithfully and expertly managed the Eldridge Baskin Testamentary Trust without upset. The Trust has been grown from a small amount of corpus to over Four Hundred Thousand (\$400,000) Dollars today. The annual rate of return,

without any material risk, has been on ten (10%) percent or greater. In the meantime, Plaintiff has paid all income from the Trust to or on behalf of Jane Baskin, as well as large sums from the principal, to meet Ms. Baskin's day-to-day needs. Total expenditures from principal and interest are approximately 1.1 million dollars.

6. Defendant Weatherly is a lawyer with the firm of Callison Tighe & Robinson.

7. Prior to the damages complained of herein, the Defendants Weatherly and Moseley commenced a scheme, in concert among themselves and with others, to disturb the effective administration of the Trust and to injure Plaintiff. Their actions were to benefit themselves financially and otherwise.

8. Defendant Weatherly made Defendant Moseley the Power of Attorney for Jane Baskin, replacing her former neighbor without notice. Defendant Weatherly also amended the Jane Baskin Will to leave Ms. Baskin's house on Summerlea Drive to Defendant Moseley.

9. Subsequently, both Weatherly and Moseley began a campaign of undue influence to take advantage of Jane Baskin, who is a vulnerable adult with Cerebral Palsy since birth, and to harass, slander and harm the Plaintiff.

10. 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. Plaintiff was first injured by Defendants in July of 2020 and he has spent tens of thousands of dollars in attorney's fees to defend himself in the Probate action which was wrongfully motivated and initiated by Weatherly and Moseley in order to make money and gain the Summerlea house for one or both of them. In the meantime, the Defendants have caused severe financial harm and emotional distress to Plaintiff, under the guise or false justification of helping Jane Baskin.

11. Moseley is not helping Jane Baskin. Moseley has manipulated funds from the Eldridge Baskin Testamentary Trust for her own benefit and with the aid of Weatherly. She uses Trust money to buy her own food and to buy cleaning supplies for Moseley's cleaning company. She has moved her friend, her friend's boyfriend, and their large dog into the house on Summerlea Drive. She has converted caregiving time spent by others to her own use and benefit, falsifying timesheets to carry out the scheme to make money and benefit herself. She is breaching the statutory duties imposed on her as Power of Attorney. For example, she is acting in bad faith and is not preserving Ms. Baskin's estate plan, but is depleting the assets of same. See S.C. Code Ann § 62-8-114.

12. Defendants Weatherly and Moseley have schemed together and conspired to injure Plaintiff, and with the intent to injure Plaintiff, and he has been proximately harmed and damaged both financially and emotionally by their wrongful acts and misconduct. As a direct and proximate result of the aforementioned wrongful conduct, the Plaintiff has lost significant amounts of money; has suffered great shock and emotional distress; has been damaged in his business reputation; has been greatly inconvenienced; has lost serious amounts of time; has expended large sums of effort; and has been financially as well as emotionally damaged.

13. The conduct of Defendants Weatherly and Moseley has been intentional, malicious, and reckless; and therefore Plaintiff is entitled to actual and punitive damages, jointly and severally against both Defendants.

FOR A SECOND CAUSE OF ACTION

14. Plaintiff hereby reasserts and realleges each and every allegations set forth above as fully as it set forth verbatim.

15. For approximately two (2) years the Defendants, pursuant to their evil scheme, have maligned and slandered the good name of the Plaintiff both individual and in his capacity as Trustee.

16. The statements which have been made are not true and were known not to be true at the time they were made.

17. Plaintiff has been accused of fraud; wrongdoing; dishonesty; unfair and deceptive business practices; criminal activity; and abuse of his charge.

18. As a direct and proximate result of the aforementioned acts of defamation the Plaintiff has been damaged as set forth above and Plaintiff is entitled to actual and punitive damages.

FOR A THIRD CAUSE OF ACTION:

19. Plaintiff hereby reasserts and realleges each and every allegations set forth above as fully as it set forth verbatim.

20. The Defendants have used their positions of trust and confidence in order to influence a vulnerable adult. They have interfered with the Trust relationship and have caused serious injury and loss to the Trust.

21. The conduct complained of herein amounts to wrongful interference with a contractually relationship.

22. As a direct and proximate result of the aforementioned wrongful interference with the contractual relationship, the Trust has lost serious amounts of money; has been dissipated; has been wrongly interfered with; and has been otherwise damaged all to the Plaintiff's damage both actual and punitive.

23. Plaintiff is entitled to a preliminary and permanent injunction in joining the Defendants from further disparagement and further interference with the operation of the Plaintiff both individually and as Trustee.

WHEREFORE, Plaintiff prays for judgment against the Defendants for actual damages; for punitive damages; for appropriate injunctive relief; and for such other and further relief as this Court might deem just and proper.

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: s/ S. Jahue Moore
S. Jahue Moore (SQ Bar #4063)
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, South Carolina 29171
Phone: (803) 796-9160
Attorney for Plaintiff

West Columbia, South Carolina
June 13, 2022

EXHIBIT D

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72

Jane E. Baskin,

Plaintiff,

vs.

William B. Walkup,

Defendant.

**AMENDED AND SUPPLEMENTAL
AFFIDAVIT IN SUPPORT OF
ATTORNEYS' FEES AND COSTS**

PERSONALLY APPEARED BEFORE ME, Richard C. Detwiler, who, being duly sworn, deposes and says:

1. I was admitted to the practice of law in South Carolina in 1986.
2. I am an active member of the South Carolina Bar Association, the Richland County Bar Association, the American Association for Justice and the South Carolina Association for Justice. I am also admitted to practice before the United States District Court, District of South Carolina and the United States Fourth Circuit Court of Appeals.
3. I joined the law firm of Callison Tighe & Robinson, LLC, in July of 1991 and became a Member the following year. I currently serve as the firm's Managing Member.
4. The emphasis of my practice is general civil litigation, including commercial litigation, trust and estate litigation and personal injury. I am rated "AV Preeminent" by Martindale-Hubbell, a recognition of my peers of the highest professional excellence, levels of skill and integrity. I am recognized by "Best Lawyers" in the areas of commercial litigation and workers' compensation and by "Super Lawyers" in general litigation.

5. I am the attorney of record for the Plaintiff in the above-captioned action. The services rendered by my firm on behalf of Plaintiff have been performed by me or under my direction.

6. The hourly rate I have charged in this matter is Three Hundred Fifty and 00/100 (\$350.00) Dollars per hour, which I believe to be at or below market rate for a trial lawyer with my experience. I have incurred 302.10 hours of billable time in this matter and spent many more hours which have gone unbilled. W. Alex Weatherly, Jr. also assisted in the representation of the Plaintiff in this case. He charges an hourly rate of Three Hundred Fifty and 00/100 (\$350.00) Dollars per hour and has incurred 186.60 hours of billable time during this same period. However, despite his considerable contributions, we have not billed for any of his time incurred in this litigation. That time would have equaled an additional \$65,310 had it been included. His fees and costs incurred in his capacity as "Special Trustee" will be submitted to the Court separately.

7. Total fees and costs incurred in this matter are \$129,625.80, not including Mr. Weatherly's time, as reflected on the attached detailed invoice showing descriptions of work and time for each entry.

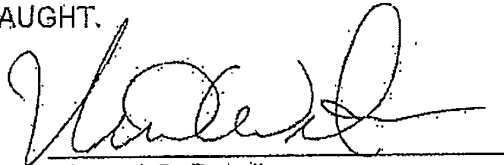
8. I prepared the Petition for Attorneys' Fees filed in this matter, to which this Affidavit is appended, and attest as an officer of this Court that all statements therein are true and correct, to the best of my knowledge, information and belief, and are incorporated by reference into this Affidavit. I particularly note, as set forth in the Petition, that much of the considerable cost of this litigation was the result of what I believe to be the Defendant's unreasonable actions and positions taken, and his litigious and dilatory conduct, as more

particularly set forth in the Petition.

9. All services performed in this case were reasonable, efficient and necessary for the proper representation of the Plaintiff, and I am informed and believe that the fees and expenses charged in this case reflect those customarily charged in this locality for a similar action.

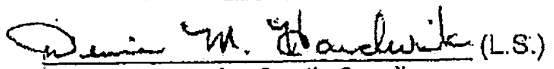
10. I am requesting that the Court review the file, Plaintiff's Petition for Attorneys' Fees and Costs, this Amended and Supplemental Affidavit, and the evidence presented to the Court, and grant Plaintiff an award of her attorneys' fees and costs to date in the amount of \$129,625.80, and enter judgment requiring the Defendant to pay these fee and costs immediately.

FURTHER, DEPONENT SAYETH NAUGHT.



Richard C. Detwiler
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED
before me this 19th day of August, 2022

 (L.S.)
Notary Public for South Carolina
Print Name: Denise M. Hardwick
My commission expires: 3-25-28

CALLISON TIGHE & ROBINSON, LLC
Attorneys at Law
1812 Lincoln Street, Suite 200
Post Office Box 1390
Columbia, South Carolina 29202

(803) 404-6900
(803) 404-6902
FEDERAL I.D.

Jane Baskin
316 Summerlea Dr.
Columbia SC 29203-3955

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Eldridge Baskin Trust f/b/o Jane E. Baskin

DRAFT BILL - IN HOUSE USE ONLY

	Hours	
02/11/2020	1.00	
	2.10	
02/12/2020	0.40	
02/16/2020	1.10	
	0.70	
02/17/2020	1.00	
	0.60	
02/19/2020	0.20	No Charge
03/05/2020	0.50	
04/22/2020	0.30	
06/03/2020	0.30	
07/06/2020	0.40	
07/10/2020	2.50	
	2.10	
07/12/2020	1.60	
07/14/2020	1.00	
07/16/2020	2.00	
	0.80	
07/24/2020	0.30	
07/31/2020		

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
	0.30	No Charge
	1.00	
08/07/2020	0.10	
08/08/2020	0.20	
08/10/2020	1.80	
08/11/2020	0.40	No Charge
	0.10	
08/12/2020	1.00	
08/17/2020		
08/25/2020	0.40	
	0.10	
08/26/2020	0.20	
08/27/2020	0.60	
08/28/2020	0.20	
09/25/2020		
10/01/2020	1.00	
	0.40	
10/02/2020		
10/07/2020	2.00	
	4.50	
	0.20	
10/08/2020	1.20	
	0.20	
10/09/2020	2.50	
	2.30	
	0.90	
10/12/2020		

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
10/13/2020	4.80	
	0.20	No Charge
10/14/2020		
	3.00	
	0.40	
10/15/2020		
	5.60	
	3.00	
10/16/2020		
	7.30	
	2.40	
10/18/2020	0.20	
10/19/2020	2.10	
	0.60	
	0.20	No Charge
10/20/2020	0.80	
	0.20	No Charge
10/21/2020	0.80	
	0.40	
	2.60	
10/22/2020	0.50	
	1.30	

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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10/23/2020

Hours

2.10

2.50

10/24/2020

0.30

10/26/2020

0.40

0.30 No Charge

0.50

10/27/2020

0.60

10/28/2020

1.20

1.20

10/29/2020

1.50

0.50

10/30/2020

0.70

0.30

10/31/2020

0.10

11/02/2020

1.50

1.50

4.00

11/03/2020

3.10

2.00

1.10

6.00

11/04/2020

1.10

6.00

8.50

11/05/2020

0.20

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	6.00
11/06/2020	1.50
11/09/2020	0.50
11/10/2020	
	7.50
	0.70
11/12/2020	
	2.50
	0.40
11/13/2020	0.40
11/16/2020	0.50 No Charge
	6.80
	1.50
11/17/2020	6.00
	6.00
11/18/2020	
	0.30
11/19/2020	
	2.20
	1.80
11/20/2020	0.70
	0.80
11/22/2020	0.10
11/23/2020	
	1.80
	1.50
11/24/2020	
	0.50

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	0.40
11/25/2020	0.30
	1.80
	0.70
	1.50
11/30/2020	0.20
	3.00
12/01/2020	2.80
	0.20
12/02/2020	3.20
12/03/2020	0.20
	2.00
	1.60
12/07/2020	0.40
	1.30
12/08/2020	1.80
	2.00
12/09/2020	1.00
	0.30
12/11/2020	0.30
	0.30
12/14/2020	0.40
12/15/2020	1.50

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	2.80
	0.80
12/17/2020	0.50
12/18/2020	0.50
	0.40
12/22/2020	
	2.50
	0.60
12/23/2020	0.30
12/24/2020	
	1.20
12/25/2020	0.20
12/28/2020	
	2.50
12/29/2020	
	1.50
	1.10
12/30/2020	
	2.50
	4.50
	1.30
	4.50
	3.00
12/31/2020	
	0.80
	2.50
01/01/2021	0.20

Jane Baskin

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	Hours
01/02/2021	0.20
01/03/2021	3.50 2.00 7.50
01/04/2021	1.50 10.50 11.00
01/05/2021	7.50 10.00
01/06/2021	4.00
	4.50
01/07/2021	0.20 0.20
01/21/2021	0.10
01/22/2021	0.10
02/09/2021	0.20 1.50
02/10/2021	0.30 2.00
02/11/2021	2.50
02/16/2021	0.20
02/24/2021	0.30
03/08/2021	0.30
03/10/2021	0.30
03/11/2021	0.30
04/15/2021	0.50

Jane Baskin

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	Hours	
06/02/2021	2.90	
06/03/2021	0.30	
	1.00	
06/04/2021	1.00	
06/29/2021	0.30	
	0.60	
06/30/2021	0.30	
07/06/2021	0.20	
07/07/2021	1.20	
	1.80	
07/15/2021	0.60	
07/16/2021	0.50	
	5.20	
07/19/2021	0.20	No Charge
	0.20	
07/20/2021	0.20	No Charge
	0.10	
07/27/2021	0.40	
	3.00	
08/02/2021	0.70	
08/03/2021	1.50	
09/16/2021	1.00	
09/23/2021		

Jane Baskin

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	Hours
	1.50
10/05/2021	0.60
10/07/2021	0.30
10/08/2021	1.30
10/11/2021	6.50
10/12/2021	4.50
10/13/2021	1.40
	1.50
10/14/2021	0.30
10/15/2021	0.20
10/20/2021	1.20
10/22/2021	0.50
	0.10
	0.10
10/25/2021	
10/26/2021	1.00
11/19/2021	0.30
	0.30
	0.30
11/24/2021	1.00
	0.20
11/29/2021	0.20
11/30/2021	1.50

Jane Baskin

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	Hours
12/01/2021	3.30
	1.20
12/02/2021	4.00
	1.60
12/03/2021	2.00
	0.80
12/10/2021	0.40
	0.40
12/13/2021	1.10
	0.50
12/14/2021	0.40
12/16/2021	1.50
	0.60
12/17/2021	0.20
12/22/2021	0.20
	0.10
12/28/2021	0.60
12/30/2021	1.20
01/03/2022	1.80
	0.30
01/04/2022	2.30

Jane Baskin

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	Hours
01/05/2022	0.80
01/06/2022	0.40 No Charge
01/27/2022	0.40
01/31/2022	0.70
02/01/2022	1.00 0.60
02/10/2022	0.50 0.40
02/15/2022	1.00
02/17/2022	2.00 0.40
02/21/2022	0.20 0.40
02/23/2022	0.20 No Charge 0.30
02/24/2022	1.30 0.40
02/26/2022	1.00 0.70
02/28/2022	0.80 2.80
03/01/2022	0.40
03/04/2022	0.10
03/07/2022	0.30
03/30/2022	0.20
03/31/2022	0.40 0.20
04/14/2022	0.60

Jane Baskin

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	Hours
04/18/2022	0.80
04/25/2022	0.30
04/26/2022	0.30
04/28/2022	0.70
	0.40
05/02/2022	1.50
	0.40
05/03/2022	0.20
05/04/2022	0.50
05/16/2022	0.40
	0.40
05/25/2022	0.30
	0.20
05/26/2022	0.70
05/27/2022	0.50
	0.70
05/31/2022	0.30
	0.30
06/01/2022	0.70
	0.40
06/02/2022	1.50
	1.30
06/06/2022	1.50
	0.10
06/07/2022	0.40
	0.30

Jane Baskin

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	Hours	
06/08/2022	1.00	
06/09/2022		
	0.40	
	2.50	
	5.75	
	2.10	
06/10/2022	2.80	
	0.50	
	0.90	
06/11/2022	2.50	
06/13/2022	0.75	
	1.80	
	6.00	
06/14/2022	2.50	
	2.60	
	3.50	
06/15/2022	0.30	
	1.50	
06/16/2022	3.65	
	0.40	
	1.80	
06/17/2022	5.20	No Charge
06/20/2022	6.60	No Charge
06/21/2022	7.58	No Charge

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
06/22/2022	7.75 0.30	No Charge
06/23/2022	0.20 1.83	No Charge
06/25/2022	0.20	
06/27/2022	1.00	
06/28/2022	0.40	
	4.00	
06/29/2022	3.00	
06/30/2022	0.30 1.50	
07/01/2022	1.00 5.64	
07/05/2022	1.17	No Charge
07/08/2022	4.17 0.30	No Charge
	0.40	
07/11/2022	6.33 0.30	No Charge
07/13/2022	0.60	
07/14/2022	0.30 0.30	
07/15/2022	1.50 1.50	
07/18/2022	2.20 5.50	

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
07/19/2022	0.20
07/21/2022	
	0.50
07/25/2022	0.20
07/26/2022	
	0.50
07/27/2022	0.30
	3.00
07/28/2022	0.70
	2.80
07/29/2022	1.00
	2.25
	2.60
08/01/2022	6.08
	1.30
08/02/2022	
	2.00
	2.50
	6.00
08/03/2022	6.93
	2.50
	4.50
08/04/2022	
	8.50
	3.00
08/05/2022	9.20
	9.50
08/06/2022	0.10

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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		Hours	
		4.50	
08/09/2022		0.30	
		2.00	
08/10/2022		0.40	
		2.60	
08/11/2022		0.30	
08/15/2022		3.60	
08/18/2022		4.00	
08/19/2022		3.00	
	For Current Legal Services Rendered	576.75	116,979.75

Timekeeper	Recapitulation		
	Hours	Rate	Total
Richard C. Detwiler	302.10	\$350.00	\$105,735.00
W. Alex Weatherly	186.60	0.00	0.00
Harry A. Dixon	1.50	275.00	412.50
Katie A. Minton	0.40	135.00	54.00
Dee M. Hardwick	42.60	115.00	4,899.00
Joe A. Reinhardt IV	0.75	135.00	101.25
T. Seth Phillips	42.80	135.00	5,778.00

Postage	8.97
Courier - Local	30.00
<u>Total Expenses</u>	38.97

Fees/Costs/Advances Paid to Other Attorneys or Vendors	567.80
Court Reporter	5,249.48
Copies of Medical Records	299.38
Report from SLED	78.00
Probate Court	150.00
Meals & Miscellaneous	52.10
Expert Witness	6,030.00
Clerk of Court	180.32
<u>Total Advances</u>	12,607.08

Jane.Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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August 19, 2022
File No: 6660-002M
Statement No: 219264

Total Current Work	129,625.80

<u>Balance Due</u>	<u>\$129,625.80</u>

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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF RICHLAND	)	CASE NO. 2020-GC-40-72
Jane E. Baskin,	)	
Plaintiff,	)	
vs.	)	AMENDED AND SUPPLEMENTAL
William B. Walkup,	)	AFFIDAVIT IN SUPPORT OF
Defendant.	)	ATTORNEYS' FEES AND COSTS

PERSONALLY APPEARED BEFORE ME, Richard C. Detwiler, who, being duly sworn, deposes and says:

1. I was admitted to the practice of law in South Carolina in 1986.
2. I am an active member of the South Carolina Bar Association, the Richland County Bar Association, the American Association for Justice and the South Carolina Association for Justice. I am also admitted to practice before the United States District Court, District of South Carolina and the United States Fourth Circuit Court of Appeals.
3. I joined the law firm of Callison Tighe & Robinson, LLC, in July of 1991 and became a Member the following year. I currently serve as the firm's Managing Member.
4. The emphasis of my practice is general civil litigation, including commercial litigation, trust and estate litigation and personal injury. I am rated "AV Preeminent" by Martindale-Hubbell, a recognition of my peers of the highest professional excellence, levels of skill and integrity. I am recognized by "Best Lawyers" in the areas of commercial litigation and workers' compensation and by "Super Lawyers" in general litigation.

5. I am the attorney of record for the Plaintiff in the above-captioned action. The services rendered by my firm on behalf of Plaintiff have been performed by me or under my direction.

6. The hourly rate I have charged in this matter is Three Hundred Fifty and 00/100 (\$350.00) Dollars per hour, which I believe to be at or below market rate for a trial lawyer with my experience. I have incurred 302.10 hours of billable time in this matter and spent many more hours which have gone unbilled. W. Alex Weatherly, Jr. also assisted in the representation of the Plaintiff in this case. He charges an hourly rate of Three Hundred Fifty and 00/100 (\$350.00) Dollars per hour and has incurred 186.60 hours of billable time during this same period. However, despite his considerable contributions, we have not billed for any of his time incurred in this litigation. That time would have equaled an additional \$65,310 had it been included. His fees and costs incurred in his capacity as "Special Trustee" will be submitted to the Court separately.

7. Total fees and costs incurred in this matter are \$129,625.80, not including Mr. Weatherly's time, as reflected on the attached detailed invoice showing descriptions of work and time for each entry.

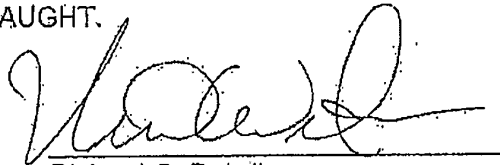
8. I prepared the Petition for Attorneys' Fees filed in this matter, to which this Affidavit is appended, and attest as an officer of this Court that all statements therein are true and correct, to the best of my knowledge, information and belief, and are incorporated by reference into this Affidavit. I particularly note, as set forth in the Petition, that much of the considerable cost of this litigation was the result of what I believe to be the Defendant's unreasonable actions and positions taken, and his litigious and dilatory conduct, as more

particularly set forth in the Petition.

9. All services performed in this case were reasonable, efficient and necessary for the proper representation of the Plaintiff, and I am informed and believe that the fees and expenses charged in this case reflect those customarily charged in this locality for a similar action.

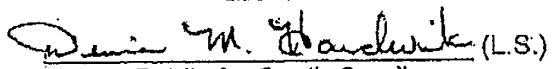
10. I am requesting that the Court review the file, Plaintiff's Petition for Attorneys' Fees and Costs, this Amended and Supplemental Affidavit, and the evidence presented to the Court, and grant Plaintiff an award of her attorneys' fees and costs to date in the amount of \$129,625.80, and enter judgment requiring the Defendant to pay these fee and costs immediately.

FURTHER, DEPONENT SAYETH NAUGHT.



Richard C. Detwiler
Attorney for Plaintiff

SWORN TO AND SUBSCRIBED
before me this 19th day of August, 2022

 (L.S.)
Notary Public for South Carolina
Print Name: Denise M. Hardwick
My commission expires: 3-25-28

CALLISON TIGHE & ROBINSON, LLC
Attorneys at Law
1812 Lincoln Street, Suite 200
Post Office Box 1390
Columbia, South Carolina 29202

(803) 404-6900
(803) 404-6902
FEDERAL I.D.

Jane Baskin
316 Summerlea Dr.
Columbia SC 29203-3966

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August 19, 2022
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Eldridge Baskin Trust f/b/o Jane E. Baskin

DRAFT BILL - IN HOUSE USE ONLY

	Hours	
02/11/2020	1.00	
	2.10	
02/12/2020	0.40	
02/16/2020	1.10	
	0.70	
02/17/2020	1.00	
	0.60	
02/19/2020	0.20	No Charge
03/05/2020	0.50	
04/22/2020	0.30	
06/03/2020	0.30	
07/06/2020	0.40	
07/10/2020	2.50	
	2.10	
07/12/2020	1.60	
07/14/2020	1.00	
07/16/2020	2.00	
	0.80	
07/24/2020	0.30	
07/31/2020		

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	0.30 No Charge
08/07/2020	1.00
08/08/2020	0.10
08/10/2020	0.20
08/11/2020	1.80
	0.40 No Charge
08/12/2020	0.10
08/17/2020	1.00
08/25/2020	0.40
08/26/2020	0.10
08/27/2020	0.20
08/28/2020	0.60
09/25/2020	0.20
10/01/2020	1.00
10/02/2020	0.40
10/07/2020	2.00
	4.50
10/08/2020	0.20
	1.20
10/09/2020	0.20
	2.50
	2.30
10/12/2020	0.90

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
10/13/2020	4.80	
	0.20	No Charge
10/14/2020		
	3.00	
	0.40	
10/15/2020		
	5.60	
	3.00	
10/16/2020		
	7.30	
	2.40	
10/18/2020	0.20	
10/19/2020		
	2.10	
	0.60	
	0.20	No Charge
10/20/2020		
	0.80	
	0.20	No Charge
10/21/2020		
	0.80	
	0.40	
	2.60	
10/22/2020		
	0.50	
	1.30	

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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August 19, 2022
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	Hours
10/23/2020	2.10
	2.50
10/24/2020	0.30
10/26/2020	0.40
	0.30 No Charge
	0.50
10/27/2020	0.60
10/28/2020	1.20
	1.20
10/29/2020	1.50
	0.50
10/30/2020	0.70
	0.30
10/31/2020	0.10
11/02/2020	1.50
	1.50
	4.00
11/03/2020	3.10
	2.00
	1.10
	6.00
11/04/2020	1.10
	6.00
	8.50
11/05/2020	0.20

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	6.00
11/05/2020	1.50
11/09/2020	0.50
11/10/2020	
	7.50
	0.70
11/12/2020	
	2.60
	0.40
11/13/2020	0.40
11/16/2020	0.50 No Charge
	6.80
	1.50
11/17/2020	6.00
	6.00
11/18/2020	
	0.30
11/19/2020	
	2.20
	1.80
11/20/2020	0.70
	0.80
11/22/2020	0.10
11/23/2020	
	1.80
	1.50
11/24/2020	
	0.60

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

Page: 6
August 19, 2022
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	Hours
	0.40
11/25/2020	0.30
	1.80
	0.70
	1.50
11/30/2020	0.20
	3.00
12/01/2020	2.80
	0.20
12/02/2020	3.20
12/03/2020	0.20
	2.00
	1.60
12/07/2020	0.40
	1.30
12/08/2020	1.80
	2.00
12/09/2020	1.00
	0.30
12/11/2020	0.30
	0.30
12/14/2020	0.40
12/15/2020	1.60

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
	2.80
	0.80
12/17/2020	0.50
12/18/2020	0.50
	0.40
12/22/2020	
	2.50
	0.60
12/23/2020	0.30
12/24/2020	1.20
12/25/2020	0.20
12/28/2020	
	2.50
12/29/2020	
	1.50
	1.10
12/30/2020	
	2.50
	4.50
	1.30
	4.50
	3.00
12/31/2020	
	0.80
	2.50
01/01/2021	0.20

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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August 19, 2022

File No: 6660-002M

Statement No: 219264

	Hours
01/02/2021	0.20
01/03/2021	3.50 2.00 7.50
01/04/2021	1.50 10.50 11.00
01/05/2021	7.50 10.00
01/06/2021	4.00 4.50
01/07/2021	0.20 0.20
01/21/2021	0.10
01/22/2021	0.10
02/09/2021	0.20 1.50
02/10/2021	0.30 2.00
02/11/2021	2.50
02/16/2021	0.20
02/24/2021	0.30
03/08/2021	0.30
03/10/2021	0.30
03/11/2021	0.30
04/15/2021	0.50

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
06/02/2021	2.90	
06/03/2021	0.30	
	1.00	
06/04/2021	1.00	
06/29/2021	0.30	
	0.60	
06/30/2021	0.30	
07/06/2021	0.20	
07/07/2021	1.20	
	1.80	
07/15/2021	0.60	
07/16/2021	0.50	
	5.20	
07/19/2021	0.20	No Charge
	0.20	
07/20/2021	0.20	No Charge
	0.10	
07/27/2021	0.40	
	3.00	
08/02/2021	0.70	
08/03/2021	1.50	
09/16/2021	1.00	
09/23/2021		

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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August 19, 2022
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	Hours
	1.50
10/05/2021	0.60
10/07/2021	0.30
10/08/2021	1.30
10/11/2021	6.50
10/12/2021	4.50
10/13/2021	1.40
	1.50
10/14/2021	0.30
10/15/2021	0.20
10/20/2021	1.20
10/22/2021	0.50
	0.10
10/25/2021	0.10
10/26/2021	1.00
11/19/2021	0.30
	0.30
	0.30
11/24/2021	1.00
	0.20
11/29/2021	0.20
11/30/2021	1.50

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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August 19, 2022
File No: 6660-002M
Statement No: 219264

	Hours
12/01/2021	3.30
	1.20
12/02/2021	4.00
	1.60
12/03/2021	2.00
	0.80
12/10/2021	0.40
	0.40
12/13/2021	1.10
	0.50
12/14/2021	0.40
12/16/2021	1.50
	0.60
12/17/2021	0.20
12/22/2021	0.20
	0.10
12/28/2021	0.60
12/30/2021	1.20
01/03/2022	1.80
	0.30
01/04/2022	2.30

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
01/05/2022	0.80
01/06/2022	0.40 No Charge
01/27/2022	0.40
01/31/2022	0.70
02/01/2022	1.00 0.60
02/10/2022	0.50 0.40
02/15/2022	1.00
02/17/2022	2.00 0.40
02/21/2022	0.20 0.40
02/23/2022	0.20 No Charge 0.30
02/24/2022	1.30 0.40
02/25/2022	1.00 0.70
02/28/2022	0.90
	2.80
03/01/2022	0.40
03/04/2022	0.10
03/07/2022	0.30
03/30/2022	0.20
03/31/2022	0.40 0.20
04/14/2022	0.60

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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Statement No: 219264

	Hours
04/18/2022	0.80
04/25/2022	0.30
04/26/2022	0.30
04/28/2022	0.70
	0.40
05/02/2022	1.50
	0.40
05/03/2022	0.20
05/04/2022	0.50
05/16/2022	0.40
	0.40
05/25/2022	0.30
	0.20
05/26/2022	0.70
05/27/2022	0.60
	0.70
05/31/2022	0.30
	0.30
06/01/2022	0.70
	0.40
06/02/2022	1.60
	1.30
06/06/2022	1.50
	0.10
06/07/2022	0.40
	0.30

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
06/08/2022	1.00	
06/09/2022		
	0.40	
	2.50	
	5.75	
	2.10	
06/10/2022	2.80	
	0.50	
	0.90	
06/11/2022	2.50	
06/13/2022	0.75	
	1.80	
	5.00	
06/14/2022	2.50	
	2.60	
	3.50	
06/15/2022	0.30	
	1.50	
06/16/2022	3.65	
	0.40	
	1.80	
06/17/2022	5.20	No Charge
06/20/2022	6.60	No Charge
06/21/2022	7.58	No Charge

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours	
06/22/2022	7.75 0.30	No Charge
06/23/2022	0.20 1.83	No Charge
06/25/2022	0.20	
06/27/2022	1.00	
06/28/2022	0.40	
	4.00	
06/29/2022	3.00	
06/30/2022	0.30 1.50	
07/01/2022	1.00 5.64	
07/05/2022	1.17	No Charge
07/08/2022	4.17 0.30	No Charge
	0.40	
07/11/2022	6.33 0.30	No Charge
07/13/2022	0.60	
07/14/2022	0.30 0.30	
07/15/2022	1.50 1.50	
07/18/2022	2.20 5.60	

Jana Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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	Hours
07/19/2022	0.20
07/21/2022	0.50
07/25/2022	0.20
07/26/2022	0.50
07/27/2022	0.30
07/28/2022	3.00
07/29/2022	0.70
08/01/2022	2.80
08/02/2022	1.00
08/03/2022	2.25
08/04/2022	2.60
08/05/2022	6.08
08/06/2022	1.30
08/07/2022	2.00
08/08/2022	2.50
08/09/2022	6.00
08/10/2022	6.93
08/11/2022	2.50
08/12/2022	4.50
08/13/2022	8.50
08/14/2022	3.00
08/15/2022	9.20
08/16/2022	9.50
08/17/2022	0.10

Jane Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

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		Hours	
		4.50	
08/09/2022		0.30	
		2.00	
08/10/2022		0.40	
		2.60	
08/11/2022		0.30	
08/15/2022		3.50	
08/18/2022		4.00	
08/19/2022		3.00	
	For Current Legal Services Rendered	576.75	116,979.75

Recapitulation			
<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Richard C. Detwiler	302.10	\$350.00	\$105,735.00
W. Alex Weatherly	186.60	0.00	0.00
Harry A. Dixon	1.50	275.00	412.50
Katie A. Minton	0.40	135.00	54.00
Dee M. Hardwick	42.60	115.00	4,899.00
Joe A. Reinhardt IV	0.75	135.00	101.25
T. Seth Phillips	42.80	135.00	5,778.00

Postage	8.97
Courier - Local	30.00
<u>Total Expenses</u>	38.97

Fees/Costs/Advances Paid to Other Attorneys or Vendors	567.80
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Clerk of Court	180.32
<u>Total Advances</u>	12,607.08

Jane.Baskin

Eldridge Baskin Trust f/b/o Jane E. Baskin

Page: 18
August 19, 2022
File No: 6660-002M
Statement No: 219264

Total Current Work

129,625.80

Balance Due

\$129,625.80

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State of South Carolina) In the Probate Court
)
 County of Richland) Case No: 2020-GC-40-72

Jane E. Baskin)
)
 Plaintiff(s),) Trial Transcript
 vs.)
)
)
 William B. Walkup)
)
 Defendant(s).)
 -----)

The within trial proceeding was taken before
 Jennifer L. Thompson, CCR, CVR-M, Nationally Certified
 Verbatim Court Reporter and Notary Public in and for
 the State of South Carolina, January 4-6, 2021, at the
 Richland County Probate Court, Richland County Judicial
 Center, Columbia, South Carolina.

Reported by:

Jennifer L. Thompson, CCR, CVR-M

1 Any court, party, or person who has purchased a
2 transcript may, without paying a further fee to the
3 reporter, reproduce a Copy or portion thereof as an
4 exhibit pursuant to court order or Rule or for internal
use, but shall NOT otherwise provide or sell a copy or
copies to any other party or person without the express
consent of the reporter and/or reporting agency.

5 APPEARANCES

6 The Honorable Amy W. McCulloch, Presiding

7
8 For the Plaintiff/Petitioner:
9 Richard C. Detwiler, Esquire
10 W. Alex Weatherly, Jr., Esquire
11 Callison Tighe & Robinson, LLC
1812 Lincoln Street
PO Box 1390 (29202)
Columbia, SC 29201

12 For the Defendant/Respondent:
13 Thornwell F. Sowell, Esquire
14 Bess J. DuRant, Attorney at Law
Sowell & DuRant, LLC
1325 Park Street, Suite 100
Columbia, SC 29201

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24

25

1

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REPORTER'S LEGEND:

-- [denotes interruption/change in thought]
... [denotes trailing off/incomplete
thought or statement]
[sic] [denotes word/phrase that may seem strange or
incorrect; written verbatim]
(ph) [denotes phonetic spelling]
(unintelligible) [denotes not capable of being
understood]
(indiscernible crosstalk) [denotes] multiple speakers
at the same time, not capable of
being understood]

1 PROCEEDINGS

2 - - - - -

3 [Begin 9:34 a.m.]

4 THE COURT: Making of record in the trust
5 matter of Jane E. Baskin 2020-GC-40-72. This is
6 the trial of the matter scheduled for January 4,
7 2021. Thank goodness for 2021. All parties are
8 present, all parties are prepared, all parties
9 have provided me the joint exhibits that is about
10 by my guess 8 inches thick. Thank you so much.

11 If I could just go around the room and have
12 everyone identify themselves for the record.
13 Obviously, Mr. Detwiler, you are representing
14 Ms. Jane Baskin and you are present.

15 MR. DETWILER: I am, Your Honor.

16 THE COURT: Also, Mr. Alex Weatherly, and
17 just clarify for me what role he'll be playing.
18 And stop standing up. I love it, but we want
19 minimal movement. Everybody stay seated.

20 MR. WEATHERLY: I am here for Jane Baskin,
21 Your Honor.

22 THE COURT: You are co-counsel.

23 MR. WEATHERLY: Yes, ma'am.

24 THE COURT: I understand you're also going to
25 be a witness. How does that work?

1 MR. WEATHERLY: I've heard that.

2 THE COURT: Is that still the plan?

3 MS. DURANT: Yes, Your Honor.

4 THE COURT: How do you appear as a witness
5 and counsel?

6 MR. WEATHERLY: I was counsel and then they
7 asked to make me witness. That's what happened.

8 THE COURT: All right. It's going to be
9 interesting. I also see we have Mr. Walkup. Good
10 to see you, sir. And your attorneys, Mr. Sowell
11 and Ms. DuRant, both present along with the
12 amazing assistance of the other awesome Amy.

13 I also want to recognize I have Michele
14 Moseley.

15 Before we get started with any opening
16 statements or any testimony, are there any motions
17 or issues that we need to resolve?

18 MR. DETWILER: For the Plaintiffs, we would
19 ask, Your Honor, to consider what this case is and
20 what this case is not. This is not a
21 conservatorship proceeding as Your Honor has noted
22 before. This is just a matter of the --

23 THE COURT: Could I ask you to please sit
24 down and stay seated. That way I get you on that
25 microphone, which is in front of you.

1 MR. DETWILER: Thank you, Your Honor.

2 THE COURT: There we go. Please start fresh
3 and new.

4 MR. DETWILER: Thank you. This is going to
5 be hard for me to not stand up.

6 THE COURT: I know. Please don't think I'm
7 being mean to you when I say sit down.

8 MR. DETWILER: Your Honor, I just wanted to
9 bring the Court's attention, and this really is
10 gonna be a matter of evidence as we go along.

11 This is not a conservatorship proceeding.
12 This is a matter involving the removal of the
13 trustee, Bill Walkup, from the Eldridge Baskin
14 trust. We've asked for an accounting and we've
15 asked for attorney fees. That's all this case is
16 about.

17 From the beginning, Mr. Walkup has tried to
18 make this case about other things that are not in
19 the pleadings as Your Honor has noted in previous
20 filings that you've made. Among other things, we
21 have a list of witnesses that I'm told that will
22 be called that will be character witnesses for
23 Mr. Walkup.

24 Like Al Moses is going to testify, for
25 example, under the statement that you've been

1 given that he will testify about what a wonderful
2 guy Bill Walkup is. He has no knowledge of this
3 trust. He's never talked to Ms. Baskin. And
4 there are other witnesses like that.

5 Also, I would note that Mr. Walkup has tried
6 to make this about Michele Moseley who is
7 Ms. Baskin's attorney-in-fact, a healthcare power
8 attorney-in-fact and durable power of
9 attorney-in-fact and is also her primary caregiver
10 and who has been quite kind to Ms. Baskin.

11 Apparently, the theme here is that
12 Ms. Moseley has somehow or another caused the
13 relationship between Ms. Baskin and Mr. Walkup to
14 sour and fail when, in fact, the record will show
15 the relationship had been souring for years, maybe
16 even from the beginning.

17 So I wanted to bring the Court's attention to
18 how this will go, and I think that this is a --
19 been scheduled for three days when it ought to be
20 a one-day trial. I'm going to do my best to get
21 through as quickly as possible. My plan is to get
22 through today. And so I wanted to bring that to
23 your attention.

24 We do think that this will require -- these
25 points I'm making now are going to require you to

1 consider whether or not certain witnesses should
2 even be heard in this courtroom. Without knowing
3 exactly who they intend to call, when they're
4 going to call them, I'm not going to make this a
5 motion in limine, but that's essentially what I
6 wanted to bring to the Court's attention.

7 As a matter of housekeeping, we have
8 Dropboxed to the Court and everyone the video
9 excerpts of Mr. Walkup's deposition. I understand
10 that's been received by the Court and by counsel.
11 I don't know how, in terms of the record of this
12 case, how you would like for us to present that in
13 the record. I can give it by thumb drive, I can
14 give it by the Dropbox link. I'm not real sure --
15 I'm not technologically inclined, so I'm not sure
16 how best to do that.

17 THE COURT: All right, let me stop you right
18 there. I received the email with those
19 attachments, but I didn't watch it because of the
20 fact that I wanted to make sure there was no
21 objections to any portions before I watched them.

22 MR. SOWELL: Your Honor, we don't have any
23 objections. We would like the opportunity to
24 provide our own video excerpts.

25 THE COURT: When you gonna do that?

1 MR. SOWELL: As soon as we can.

2 THE COURT: What does that mean?

3 MR. SOWELL: Before the trial is over.

4 THE COURT: Okay. How about today?

5 MR. SOWELL: Well, somebody's got to look at
6 it.

7 THE COURT: You've had ample time to look at
8 his video deposition, and you've had his excerpts
9 since, I believe, Friday, maybe Thursday. It
10 would have been Thursday. So when will I get your
11 excerpts?

12 MR. SOWELL: I would like to say by the end
13 of the day tomorrow.

14 THE COURT: End of the day today. You'll
15 have a huge lunch break, plenty of time. That's
16 when I plan on watching them since I hear no
17 objections. Okay, anything else?

18 MR. DETWILER: So, Your Honor, just to be
19 clear, we are moving into evidence in our case in
20 chief the excerpts we've presented of Bill
21 Walkup's deposition, as I understand it, without
22 objection.

23 THE COURT: Right. And how would you like to
24 get those for your purposes of the record?

25 COURT REPORTER: If he could just send me the

1 same Dropbox link.

2 THE COURT: Yes, sure.

3 MR. DETWILER: So, Your Honor, without
4 belaboring the point, this case is about the
5 allegations of Mr. Walkup's self-dealing --

6 THE COURT: Are you now moving into your
7 opening statement? Let me just make sure there's
8 no other housekeeping issues.

9 MR. DETWILER: That's the only housekeeping
10 issue that I know of.

11 THE COURT: Okay. Anything from Defense?

12 MS. DURANT: Your Honor, I think what
13 Ms. Kelly is informing us, is that we've already
14 counter designated and we can get the videographer
15 to make those video excerpts probably by the end
16 of the day.

17 THE COURT: Sure. Anything before we get
18 started with opening statements?

19 MS. DURANT: Not for me, but maybe from
20 Mr. Sowell.

21 MR. SOWELL: Just to make sure you
22 understand, we have counter-designated deposition
23 excerpts from Bill Walkup's deposition. What
24 we've not done is identified the video excerpts
25 and provided those.

1 THE COURT: I'll see them anyway you want me
2 to see them. I'll read them or I'll watch them.
3 It's not that big of a deal in addition to he's
4 here. I hear that he's intended to be called as a
5 witness. This is minimal issue.

6 MR. SOWELL: We'll try to get you the video
7 excerpts by the end of the day today, but you have
8 the excerpts, our counter designations.

9 THE COURT: I have not received any excerpts
10 from you.

11 MS. DURANT: We have them printed, Your
12 Honor. Whenever you're ready for us to --

13 THE COURT: That's fine. It is in no way a
14 problem, but I need them today because I intend to
15 watch those, watch yours or read yours. Okay.

16 MR. SOWELL: Your Honor, may I?

17 THE COURT: May you what?

18 MR. SOWELL: May I make a brief opening
19 statement?

20 THE COURT: Well, I'm going to let him make
21 his opening statement since he's the
22 Plaintiff/Petitioner. I'm looking for any motions
23 before we get started.

24 MR. SOWELL: Well, he -- I want to respond to
25 what he said.

1 THE COURT: Mr. Sowell, I'm going to give you
2 ample time. Do you have any motions before we get
3 started?

4 MR. SOWELL: No, ma'am.

5 THE COURT: Okay. Opening statement.

6 MR. DETWILER: Thank you, Your Honor. As I
7 mentioned earlier when I was bringing to your
8 attention some of the evidence that you will hear
9 today and tomorrow and Wednesday, this is a case
10 about the allegations of Mr. Walkup self-dealing,
11 his conflicts of interest, the fact that his
12 accountings to the beneficiary, my client Jane
13 Baskin, have been woefully inadequate.

14 You will hear testimony and its
15 uncontradicted that he has not given Ms. Baskin
16 annual accountings. That he has never given
17 Ms. Baskin any accounting that she did not
18 specifically ask for and the accountings that he
19 has given her have not been a proper trust
20 accountings. They've been, in effect, information
21 dumps is what they've been.

22 For example, when you demanded four months
23 after this case was filed that Mr. Walkup provide
24 an accounting, what was presented to you and to
25 the rest of us were tax returns, financial

1 statements of some of the investments. There was
2 a profit and loss statement that has a lot that's
3 unexplained. And there was no simple easy to
4 understand trust accounting.

5 Mr. Walkup has testified and he will testify
6 presumed in accordance with this deposition that
7 he didn't think Ms. Baskin was smart enough to
8 understand an accounting. And so, therefore, he
9 didn't do it. Well, that's what he testified to.
10 The reality is you will hear Ms. Baskin is a very
11 bright woman who, while she suffers from a grave
12 physical disability, is very bright, very smart
13 and capable of understanding with help. She's not
14 a financial expert, but that's why you have a
15 trustee.

16 And, in fact, I would submit to Your Honor
17 that Mr. Walkup had a duty to present an
18 understandable accounting if he thought Ms. Baskin
19 was incapable of understanding something more
20 complicated and he didn't do that.

21 Mr. Walkup moved her out of -- Jane Baskin
22 out of her home that she had lived in since she
23 was 12 years old. That's the Summerlea Drive
24 house that was left to her by her father. She
25 grew up in that house and he made her leave that

1 house and move into an apartment. And guess who
2 owned the apartment? Mr. Walkup and Mr. Walkup's
3 company. That's classic self-dealing and
4 conflicts of interest.

5 Ms. Baskin also is the recipient of an
6 annuity that Mr. Eldridge Baskin obtained while he
7 was a long time employee of the Internal Revenue
8 Service. Mr. Walkup takes great credit for
9 obtaining that. Great, he did make efforts to get
10 that annuity set up so it would roll to Jane, but
11 he didn't let Jane have it.

12 He took it and he keeps it and he puts it in
13 the trust account and then dispenses it to her
14 only recently in full as if he is doing her a
15 favor and giving trust income and trust principal
16 to Jane. That's Jane's money, that's not even
17 trust money. And he's taken it and used it as if
18 it's part of the trust.

19 Finally, Your Honor, you will hear that
20 Mr. Walkup has invested money, not only in funds
21 and investment vehicles in which he is also a
22 partner and from which he also gets fees before he
23 charges fees to the trust, but those investments
24 are skewed toward growth and not income.

25 Well, why would that be? Well, Your Honor,

1 the easy answer to that is he has to give Jane
2 Baskin income by the terms of the trust, but he
3 doesn't have to give her principal. He claims
4 that he has discretion not to give her principal,
5 but he has to give her income. So what does he
6 do? He invested in funds that are growth oriented
7 that generate growth of the principal, but not
8 income. And he testified very clearly about that.

9 You will see in the information dump that you
10 received from his lawyers on October 12, 2020,
11 that there is a statement or financial statement
12 or description of one of the funds, the largest of
13 the funds that the estate has invested in called
14 Equity 95. Well, footnote one of that document
15 that you have before you and has already been
16 provided to the Court, footnote one says that this
17 fund, the primary purpose of this fund is growth
18 of principle.

19 Well, that's not appropriate for someone in
20 Ms. Baskin's position. Ms. Baskin is 74 years
21 old. For 30 years she has lived like a pauper
22 hand to mouth. She's had her rent paid for her
23 for the last five years after he moved her out of
24 her house, and she has \$479 in Social Security
25 money coming in, and she has \$381 from this

1 annuity I described a while ago. That's \$860 from
2 which she has to buy food, she has to pay for her
3 own clothes. If she needs anything above that,
4 she needs to ask for reimbursement.

5 For example, she has to ask for reimbursement
6 for her Depends undergarments, which Mr. Baskin --
7 Mr. Walkup testified that he didn't think that was
8 demeaning to her at all. There wasn't anything
9 wrong with that, he never thought about it.

10 The idea, Your Honor, that Mr. Walkup says
11 that Jane Baskin is not smart enough to understand
12 an accounting, so therefore he doesn't have to
13 give her one is demeaning. It's disgraceful and
14 that is an example, just one example, of how he
15 has treated Jane Baskin for the last 30 years.

16 Your Honor, we are here to ask for Bill
17 Walkup to be removed as the trustee. We have
18 suggested an alternative or successor trustee to
19 the Court in Ted Chalgrin. But if that is not
20 acceptable to the Court and we presented -- we
21 would ask that that be made a part of the record,
22 Your Honor.

23 But if Mr. Chalgrin is not acceptable, then I
24 would ask that the Court work with us to find
25 somebody who's acceptable other than Bill Walkup.

1 We're also asking for a full accounting, a
2 proper accounting. Nobody has suggested, Your
3 Honor, that Mr. Walkup has stolen money from the
4 trust. What we have suggesting is he's double
5 dipping, he's got inherent conflicts of interest.
6 He has clearly violated the rules of a fiduciary
7 who also has an interest other than his
8 beneficiary in the investments he makes.

9 And that is clearly found in South Carolina
10 Code Section 6-7-802, and I believe that's
11 subsection C. And so we're asking that he give a
12 full accounting to the Court to the Court's
13 satisfaction.

14 And finally, Your Honor, we're asking for an
15 award of our attorney fees. Let me, if I may,
16 speak briefly to that.

17 Your Honor, this is a simple case. As I
18 started to say it a while ago, this is a case that
19 has been made far more complicated basically
20 trying to wear Jane Baskin down, and it hadn't
21 worked. Now, what they've done is they've taken
22 every conceivable deposition there was to take.

23 They took Jane Baskin's deposition for almost
24 four hours. They took Alex Weatherly, her lawyer,
25 her lawyer, took his deposition for almost five

1 hours. They took Michele Moseley's deposition for
2 almost five hours. They insisted, you may recall,
3 of taking Dr. Henderson's deposition and knowing
4 that Dr. Henderson has nothing to say about this.
5 Having the records before them, they took his
6 deposition and guess what? They didn't even order
7 a transcript.

8 That's the kind of waste that this case has
9 involved, Your Honor, and it's cost my client an
10 enormous attorney bill, which she has not been
11 able to pay and cannot pay.

12 We're asking this Court to award her attorney
13 fees out of Mr. Walkup's pocket and not the trust.
14 The record will show eventually that Mr. Walkup's
15 bills have probably been half again more than
16 ours.

17 Your Honor, once again, this is a case about
18 very simple the actions of the trustee. I saw an
19 email come to the Court last week suggesting that
20 this is about Jane Baskin. This isn't about Jane
21 Baskin. Jane Baskin is an open book. She is
22 severely disabled, but bright.

23 She does not have a conservator. She does
24 not have a guardian. She has a right to live
25 where she wants to live. She has a right to

1 receive principal distributions, reasonable
2 principal distributions from the trust, and she
3 has a right to receive all of the income and she
4 isn't getting that.

5 She has a right to live better than she's
6 lived. This trust has grown from \$175,000 30
7 years ago to \$575,000, which is proof, without
8 going another step, is proof that he has not
9 fulfilled his responsibility to Jane Baskin by
10 penting up this principal.

11 And guess who the recipient beneficiaries is?
12 His relatives, cousins. They are the intestate
13 heirs of Eldridge Baskin. And when she's gone,
14 when Jane Baskin is gone, it's all gonna flow to
15 his relatives.

16 Thank you, Your Honor.

17 THE COURT: That you, sir. Mr. Sowell?

18 MR. SOWELL: Your Honor, first of all, they
19 may be his remote relatives, but they are Jane
20 Baskin's first cousins. Those are the heirs at
21 law.

22 THE COURT: I've yet to receive a final list.
23 Is that ready for me today?

24 MR. SOWELL: I believe it is.

25 THE COURT: May I have it? While she's

1 looking for it, will you please proceed.

2 MR. SOWELL: That's the deposition of
3 Frampton Henderson, that's the original deposition
4 of Frampton Henderson.

5 THE COURT: Okay, thank you.

6 MR. SOWELL: Well, Mr. Detwiler says we
7 didn't bother to order the transcript. I'm just
8 letting you know --

9 THE COURT: This is opening statements. I
10 appreciate that.

11 MR. DETWILER: I stand corrected.

12 THE COURT: I really want to get to testimony
13 more than what the two of y'all evaluate the case
14 to be. That's certainly a great argument for
15 afterwards.

16 MR. DETWILER: I stand corrected, Your Honor,
17 I'm sorry.

18 MR. SOWELL: May I proceed?

19 THE COURT: Yes, sir.

20 MR. SOWELL: Bill Walkup and nobody close to
21 him is the beneficiary, is a residual beneficiary
22 of this trust. We made that point several times.
23 We made that point in court and we made that point
24 to Mr. Detwiler.

25 THE COURT: I need you to lean into the

1 microphone.

2 MR. SOWELL: We have made the point several
3 times to Mr. Detwiler and to the Court that
4 Mr. Walkup is in no way, shape or form a residual
5 beneficiary of this will. It's the heirs-at-law
6 of Eldridge Baskin, which are by statutory
7 definition Jane Baskin's first cousins.

8 Mr. Walkup is not a first cousin.

9 Mr. Walkup's mother was a first cousin of Eldridge
10 Baskin. So he's the, I don't know, first cousin
11 once removed of Eldridge Baskin or second cousin.
12 I don't know how all that genealogy works, but
13 neither he nor anybody close to him is a residual
14 beneficiary.

15 THE COURT: Okay. Can we jump on to some
16 more important issues. I'm clear he doesn't
17 personally benefit from this trust at her death,
18 nor does he have any first level relatives that
19 benefit initially or at all from this trust.

20 MR. SOWELL: And he has no motive to prop up
21 corpus in lieu of paying the income contrary to
22 what Mr. Detwiler has said.

23 Now, Mr. Walkup was appointed the trustee of
24 this trust and the last will and testament of
25 Eldridge Baskin in 1990. As stated, Mr. Walkup

1 was a remote cousin, either first cousin once
2 removed or second cousin of Eldridge Baskin, and
3 Eldridge Baskin knew Mr. Walkup was an investment
4 manager, a money manager.

5 So he asked Mr. Walkup to be the trustee,
6 personally asked him after he contracted cancer.
7 He called Mr. Walkup or met with him and asked him
8 to be the trustee to take care of Jane Baskin for
9 the rest of her life.

10 Now, she was 34 years old -- 44, I'm sorry,
11 I've made that mistake twice now. Forty-four
12 years old when Bill Walkup took up his job as
13 trustee of the Eldridge Baskin trust. And he has
14 been the trustee, devoted trustee of that trust
15 for the last 30 years.

16 You know, I won't say that he and Jane's
17 relationship has always been hunky-dory, but
18 that's the nature of the trust, that's the reason
19 that a father who has an only child with cerebral
20 palsy and has about \$175,000 in corpus when he
21 dies turns the money over to a trust to be guided
22 by a competent trustee.

23 If the money were to be given to Jane Baskin,
24 he would have given it to her, but he informed
25 Mr. Walkup that she couldn't manage the money and

1 she needed somebody to manage that money. And he
2 knew Bill Walkup and he knew Bill Walkup could
3 manage the money.

4 So what has Bill Walkup done? He has for the
5 last 30 years managed that money to take care of
6 all of Jane Baskin's day-to-day needs. He's paid
7 all of her bills and he's grown the corpus to over
8 \$500,000.

9 Now, Ms. Moseley, Michele Moseley, testified
10 in her deposition that she believes that Jane
11 Baskin will live until she's 94 years old. Well,
12 she's 74 now, so you're talking about another 20
13 years that that \$500,000 has got to last Jane
14 Baskin.

15 And Bill Walkup has done is dead-level best
16 and has done a whale of a job of preserving that
17 corpus. And he spent money out of the income and
18 the principal. That's clear from his deposition,
19 it was clear from his testimony, that he has spent
20 all of the income, which is what the trust
21 requires, that he has spent substantial amounts of
22 principal every year, which of the trust allows,
23 to take care of Ms. Baskin.

24 Now, this I'll call it the disruption, the
25 recent disruption, started sometime in about the

1 year 2017. Michele Moseley who goes to church
2 with Ms. Baskin and went to church formerly with
3 Mr. Weatherly at Covenant Road Presbyterian
4 Church -- I don't think Mr. Weatherly goes there
5 anymore, but he did at one time.

6 Ms. Moseley got involved, Mr. Weatherly got
7 involved in about June of 2017. Actually a little
8 bit before that because the first accounting that
9 was given was in May of '17, May 4, 2017.

10 Now, the Code -- Mr. Detwiler talks all the
11 time about an accounting. The Code does not
12 allude to an accounting, the trust Code. The
13 trust Code alludes to a report, and it outlines
14 the types of things that should be in the report.

15 So Mr. Weatherly wrote Mr. Walkup and
16 Mr. Walkup engaged Ben Bruner of Bruner Powell Law
17 Firm to represent him, and they engaged in a
18 series of letters back and forth. Mr. Weatherly
19 seeking information, Mr. Bruner providing the
20 information. The first providing of information,
21 the first report -- let me back up just a minute
22 --

23 THE COURT: Can we not get to testimony? I
24 just feel like both Mr. Detwiler and Mr. Sowell,
25 you're telling me facts and I -- it's just an

1 opening statement. You're presenting the case in
2 these opening statements. I need testimony. Can
3 we not move, please, straight to testimony?

4 MR. SOWELL: Yes.

5 THE COURT: Call your first witness.

6 MR. DETWILER: Thank you, Your Honor. I call
7 Jane Baskin.

8 Whereupon,

9 Jane E. Baskin,

10 being duly sworn and cautioned to speak the truth, the
11 whole truth, and nothing but the truth, testified as
12 follows:

13 - - - - -

14 THE COURT: Any motion about Ms. Moseley
15 being present? I thought you wanted
16 sequestration.

17 MS. DURANT: Yes, Your Honor. I believe
18 Ms. Kemmerlin sent out an email that you consider
19 all witness sequestered.

20 THE COURT: Ms. Kemmerlin said what?

21 MS. DURANT: Sent out an email saying you,
22 the Court, consider all witnesses sequestered.
23 And to that end, will you please ask Ms. Moseley
24 to leave the courtroom.

25 THE COURT: So Ms. Moseley, you're going to

1 be excluded from the courtroom during testimony
2 because you are also a witness, and this is called
3 sequester, sequester you so that there's no
4 conflict or potential conflict about what you hear
5 and what you say so it's your testimony when you
6 testify.

7 So take whatever you need with you. And this
8 is gonna be a while, so sitting in the hallway is
9 not required of you, and it would seem like that
10 that would not be necessary.

11 Did you drive your own car today?

12 MS. MOSELEY: Yes, ma'am.

13 THE COURT: You're welcome to leave.

14 Mr. Detwiler will call you with enough time for
15 you to be present back for your own testimony.

16 MR. DETWILER: Your Honor, just for the
17 record, she's Jane's caregiver, so I don't want
18 her to go too far in case Jane needs to take a
19 break.

20 THE COURT: Okay, I apologize, I didn't
21 realize that part of it.

22 - - - - -

23 DIRECT EXAMINATION

24 BY MR. DETWILER:

25 Q Give me your full name.

- 1 A Jane Eldridge Baskin.
- 2 Q Where do you currently live?
- 3 A In an apartment.
- 4 Q Is it the Atrium apartments?
- 5 A Atrium Way Apartments.
- 6 Q How far did you go in school, Jane?
- 7 A I graduated from high school.
- 8 Q What high school?
- 9 A Eau Claire.
- 10 Q What year did you graduate?
- 11 A 1965.
- 12 Q Who were your parents?
- 13 A Eldridge and Nell Baskin.
- 14 Q Eldridge and Nell Baskin?
- 15 A Yes.
- 16 Q You're an only child. Is that right?
- 17 A Yeah.
- 18 Q You were adopted?
- 19 A Yeah.
- 20 Q By Eldridge and Nell Baskin?
- 21 A Uh-huh.
- 22 Q As an infant?
- 23 A Yeah.
- 24 Q Your father passed away in 1990, right?
- 25 A Right.

1 Q That's well established.

2 You were 44 years old at that time. Is that
3 right?

4 A Yeah.

5 Q And you're 74 now?

6 A Yeah.

7 Q What's your date of birth?

8 A 3/26/46.

9 Q 3/26/46. Is that right?

10 A Yes.

11 Q When your daddy died, your daddy was Eldridge
12 Baskin, correct?

13 A Yes.

14 Q When he died, he left you a house on Summerlea
15 Drive, did he not?

16 A Yeah.

17 Q How long had you lived in the Summerlea Drive
18 house, Jane?

19 A In '59 we moved there.

20 Q Which made you how old, about 12 or 13?

21 A About that, yeah.

22 Q He also left you some property that was owned with
23 other people in Lee County?

24 A Yeah.

25 Q And the rest of the property, other than the

1 household goods, the rest of the property was left
2 in a trust for your benefit, was it not?

3 A Yeah.

4 Q And the will set up the trust and it named Bill
5 Walkup as the trustee. Is that right?

6 A Yeah.

7 Q Who is Bill Walkup to you? What relation to you
8 is Bill Walkup?

9 A Second cousin.

10 Q A second cousin, okay. And then upon your death,
11 where does the trust property go? Do you know?

12 A To dad's other heirs.

13 Q To your father's other heirs, okay. I want to
14 talk to you a little bit about where you were in
15 your life at age 44 when your father died.

16 Did you live with your father at Summerlea
17 Drive?

18 A Yeah.

19 Q Were you independent?

20 A Yeah.

21 Q Now, you suffer from cerebral palsy. Do you not?

22 A Yeah.

23 Q How long have you -- how long ago were you
24 diagnosed with cerebral palsy?

25 A When I was diagnosed when I became 19, but I was

1 born with it.

2 Q You were diagnosed when you were 19, but you were
3 born with it. Is that what you said?

4 A Yeah.

5 Q How did the cerebral palsy first -- what were the
6 first symptoms that were noticed in you?

7 A My speech wasn't too hot.

8 Q Your speech was not too hot. Is that what you
9 said?

10 A Yeah.

11 Q You're doing great now.

12 A I think I've improved on that.

13 Q You have improved. Were you driving -- at the
14 time of your dad's death in 1990, were you driving
15 a car?

16 A Yeah.

17 Q At that time, Jane, did you need any help from any
18 caregivers?

19 A No.

20 Q So you were living independently, you were driving
21 your own car and living in Summerlea Drive house,
22 correct?

23 A Yeah.

24 Q What did you need at that time from the trust, if
25 anything?

1 A Money to buy food.

2 Q But that was about it?

3 A Yeah.

4 Q At that time, Jane, were you walking with a cane?

5 THE COURT: Mr. Detwiler, I need you to
6 clarify for me is this at 19 or is this at 44 when
7 the trust kicks in? What time frame are you
8 talking about?

9 MR. DETWILER: I'm sorry, I apologize for not
10 being clear.

11 BY MR. DETWILER:

12 Q Jane, we've been talking about 1990 when your dad
13 died?

14 A Yeah.

15 Q Is that what your understanding was?

16 A Yeah.

17 MR. DETWILER: Does that clarify, Your Honor?

18 THE COURT: So you're asking her questions
19 about initially when the trust is kicking in when
20 her father passes away how she was?

21 MR. DETWILER: I am. I'm sorry I wasn't
22 clear.

23 BY MR. DETWILER:

24 Q So at the time of your dad's death, you were
25 living at Summerlea, you were driving, you were

1 independent, you were living independently,
2 correct?

3 A Yeah.

4 Q And from the trust, you needed help just buying
5 groceries and just normal living expenses?

6 A Yeah.

7 Q Is that correct?

8 A Yeah.

9 Q When did you stop driving, Jane?

10 A I stopped driving in '06.

11 Q 2006?

12 A Yes.

13 Q Do you remember the exact date?

14 A No.

15 Q Because I find your memory remarkable, I thought
16 you'd remember that one. Were you using a cane at
17 that point in time -- let me back up, let me go
18 back to 1990 when your dad died, you were living
19 in Summerlea, were you walking with a cane at that
20 point in time?

21 A No.

22 Q You were not. Did you need a walker?

23 A No.

24 Q At the time you stopped driving in 2006, tell me
25 about your ability to get around.

1 A It was hard then because I had had neck surgery.

2 Q Tell the Judge about your neck surgery. When did
3 you have neck surgery?

4 A 2003.

5 Q 2003?

6 A Yeah.

7 Q Did that help you with your mobility in your neck?

8 A Yeah, it did.

9 Q And you drove for a few more years after that?

10 A Yeah.

11 Q Again, talking about in 2006, were you using a
12 walker or a cane? How were you getting around?

13 A I was using a walker.

14 Q You were using a walker by then?

15 A Yeah. I had to learn how to walk all over again.

16 Q You had to learn how to walk all over again. Is
17 that what you just said?

18 A On account of my neck.

19 Q Jane, are you living in your Summerlea Drive house
20 now?

21 A No.

22 Q Do you still own it?

23 A Yes.

24 Q When did you move out of Summerlea?

25 A June 9, 2015.

1 Q June 9, 2015. Is that what you said?

2 A Yeah.

3 Q Why did you move out of the Summerlea Drive house?

4 A Because he wanted me to be in a place near him.

5 Q You say "he," you're talking about Bill Walkup?

6 A Yeah.

7 Q What did he -- did he give you any other reasons
8 for wanting to move you out of Summerlea Drive?

9 A He didn't want to pay the insurance, it was too
10 high. The electric bill was too high.

11 Q He didn't want to pay the insurance bill or the
12 electric bill because he thought that was too
13 high?

14 A Yeah.

15 Q Did you want to move out of your Summerlea house?

16 A No.

17 Q Did Mr. Walkup come to you and did y'all have any
18 discussion about making the Summerlea Drive house
19 more handicap accessible?

20 A No.

21 Q Did he ever offer to make adjustments or make
22 improvements --

23 A No.

24 Q -- to the house to make it more handicap
25 accessible?

- 1 A Huh-uh.
- 2 Q No?
- 3 A No.
- 4 Q Where did Bill Walkup move you to?
- 5 A His apartments.
- 6 Q His apartment?
- 7 A He owned that.
- 8 Q He owns that apartment?
- 9 A Not now.
- 10 Q Not now, but he did?
- 11 A Uh-huh.
- 12 Q Is that right?
- 13 A Yeah.
- 14 Q Are those apartments called the Atrium Luxury
- 15 Apartments?
- 16 A Yeah.
- 17 Q Are they luxurious?
- 18 A No.
- 19 Q At that time, again this is in June of 2015 when
- 20 he moved you from Summerlea to the apartments, at
- 21 that time, what was your income?
- 22 A It was \$475.
- 23 Q \$475?
- 24 A Yeah.
- 25 Q And that was your Social Security check?

1 A Yeah.

2 Q Did he give you any other money from the trust at
3 that time?

4 A At that time, I don't think so.

5 Q Did you have any caregivers when you moved into
6 the apartment?

7 A I had a neighbor coming in.

8 Q You had a neighbor come in?

9 A Yeah.

10 Q Coming in how, just to check on you?

11 A Yeah, and help.

12 Q Did you have a caregiver who helped bathe you and
13 feed you?

14 A Not then. I could do it myself.

15 Q You could do it yourself then?

16 A Yeah.

17 Q When you moved in, who actually physically moved
18 you from Summerlea to the apartment?

19 A William.

20 Q William, Mr. Walkup?

21 A Uh-huh.

22 Q Okay. Did you have any way of communicating when
23 you moved into the apartment? Did you have a
24 phone?

25 A No, I didn't have one for two weeks.

1 Q You didn't have a phone for two weeks?

2 A Two weeks.

3 Q And this is an apartment that Mr. Walkup moved you
4 into which was closer to him?

5 A Yeah.

6 Q After two weeks, what kind of phone did you get?

7 A A flip phone.

8 Q A flip phone?

9 A Yeah.

10 Q You still have a flip phone, don't you?

11 A Yeah.

12 Q You are one of the few people I know that still
13 got a flip phone.

14 A I know.

15 Q Is your apartment, Jane, handicap accessible?

16 A No.

17 Q I know this is a strange question to ask, but
18 could you tell the Court about the bathroom in
19 your apartment.

20 A It doesn't have any bars that you hold onto. It's
21 got the lavatory. You can get there under it,
22 that's all.

23 Q You can get the wheelchair under the lavatory?

24 A Yeah.

25 Q Under the sink?

1 A Yeah.

2 Q And that's all?

3 A That's it.

4 Q Does it have a handicap accessible tub, bathtub?

5 A No.

6 Q You have to be lifted up over the side of the tub
7 to get into it?

8 A Yeah, you have to lift your leg over.

9 Q Do you know what investigation Mr. Walkup did
10 about your needs, about your physical needs when
11 he moved you to that apartment?

12 A No.

13 Q Do you know if he did any?

14 A Huh-uh.

15 Q No? Okay. Jane, I want you to tell the Court if
16 you would, please, how being moved into an
17 apartment has affected you.

18 A Well, it's made it harder really for me to do
19 things.

20 Q Harder for you to do things. How do you mean?

21 A Well, I can't go out by myself without having some
22 help. I've got to go with somebody.

23 Q When you lived in your house, were you able to
24 move around in your house?

25 A Yes.

1 Q Do you have the ability to move around in your
2 apartment now?

3 A No.

4 Q Because it's smaller?

5 A Yeah.

6 Q How big is your apartment?

7 A I don't know.

8 Q Let me ask it a different way. How many bedrooms
9 is your apartment?

10 A Two.

11 Q How many bathrooms?

12 A One.

13 Q One bathroom. Has it got a kitchen?

14 A Yeah.

15 Q Does it have a living room?

16 A Yeah.

17 Q Any other rooms?

18 A It's got a porch that they closed.

19 Q It's got a porch that they closed. What do you
20 mean by that?

21 A Well, I'm the only one I think in the whole
22 complex that has a porch that's closed.

23 Q Who closed it?

24 A One of his employees.

25 Q One of Mr. Walkup's employees?

1 A Yeah. He didn't know what he was doing he told
2 me.

3 Q Who didn't know what they were doing?

4 A The guy told me when he saw it, he told me he
5 never put -[indiscernible]-

6 MS. DURANT: Hold on a second --

7 MR. DETWILER: If I could try to clarify.

8 BY MR. DETWILER:

9 Q When you say that they closed the porch, are you
10 meaning --

11 A They put a screen around the porch.

12 Q Put a screen around the porch so you could go out
13 on the porch, the screen porch?

14 A Yeah.

15 Q Okay.

16 MS. DURANT: Okay.

17 BY MR. DETWILER:

18 Q After you moved into your apartment, after
19 Mr. Walkup moved you into your apartment, Jane,
20 what happened to your house at Summerlea?

21 A He almost sold it.

22 Q He almost sold it?

23 A Yeah.

24 Q Tell the Court about that.

25 A Well, he had me sign it over and I didn't want to,

1 but I did. And the guy called back, it didn't go
2 through. So I got the house back and I told him
3 don't try to sell it to anybody else because it's
4 mine and I want to live there. There's no way of
5 paying rent where I am when I can go to my house
6 and I don't have to pay rent.

7 Q So you wanted to go back to your house?

8 A Yeah.

9 Q When you said -- it sounds like you were
10 describing a conversation with somebody. Was that
11 a conversation you had with Mr. Walkup?

12 A Yeah. I told him one time.

13 Q Just to be clear, Jane, who tried to sell your
14 house?

15 A He did.

16 Q Mr. Walkup?

17 A Yeah.

18 Q And did you want to sell your house?

19 A No.

20 Q Again, I'm just trying to make sure I understand
21 what you said. The deal fell through?

22 A Uh-huh.

23 Q Is that right?

24 A Yeah.

25 Q And you told him not to try to sell it again?

1 A Yeah.

2 Q Since that time, has there been anybody in the
3 house?

4 A I have a friend now.

5 Q Before that, after you moved to the apartment in
6 2015, was there anybody in the house?

7 A No.

8 Q Was the electricity on in the house?

9 A Yeah.

10 Q For a while or the whole time?

11 A For a while.

12 Q Did it get cut off or did you have it cut off?

13 A I think he had it cut off because nobody was
14 there.

15 Q Mr. Walkup had it cut off?

16 A I think he did.

17 Q So it sat empty?

18 A Yeah.

19 Q How long did your house at Summerlea sit empty,
20 Jane?

21 A Since 2014 until now.

22 Q 2014? I thought you said you moved over to the
23 apartment in 2015?

24 A I did, but the electricity was off and the water
25 was off before that.

1 Q Before you moved?

2 A It was that year.

3 Q When you were living at Summerlea by yourself, did
4 you have animals?

5 A Yeah.

6 Q You love animals, don't you?

7 A Yeah, I do.

8 Q You have a dog?

9 A I have a dog.

10 Q What is your dog's name?

11 A Lamb Chop.

12 Q Lamb Chop, okay.

13 Did you have any other animals at Summerlea?

14 A I had a 28-year-old turtle.

15 Q You had a 28-year-old turtle?

16 A Yeah.

17 Q Did you have any other pets?

18 A And I had a cat.

19 Q What was your cat's name?

20 A Dexter.

21 Q What happened -- where is Lamb Chop now? Does he
22 live with you in the apartment?

23 A Yeah.

24 Q How about the turtle, does he live with you in the
25 apartment?

1 A No, he's gone.

2 Q How about the cat, does he live with you?

3 A Cat's gone.

4 Q What happened to the cat and the turtle, Jane?

5 A They wanted me to get rid of them. They thought I
6 couldn't take care of them. That's the biggest
7 mistake I've ever made.

8 Q That was the biggest mistake you ever made?

9 A Yeah.

10 Q Why do you feel that way, Jane?

11 A Because the cat was put down two weeks after my
12 friend took him.

13 Q The cat was put down two weeks later?

14 A I kept asking him how was the cat and he told me
15 fine and then he told me had to put him down.
16 That made me mad.

17 Q That made you mad?

18 A Yeah.

19 Q Jane, let me talk to you about what has happened
20 since. Has there been any attempt to move you out
21 of your apartment, the Atrium apartment?

22 A Yeah.

23 Q By whom?

24 A William.

25 Q William Walkup?

1 A Yes.

2 Q Where has he tried to move you to?

3 A Jenni-Lynn nursing home.

4 Q Jenni-Lynn nursing home?

5 MR. DETWILER: Your Honor, I'll refer the
6 Court to Exhibit No. 6, which is dated February
7 17, 2017, which is a Jenni-Lynn Assisted Living
8 Medical Evaluation.

9 BY MR. DETWILER:

10 Q Do you remember going to the Jenni-Lynn facility
11 to be evaluated?

12 A Yeah.

13 Q Could you tell me how you came about going to the
14 Jenni-Lynn facility in the first place?

15 A Mr. Walkup came over to my apartment and told me
16 he had made an appointment at one.

17 Q He told you he had made an appointment at one?

18 A Uh-huh.

19 Q To do what?

20 A To go look at it.

21 Q To go look at the Jenni-Lynn facility?

22 A Yeah.

23 Q What did you tell him?

24 A I told him I didn't want to go.

25 Q Tell the Court what happened after that.

- 1 A He grabbed my arm and pulled me into the walker.
- 2 Q Which arm did he grab?
- 3 A The left one.
- 4 Q Your left arm?
- 5 A Yeah.
- 6 Q Were you sitting down at that time?
- 7 A On the couch.
- 8 Q You were sitting on the couch and you said he
- 9 grabbed you by the arm and forced you to get into
- 10 your walker?
- 11 A Yeah.
- 12 Q Did you tell him that you were willing to go?
- 13 A No. I told him I didn't want to go. The dog was
- 14 having a fit.
- 15 Q The dog was out and having a fit?
- 16 A I had to get Sheila, she was there, to put him in
- 17 the crate.
- 18 Q You mentioned Sheila. Sheila Wolfe, is that who
- 19 you're talking about?
- 20 A Yeah.
- 21 Q Who is Sheila Wolfe?
- 22 A She's a caregiver.
- 23 Q She was a caregiver at the time?
- 24 A Yeah.
- 25 Q Did she see what happened that morning?

1 A Yeah.

2 Q You said that the dog was out and you had to get
3 Sheila to put the dog in the crate?

4 A Yeah.

5 Q What did you tell Mr. Walkup when he grabbed you
6 by the arm?

7 A I was yelling.

8 Q You were yelling?

9 A Yes, "Let go."

10 Q Yelling what?

11 A I wanted him to let go. He was hurting my arm.

12 Q You wanted him to let go because it was hurting
13 your arm?

14 A Yeah.

15 Q Did you tell him that you did not want to go to
16 the Jenni-Lynn facility?

17 A Yeah.

18 Q Did you tell him that you did not want to go with
19 him that day?

20 A Yeah.

21 Q What happened after that?

22 A Well, I had hurt my toe, big toe, and I couldn't
23 walk too good on it because it was swollen.

24 Q You had hurt your toe before?

25 A Uh-huh.

1 Q And you couldn't walk too good because it was
2 sore. Is that what you said?

3 A Yeah.

4 Q Okay.

5 A He asked Sheila to go with us down there, and she
6 told him she couldn't do it, she had to pick up
7 her grandchild at school.

8 Q I just want to be clear, Jane. Did you tell
9 Mr. Walkup that you did not want to go with him to
10 the Jenni-Lynn facility?

11 A Yeah.

12 Q You said that when he grabbed you by the arm, it
13 hurt. Tell me more about that.

14 A He wouldn't let go. And I yelled and the dog was
15 barking.

16 Q So you were yelling and screaming and the dog was
17 barking?

18 A Uh-huh.

19 Q And he was grabbing your arm?

20 A Yeah.

21 Q Did you voluntarily go to the Jenni-Lynn facility
22 or did he make you go?

23 MS. DURANT: Asked and answered.

24 MR. DETWILER: Okay. I'll move on. Thank
25 you.

1 THE COURT: Can you just take a moment and
2 tell me on this Exhibit No. 6 what year this is
3 happening?

4 MR. DETWILER: 2017, Your Honor. The date of
5 the Jenni-Lynn facility is February 17, 2017, and
6 that's the date of this incident.

7 BY MR. DETWILER:

8 Q Is this the only time you've ever been to the
9 Jenni-Lynn facility when Mr. Walkup took you?

10 A Yeah.

11 Q Is this evaluation, was this done at the time he
12 took you?

13 A Yeah.

14 MS. DURANT: Your Honor, if I could raise one
15 quick question on one point that Mr. Sowell
16 brought to my attention. There's a discrepancy in
17 the date on Exhibit No. 6. It's not the 17th,
18 it's really the 27th, if you look at that second
19 date.

20 MR. DETWILER: So whatever date is on this.

21 THE COURT: Unless you know that to be true,
22 that's just an interpretation of handwriting.

23 MS. DURANT: I'll get there another way.

24 THE COURT: Yeah, just get there another way,
25 because that could be interpreted to be 17 as

1 well. Unless you know it to be true. You both
2 can't do this.

3 Mr. Sowell, pick a witness. If you can get
4 the date straightened out another way. This is
5 just your interpretation of the handwriting.

6 MS. DURANT: I'll get it straight, Your
7 Honor.

8 THE COURT: I'm not sure what relevance it
9 has, whether it's the 17th or 27th. You can make
10 that point later, too. I just asked the year.

11 MR. DETWILER: 2017.

12 BY MR. DETWILER:

13 Q Jane, how do you feel about getting moved into a
14 nursing home? Are you okay with that?

15 A No.

16 Q Where do you want to live, Jane?

17 A In my house.

18 Q In your house? Your house on Summerlea?

19 A Yeah.

20 Q Let's talk about that. Have you taken any steps
21 to move back into Summerlea?

22 A I've done the bathroom over.

23 Q Are you doing some renovations to make it more
24 handicap accessible?

25 A Yeah.

1 Q Tell us about the renovations you're doing. You
2 mentioned the bathroom. Tell us about that.

3 A The bathroom is beautiful.

4 Q The bathroom is beautiful?

5 A Yeah. It's gonna have bars up that I can hold
6 onto and I can move around in it. The shower, you
7 can roll right into it with a shower chair.

8 Q How do you take a bath now if you've got a
9 bathtub? Somebody has to lift you in?

10 A It was, but we don't do it that way. They bathe
11 me.

12 Q They bathe you?

13 A Yeah.

14 Q A sponge bath?

15 A Yeah.

16 Q How's it going to feel to have a shower?

17 A Good.

18 Q Tell us about the renovations -- well, are there
19 any other renovations you're doing besides the
20 bathroom?

21 A Yeah, they're making everything level, no steps.

22 Q How have you paid for this renovation, Jane?

23 A Through a friend of mine that offered, let me have
24 30,000.

25 Q A friend of yours offered to let you borrow the

1 money?

2 A Yeah.

3 Q 30,000?

4 A Yeah.

5 Q Who is that friend?

6 A Pat Watson.

7 Q She's a dear friend, isn't she?

8 A Yeah.

9 Q Did you give her a note and a mortgage? Do you
10 even know what that means?

11 A Yeah, I think Alex did.

12 Q Do you think that this renovation of your house is
13 an expense your father's trust should pay for?

14 A Yeah.

15 Q Would you be more comfortable living back at
16 Summerlea, Jane?

17 A Sure, yeah.

18 Q Would you be happier to be able to live back at
19 Summerlea?

20 A Yeah.

21 MS. DURANT: Your Honor, this is getting kind
22 of leading.

23 THE COURT: We are giving you great ability
24 to kind of help her with the process, but you were
25 doing a really good job of only leading on facts

1 that were not in contest. So if we could get back
2 to more open-ended questions on this --

3 MR. DETWILER: I appreciate that, Your Honor.

4 BY MR. DETWILER:

5 Q Jane, tell the Court how you would feel if you
6 were able to move back into Summerlea?

7 A Wonderful.

8 Q Wonderful, okay.

9 What is your current income, Jane?

10 A 479 for Social Security, 381 from him, from
11 Mr. Walkup.

12 Q 479 in Social Security every month and then 381
13 from Mr. Walkup?

14 A Uh-huh.

15 Q Where does that 381 come from to get to
16 Mr. Walkup?

17 A My annuity.

18 Q Tell us about your annuity.

19 A I'm supposed to get more, but I don't.

20 Q Does that annuity check come directly to you?

21 A It goes to him. It's supposed to come to me.

22 Q It goes to Mr. Walkup, but it's supposed to go to
23 you. Is that what you just said?

24 A Yeah.

25 Q Does the trust pay for your rent?

1 A Yeah.

2 Q How much is that?

3 A 930, I think.

4 Q 930 you think. Is that right?

5 A Uh-huh.

6 Q If you move back to Summerlea, there wouldn't be a
7 rent payment, correct?

8 A Right.

9 Q So if my math is right, Jane, your Social Security
10 of 479 and the annuity amount that comes through
11 Mr. Walkup is 381, that's a total of \$860. Is
12 that what you get?

13 A Yeah.

14 Q Every month?

15 A Yeah.

16 Q What do you have to pay from these funds?

17 A Well, my food, whatever I get. Water bill, pay
18 the water bill from him, electric bill is from
19 him, insurance from him. That gets paid by
20 Ms. Moseley.

21 Q Let me walk back through there so we're clear on
22 the record. I think you said that you have to pay
23 for your groceries. Is that right?

24 A Yeah.

25 Q And you also have to pay your water and electric

1 bill for your house on Summerlea?

2 A Yeah.

3 Q And I think you said that Michele Moseley pays
4 your insurance bill for you?

5 A Yeah.

6 Q How much is that?

7 A 72 a month.

8 Q 72 a month, okay.

9 Do you have cable TV?

10 A Yeah, I'm paying cable at the house and for the
11 apartment.

12 Q How about Lamb Chop? I have animals, I know
13 they're not cheap. Does Lamb Chop have vet bills?

14 A Yeah.

15 Q Who pays for that? Do you have to pay for that?

16 A I pay it.

17 Q You didn't mention any clothes. Do you also have
18 to pay for your clothes?

19 A I need to. I need to get more.

20 Q You need to get some more clothes?

21 A Yeah.

22 Q When's the last time you bought clothes for
23 yourself, Jane?

24 A A long time.

25 Q Why?

1 A I didn't have the extra money.

2 Q Jane, I want to ask you about Mr. Walkup's trust
3 accounting. Has Mr. Walkup ever sat you down and
4 tried to explain what he's done with the trust?

5 A He did one time when he first gave it to me.

6 Q What did he tell you?

7 A He told me what it meant and how much I would get.

8 Q He told you how much you would get?

9 A Yeah.

10 Q Did he give you money from the trust back then?

11 A No, he didn't.

12 Q Did he show you how he was investing the money?

13 A He showed me a sheet of paper, and it had 4,000 on
14 it and I asked him what that was for, and he told
15 me that was his fee.

16 Q That was his fee? When did this conversation take
17 place?

18 A Back in '08 when I was making out the will.

19 Q I want to come back to that. Did you have any
20 conversation -- I thought I understood you to say,
21 did you have any conversation with Mr. Walkup in
22 1990 or so when the trust was first established
23 about the trust?

24 A Not about the trust. He just told me what was in
25 it.

1 Q What was in it, what was in the trust?

2 A Yeah.

3 Q How much?

4 A Yeah.

5 Q Did he ever offer to give you regular accountings,
6 regular statements, or anything?

7 A No. He told me after he gave me one accounting he
8 told me I didn't have to know.

9 Q Mr. Walkup told you that you did not have to know?

10 A Yeah.

11 Q Know what?

12 A What was in the account, I reckon.

13 Q What was in the account? Okay.

14 A Not much.

15 Q Has he ever explained it to you -- let me back up.
16 You mentioned in '08, you got a piece --

17 A The will.

18 Q 2008. I want to take you to that. Did you hire a
19 lawyer to ask about the trust?

20 A Sheila asked if I had a trust.

21 Q Are you talking about Rita Cullum?

22 A Yeah.

23 Q She was your lawyer?

24 A Then, yeah.

25 Q And did she ask Mr. Walkup for information about

1 the trust?

2 A She must have because that was the only time I got
3 the accounting.

4 MR. DETWILER: Your Honor, I call the Court's
5 attention to Exhibit No. 2 and 3. Exhibit No. 2
6 is a letter from Rita Cullum to Mr. Walkup
7 directly. And I would point out that Ms. Cullum
8 tells Mr. Walkup specifically that financial
9 information according to 62-7-813(c), that he's
10 required to give her financial information at
11 least annually to the beneficiaries. That's
12 stated in her letter.

13 And Exhibit No. 3 is Mr. Walkup's reply
14 dated -- I don't see it even has a date, but it's
15 sometime in 2008 because there is some reference
16 to that.

17 BY MR. DETWILER:

18 Q Prior to Rita Cullum asking for some information
19 on your trust accounts, had Mr. Walkup ever given
20 you any accounting of your trust?

21 A The first time.

22 Q The first time which was when? Right after the
23 trust was started?

24 A Yeah.

25 Q From that time, which was in, I guess, 1990 or so?

1 A Uh-huh.

2 Q Is that right?

3 A Yeah.

4 Q From that time until 2008 when Rita Cullum wrote
5 to Mr. Walkup, had he ever given you any written
6 documentation about the accounting of your trust?

7 A No.

8 Q Do you understand or do you have any knowledge of
9 how Mr. Walkup gets paid for being a trustee or
10 otherwise from money for your trust?

11 A He gets paid because he gets the check comes.

12 Q He gets a check?

13 A It's supposed to come to me.

14 Q Well, I'm asking really about the fees that he
15 gets paid for managing your trust. Do you have
16 any knowledge of how he gets paid?

17 A I guess he takes it out of the trust.

18 Q You guess he takes it out of the trust?

19 A Yeah, I guess.

20 Q Do you know how much he's been paid through the
21 years?

22 A One time he had 4,000 on the paper that he gave to
23 Rita.

24 Q Gave to Rita Cullum?

25 A Yeah. She told me it was too much.

1 Q Let's don't go into that.

2 MR. DETWILER: Your Honor, there is an
3 attachment to Mr. Walkup's letter to Rita Cullum
4 that references fees.

5 BY MR. DETWILER:

6 Q Jane, in 2017, did you ask Alex Weatherly to help
7 you with all this trust stuff?

8 A Yeah.

9 Q Tell me how you know Alex.

10 A From church.

11 Q What church is that?

12 A Covenant Presbyterian.

13 Q Covenant Presbyterian. Is that right?

14 A Yeah.

15 Q That's out there on Covenant Road in Forest Acres.

16 Is that right?

17 A Yeah.

18 Q Does Mr. Weatherly still go to that church?

19 A No.

20 Q How long have you gone to the church?

21 A Since 1983.

22 Q Why did you ask Alex Weatherly to look into issues
23 with the trust?

24 A Because I didn't know what was in there for money
25 because it was supposed to come to me.

1 Q You didn't know -- you wanted to know more about
2 what was going on with the money?

3 A Yeah.

4 Q Is that what you just said?

5 A Yeah.

6 Q Jane, we've been going quite a while now. Do you
7 need to take a break or are you okay?

8 A No, I'm fine.

9 Q Did Mr. Weatherly, did Alex make contact with
10 Mr. Walkup, Jane, for you?

11 MS. DURANT: Starting to get a little
12 leading, Your Honor.

13 THE COURT: Did Alex make contact with Walkup
14 for you, is that the question?

15 MR. DETWILER: That was the question.

16 THE COURT: I'll allow the question.

17 MR. DETWILER: Your Honor, I will point the
18 Court to Exhibit No. 13. It's a letter dated
19 March 29, 2017, from Mr. Weatherly to Mr. Walkup.

20 BY MR. DETWILER:

21 Q Did you ask Alex Weatherly to look into matters
22 with Mr. Walkup?

23 A Yeah.

24 Q Did he do that?

25 A Yeah.

1 Q The March 29, 2017 letter, in the second paragraph
2 in the middle of the second paragraph,
3 Mr. Weatherly states to Mr. Walkup that, "you are
4 not authorized to make any arrangements whatsoever
5 regarding her healthcare, lodging, or in any other
6 way act as her agent or representative. You're
7 also not to sign Ms. Baskin's name to any
8 documents on her behalf including without
9 limitation any tax forms."

10 Do you remember that?

11 A Yes.

12 Q What was going on with you and Mr. Walkup that
13 would cause Mr. Weatherly to state that in a
14 letter? Do you remember?

15 A No, I don't remember what that was about.

16 Q March 29, 2017, do you recall -- you told the
17 Court a while ago about Mr. Walkup trying to sell
18 your house at Summerlea. Do you recall about when
19 that was?

20 A I think it was in mid-March.

21 Q Near March of what year?

22 A '17.

23 Q 2017, okay. How long has Mr. Walkup been trying
24 to move you into a nursing home?

25 A For the last ten years.

1 Q For the last ten years?

2 A I think so.

3 Q Now, Alex in his letter of March 29, 2017, Alex
4 also asked for a full accounting since the last
5 time one was rendered, okay. So here's my
6 question to you, what accounting had you received
7 from Mr. Walkup since the letter Rita Cullum wrote
8 in 2018 and his response? What accounting have
9 you received from 2008 until 2017?

10 A Nothing.

11 Q Nothing?

12 A Nothing.

13 Q So make sure I'm clear now. Between 2008 and 2017
14 you received no accounting from Mr. Walkup?

15 A Huh-uh.

16 Q That's a no?

17 A That's a no.

18 Q Now, Mr. Weatherly also mentions in his March 29,
19 2017 letter, he mentions the sale of some property
20 that have been given directly to you by your dad.
21 Was that the property in Lee County?

22 A Yeah.

23 Q Was that property sold about this time?

24 A Some of it.

25 Q Did that money come directly to you?

1 A Some of it did and some of it didn't.

2 Q Well, if it didn't come to you, who did it go to?

3 A Mr. Walkup.

4 Q What did Mr. Walkup do with that money?

5 A I guess he put it in the trust.

6 Q Mr. Weatherly also mentions that Mr. Walkup told
7 him that his relationship with you had seriously
8 deteriorated.

9 A Yeah.

10 Q Is that a fair statement? Do you agree with that
11 statement?

12 A Yeah.

13 MR. DETWILER: On May 4, 2017, in response to
14 Mr. Weatherly's letter of March 29, 2017, I say
15 that because it's actually referenced in there.
16 And I'm looking at Exhibit No. 14, Your Honor.

17 BY MR. DETWILER:

18 Q Mr. Walkup's then lawyer Ben Bruner wrote to
19 Mr. Weatherly in response to Mr. Weatherly's
20 letter. Do you remember that?

21 A Yeah.

22 Q And he gave three years worth of tax returns and a
23 checkbook register from a Wells Fargo account and
24 perhaps some other things. Do you remember that?

25 A Uh-huh.

1 Q Did Mr. Walkup's lawyer's letter give any
2 accounting from 2008 until 2013?

3 A I don't think so.

4 Q Did that letter explain Mr. Walkup's fee structure
5 and how he was getting paid out of the trust?

6 A No.

7 Q Did Mr. Walkup's lawyer tell you that he was
8 investing in assets that he was also managing and
9 was a partner in?

10 MS. DURANT: Object.

11 THE COURT: Overruled. Ask the question
12 again.

13 BY MR. DETWILER:

14 Q Did Mr. Walkup's lawyer explain that he was
15 investing in assets that he was also managing and
16 was a partner in?

17 MS. DURANT: Same objection. Not in evidence

18 --

19 THE COURT: Overruled.

20 BY MR. DETWILER:

21 Q Did Mr. Walkup's lawyer, when he wrote to
22 Mr. Weatherly in 2017, did he explain that
23 Mr. Walkup was investing in assets that he was
24 also managing and was also a partner in?

25 MS. DURANT: I'm also going to add leading

1 objection on to it.

2 THE COURT: Overruled. Every time you do
3 that, you're hiccupping the answer. Let her
4 answer this question, please.

5 THE WITNESS: Yeah.

6 BY MR. DETWILER:

7 Q So Mr. Walkup's lawyer did tell you that he was
8 investing in those things?

9 A No.

10 BY MR. DETWILER:

11 Q I'm going to show you another -- or refer to
12 another exhibit, Jane. That is Exhibit No. 15,
13 and this is a letter from William Walkup dated
14 August 10, 2017, to you.

15 Mr. Walkup -- and I'm gonna skim over this, I
16 don't want to read the whole thing, but Mr. Walkup
17 says that he had talked to you on August 1st and
18 explained to you that the house on Summerlea is
19 yours and it is totally your decision whether you
20 keep it or sell it, okay.

21 But he goes on to say he gave you a copy of
22 the insurance bill that's due and he advised you
23 that the trust has been paying all the expenses on
24 the house for 28 years, and essentially, he wasn't
25 going to pay any expenses for the house anymore.

1 Do you remember that?

2 A Uh-huh.

3 Q You do?

4 A Yeah.

5 Q So did you have the ability to pay for the
6 expenses at that point in time without help from
7 the trust?

8 A Probably not.

9 Q How have you been paying those expenses, Jane,
10 since?

11 A Michele Moseley has been paying the \$72 for the
12 insurance.

13 Q For the insurance. I think you said that earlier?

14 A Yeah.

15 Q And the other expenses have been coming out of
16 your \$860 a month?

17 A Yeah.

18 Q You mentioned Michele. I want to talk to you
19 about Michele, okay? How did you meet Michele,
20 how long ago did you meet Michele?

21 A Since when I joined the church in '83.

22 Q Since you joined Covenant Presbyterian Church in
23 1983?

24 A Yeah.

25 Q I think the record shows that in 2017 -- well, let

1 me back up. So you've been friends with Michele
2 for, what is that, 37 years?

3 A Yeah.

4 Q I said friends. Are y'all friends?

5 A Yeah.

6 Q Is she somebody that you trust?

7 A I trust her more than I do anybody.

8 Q You trust her more than you do anybody. I'll talk
9 to you in a minute about what Michele does for
10 you.

11 But in 2017, you named Michele your
12 healthcare power of attorney and your general
13 power of attorney. Do you remember that?

14 A Yeah.

15 MR. DETWILER: Your Honor, those are listed
16 as exhibits seven and eight.

17 BY MR. DETWILER:

18 Q Tell me how it came about that Michele became your
19 power of attorney?

20 A Pat recommended her, Pat Watson.

21 Q Pat Watson mentioned her to you?

22 A Yeah.

23 Q Who was your power of attorney at that time?

24 A I didn't have one.

25 Q How about Kathy Parr, was she a power of attorney?

1 A Kathy was, but then they thought it would be
2 better if I had one here.

3 Q Who thought it would be better if you had one
4 here, Kathy?

5 A Kathy because they're in North Carolina.

6 Q Kathy Parr lives in North Carolina?

7 A Yeah.

8 Q Did she suggest to you that you get somebody
9 closer? Is that what you said?

10 A Yeah.

11 Q I think you said that Pat Watson suggested Michele
12 to you?

13 A Uh-huh.

14 Q Is that a "yes"?

15 A Yeah.

16 Q And that was in 2017, correct?

17 A Yeah.

18 Q Tell me how your relationship was at that point in
19 time with Bill Walkup. Did you have a good
20 relationship with Mr. Walkup then?

21 A Maybe.

22 Q Michele Moseley is your caregiver also?

23 A Yeah.

24 Q And tell me about the caregivers you have. You
25 have another caregiver, right?

- 1 A Sheila was and Jenny.
- 2 Q Jenny Vega?
- 3 A Yeah.
- 4 Q What happened to Sheila?
- 5 A She got kicked out, I reckon.
- 6 Q You think kicked out?
- 7 A Uh-huh.
- 8 Q Who do you think kicked her out?
- 9 A Mr. Walkup.
- 10 Q So Jenny is a caregiver, right?
- 11 A Yeah.
- 12 Q And she comes generally -- tell the Court when she
- 13 comes to help you.
- 14 A She comes every day except on Sunday.
- 15 Q She comes every day except Sunday, what hours?
- 16 A She comes from seven until one every day. And on
- 17 Monday and Tuesday, she comes back at five and
- 18 leaves at seven.
- 19 Q So Monday and Tuesday she comes back at five and
- 20 leaves at seven?
- 21 A Yeah.
- 22 Q Does she fix your supper during that period?
- 23 A Yeah.
- 24 Q How do you get to bed every day, every night?
- 25 A Michele comes back.

1 Q Now, tell me when Michele -- you said Michele also
2 comes -- is a caregiver, correct?

3 A Uh-huh.

4 Q Tell me what hours Michele gives you care.

5 A Michele comes -- sometimes she comes at five and
6 stays a while, fixes my supper, and she'll come
7 back at 9:30 to help me get to bed.

8 Q Does she help you get a bath?

9 A Yeah, sometimes she will.

10 Q So she comes -- make sure I understand you. She
11 comes at -- let me back up. You said Jenny Vega
12 comes between five and seven on Monday and
13 Tuesday?

14 A Yeah, and then Michele comes on Thursday --
15 Wednesday, Thursday, Friday and Saturday.

16 Q Michele comes on Wednesday, Thursday, Friday and
17 Saturday, five to seven?

18 A Yeah. If she can't come, she has a friend that
19 does, she comes, but none of them are getting
20 paid.

21 Q None of them are getting paid. You mean Michele
22 and her friend are not getting paid?

23 A Yeah.

24 Q Is Jenny Vega getting paid?

25 A Yeah.

1 Q Does Michele -- on Monday and Tuesday -- well,
2 does Michele come at 9:30 in the evening to help
3 you get to bed every day?

4 A Yeah.

5 Q Every day?

6 A Yeah.

7 Q Seven days a week?

8 A Yeah.

9 Q Unless she gets her friend to help?

10 A Yeah.

11 THE COURT: Mr. Detwiler, I need you to look
12 for a break situation. I know you're in the
13 middle of asking about schedule and I want you to
14 finish it. Find a break for us all.

15 MR. DETWILER: I think one more question will
16 do that. Thank you.

17 BY MR. DETWILER:

18 Q So who takes care of you on Sundays?

19 A Michele.

20 Q Jenny doesn't come on Sundays?

21 A No.

22 Q What hours does Michele come on Sunday?

23 A She comes from ten until about one, and the person
24 comes before her, she comes at eight to ten.

25 That's a friend of hers.

1 Q A friend of hers comes from eight to ten?

2 A Yeah, on Sunday.

3 Q On Sunday, okay. Does she come back -- Michele --

4 A Yes, she comes back at five or comes back at four.

5 Q She comes back at five, sometimes four. Is that
6 what you said?

7 A Yeah.

8 Q Until when?

9 A She stays about an hour, hour-and-a-half.

10 Q Does she come back later on in the evening to help
11 you get to bed?

12 A No.

13 Q I thought you said she came every day 9:30 to
14 11:30 or so?

15 A I meant she comes from five to seven, and then she
16 doesn't come later.

17 Q How long has she been keeping those hours for you?

18 A Which one?

19 Q Well, how long has Michele been helping you with
20 your caregiving needs?

21 A Ever since, I think it's been at least a couple of
22 years.

23 Q At least a couple of years. Is that right?

24 A Yeah.

25 Q And during that time, has Mr. Walkup ever paid her

1 anything from the trust?

2 A No.

3 MR. DETWILER: Your Honor, this is a good
4 time to take a break.

5 THE COURT: Thank you so much. 20-minute
6 break.

7 (Off the Record)

8 THE COURT: Ms. DuRant, you wanted to put a
9 couple things on the record before we go back to
10 testimony?

11 MS. DURANT: Yes, Your Honor, thank you for
12 obliging us. We intend, Mr. Detwiler and I,
13 intend to admit all exhibits that are in this
14 notebook. And they are Exhibits 1 through 47. If
15 that's suitable with the Court.

16 THE COURT: Perfect. I appreciate the effort
17 all attorneys put into this. That was huge,
18 you're organized. Well done. Thank you very
19 much.

20 MS. DURANT: Thank you, Your Honor. And --

21 MR. DETWILER: For the record, Amy Kelly gets
22 all the applause for that.

23 MS. DURANT: She does.

24 THE COURT: I knew she did.

25 MS. DURANT: The second housekeeping matter

1 is introducing the excerpts of Mr. Walkup's
2 testimony. And we've already handed this up to
3 your law clerk. What Ms. Kelly has done is marked
4 the designations by Mr. Detwiler in yellow and the
5 counter designations of Sowell and DuRant in blue.

6 Your Honor, if we could admit these
7 designations as Exhibit No. 48, we'd appreciate
8 it.

9 THE COURT: I assume without objection.

10 MR. DETWILER: No objection.

11 MS. DURANT: Finally, Your Honor, we will
12 have the video excerpts.

13 THE COURT: Do I need them on top of that?

14 MS. DURANT: We would like you to have them
15 if you want to review them by the end of the day.

16 THE COURT: I think it's duplicative,
17 expensive. I can read. I can see him. He's
18 going to testify.

19 MS. DURANT: Regardless, we will talk about
20 your recommendations, but I wanted to let you know
21 that if we decide to give you the video, you will
22 have it by the end of the day.

23 THE COURT: I'd rather just read it all. I
24 go through it faster.

25 MS. DURANT: Your Honor, with that, I will

1 say no more. I'll sit down.

2 THE COURT: Mr. Detwiler, back to you, sir.

3 MR. DETWILER: Thank you, Your Honor. On
4 that note, Your Honor, do you want us just to hand
5 up the original transcript and give you the whole
6 thing?

7 THE COURT: I think I'm good. We're good on
8 deposition of Mr. Walkup. I feel really good.

9 MR. DETWILER: All right. Well, I've got it
10 if you want it. Your Honor, I just have a few
11 more questions. May it please the Court?

12 THE COURT: Yes, sir.

13 BY MR. DETWILER:

14 Q Jane, I have a few more questions you'll be glad
15 to hear, just a few.

16 A Okay.

17 Q I know Ms. DuRant is going to ask you a few more
18 questions. So you're not off the hook just yet.

19 We were talking about Michele Moseley. Do
20 you remember that?

21 A Yeah.

22 Q Could you tell me or tell the Court a little bit
23 more about your relationship with Michele.

24 A She's like a daughter to me.

25 Q Like a daughter to you?

- 1 A I'm old enough to be her mom.
- 2 Q You're old enough to be her mom. So am I, dad
- 3 anyway. Are y'all friends?
- 4 A Yeah, very close.
- 5 Q Are y'all companions?
- 6 A Yeah.
- 7 Q Do you enjoy spending time with Michele?
- 8 A Yeah, I do.
- 9 Q You look forward to her coming to see you?
- 10 A Yeah.
- 11 Q How important is Michele to you?
- 12 A Very important.
- 13 Q Now, Jane, I want to ask you, sort of wrap this
- 14 up, okay. I want to ask you this general question
- 15 and we'll get down into some details, okay. But I
- 16 want you to tell the Court why you brought this
- 17 lawsuit.
- 18 A I brought it because I want to have control over
- 19 me. I don't want anybody being able to make me do
- 20 things I don't want to do.
- 21 Q So you want control over you, you want control of
- 22 your person. Is that what you said?
- 23 A Yeah, and I want to know where the money goes.
- 24 Q You want to know where the money goes?
- 25 A Yeah.

1 Q Do you want -- what else are you asking the Court
2 for? I mean, we have pleadings that tell us that.

3 But in your own words, I want you to tell the
4 Judge what you would like for her to do.

5 A Well, there are things that I want to have the
6 money for to get. I can't get them now until I
7 get the money.

8 Q Like what?

9 A I want an exercise bike.

10 Q Okay, and?

11 A I want heating and air in my area.

12 Q In your area of the house?

13 A Yeah.

14 Q Would you like to have money to buy clothes?

15 A Yeah, and that too, and food.

16 Q Would you like to have money to go out to dinner
17 sometime if we can ever do that again?

18 A Yeah.

19 Q Do you want Mr. Walkup to stay on as your trustee?

20 A No.

21 Q You want to live in your own home, I think you
22 already said that, right?

23 A Yeah.

24 Q You want to live in Summerlea?

25 A I do.

1 Q Do you want to be able to choose your own
2 caregivers?

3 A Yeah.

4 Q Before now, have you had an opportunity to choose
5 your own caregivers, the people that come in your
6 house every day and take care of you?

7 A I have -- I choose, he told me to find somebody
8 and he would pay them.

9 Q He said that?

10 A Yeah. I did, I found her, Michele, but he won't
11 pay her.

12 Q So he did say you could pick somebody, and you
13 chose Michele. Is that what you just said?

14 A Yeah.

15 Q But he won't pay her?

16 A He won't pay her.

17 Q You obviously need care and you need more care
18 than you're getting paid for right now?

19 A Yeah.

20 Q Do you agree with that?

21 A Yeah.

22 Q How many hours per day caregivers do you need?

23 A Around ten.

24 Q Ten per day?

25 A Yeah.

1 Q That's seven days a week?

2 A Yeah.

3 Q Right now who is being paid for by the trust?

4 A Jenny gets paid by the trust, Jenny Vega.

5 Q How many hours does the trust pay Jenny Vega to
6 work?

7 A I think 40.

8 Q You think it's about 40 hours?

9 A Yeah.

10 Q Tell me what else you need. You need more care
11 being paid for than you're getting, you said that.
12 What else do you need, Jane?

13 MS. DURANT: Objection, leading.

14 THE COURT: What else do you need? I think
15 he was summarizing, then asking a new question.

16 Overruled.

17 BY MR. DETWILER:

18 Q Is there anything else you need from the trust?

19 A Money.

20 BY MR. DETWILER:

21 Q Money, okay. Jane, I have -- one of the exhibits
22 in here is the very last exhibit, which is I think
23 47.

24 Now, this has, it's called Jane's Budget
25 Requests. Now this is very similar to the budget

1 request you've already given to the Court
2 previously, isn't it?

3 A Yeah.

4 Q Do you remember what the difference is or do
5 you -- what's the difference?

6 A No.

7 Q This one does not show any rent payment, does it?

8 A No.

9 Q So if you're living in Summerlea, you don't have
10 to pay rent?

11 A No, I don't.

12 Q So is this your best estimate of the budget that
13 you're asking for the trust to pay you so that you
14 can take care of yourself?

15 A Yeah.

16 Q And it shows caregivers \$4,700, and it shows the
17 electricity and water and cable and cell phone and
18 pharmacy, miscellaneous. Everybody has needs that
19 they can't really budget for. But the total
20 budget per month is \$5,465. Do you see that?

21 A Yeah.

22 Q You've made similar requests of Mr. Walkup before,
23 haven't you?

24 A Yeah.

25 Q Has Mr. Walkup ever given you money so you can pay

1 your own bills?

2 A No.

3 Q Now, Jane, do you have a checkbook?

4 A Yeah.

5 Q Do you have credit cards?

6 A Yeah.

7 Q Tell me, do you have any credit card balances that
8 lay over from month to month?

9 A I try to pay them off.

10 Q You pay them off every month?

11 A Yeah.

12 Q Do you happen to have any idea what your credit
13 score is?

14 A 800.

15 Q 800?

16 A Yeah.

17 Q Not a bad credit score.

18 A No.

19 Q Do you think you can handle money yourself?

20 A Yeah. I'm not stupid.

21 Q You're certainly not stupid, Jane.

22 A I wouldn't take money and go blow it.

23 Q You wouldn't go buy a Bass boat and a Camaro,
24 would you?

25 A No.

1 MR. DETWILER: Thank you, Your Honor. That's
2 all I have at this time.

3 THE COURT: Thank you, Ms. Baskin.

4 MS. DURANT: May it please the Court.

5 - - - - -

6 CROSS EXAMINATION

7 BY MS. DURANT:

8 Q Good afternoon, Ms. Baskin. How are you?

9 A Okay.

10 Q Are you having any trouble hearing me?

11 A No.

12 Q If you do, please let me know, okay.

13 Earlier in your testimony today, I believe I
14 heard you say that someone is presently staying at
15 your Summerlea home. Is that true?

16 A Yeah.

17 Q Who is that?

18 A A friend of mine.

19 Q Who is that, that friend?

20 A Pat McIntosh.

21 Q How long has Ms. McIntosh been living at
22 Summerlea?

23 A About a couple weeks.

24 Q Is she paying you any rent?

25 A Yeah.

1 Q How much rent?

2 A I don't know yet. She gives it to somebody else
3 and they give it to me.

4 Q Who does she give the rent to?

5 A Michele.

6 Q My understanding from your earlier testimony was
7 that in 2015 you did not need caregivers. Is that
8 correct?

9 A No.

10 Q That is incorrect?

11 A No, that's correct.

12 Q And in 2015 is when you moved into the
13 Summerlea -- I mean the Atrium apartments. Isn't
14 that correct?

15 A Yeah, in June.

16 Q And it's your position that the Atrium apartments
17 are not handicap accessible. Is that correct?

18 A Not the one I'm in.

19 Q Were you using a walker at the time you moved into
20 the apartment?

21 A I had a walker. I used it when I had to.

22 Q You used it when you had to. Is that what I'm
23 understanding?

24 A Yeah.

25 Q Did you use it on a regular basis?

1 A No, because I could go around and touch different
2 furniture.

3 Q In your current apartment, are there any handicap
4 bars anywhere in your apartment?

5 A There are now, but when I first moved in there
6 weren't there, but now they got the wooden one and
7 I can hold onto them.

8 Q Where are the wooden bars installed?

9 A On the wall going down the hall.

10 Q When were they installed?

11 A About two or three years ago, couple years ago.

12 Q Earlier you were talking about Mr. Walkup
13 allegedly tried to sell your house at Summerlea.
14 Do you remember that?

15 A Yeah.

16 Q Was it ever sold?

17 A No.

18 Q Mr. Detwiler, if you could -- Ms. Baskin, would
19 you please look at what's been marked as Exhibit
20 No. 47, which purports to be your budget request.
21 Do you see that document, ma'am?

22 A Yeah.

23 Q And in an asterisk at the bottom, what do you tell
24 the Court? Ms. Baskin, you can't see it because
25 you don't have your glasses? Is that correct?

1 A Yeah.

2 Q I'll read it to you, it says, "Assumes Jane is
3 living at Summerlea house and is not paying rent
4 or mortgage."

5 Now, my understanding is you currently have a
6 loan with respect to the renovations on your
7 property at Summerlea. Is that correct?

8 A Yeah.

9 Q Do you know how you're going to pay off that loan?

10 A No.

11 Q And that loan is secured by a mortgage, isn't it?

12 A Yeah.

13 Q So why are you representing that your budget does
14 not include mortgage payments when you have
15 mortgage payments?

16 MR. DETWILER: Objection, Your Honor. I
17 don't know that she does.

18 THE COURT: Overruled. She can say she
19 doesn't.

20 Do you need her to repeat the question,
21 Ms. Baskin?

22 THE WITNESS: I don't get it.

23 BY MS. DURANT:

24 Q Do you currently owe mortgage payments on your
25 loan?

1 A I guess I do. I don't know that much about
2 mortgages.

3 Q Do you know much about loans?

4 A Yeah, I know you have to pay them off. And I
5 intend on doing that. I intend to pay her so much
6 a month.

7 Q You're to pay her some money a month. Is that
8 what I'm hearing?

9 A Yeah.

10 Q Who loaned you the money?

11 A Pat Watson.

12 Q How much money did she loan you?

13 A 30,000.

14 Q \$30,000. Have you made any payments to pay off
15 that loan?

16 A Not yet. I'm gonna start paying.

17 Q How are you going to start paying those loan
18 payments -- strike that question.

19 When are you going to start making your loan
20 payments?

21 A I guess this coming month.

22 Q Do you know how much you owe this month?

23 A I'll probably give her a hundred.

24 Q A hundred dollars?

25 A Yeah.

1 Q Is that your monthly loan payment to Ms. Watson?

2 A Yeah.

3 Q \$100, okay.

4 Earlier in your testimony with Mr. Detwiler,
5 I heard that you pay cable for both your house and
6 your apartment. Is that true?

7 A Yeah.

8 Q Why are you paying cable for your house?

9 A Because Mr. Walkup won't.

10 Q Let's back up a second. It's my understanding
11 that you're not living at your house, correct?

12 A Not yet, but I'm going to.

13 Q It's my understanding that you're currently paying
14 for cable in your house. Is that correct?

15 A Yeah.

16 Q Why are you paying for cable at a house when
17 you're not living in it?

18 A Because I want to have it hooked up for when I do
19 go back to the house.

20 Q When do you think you'll move back into the house
21 at Summerlea?

22 A January.

23 Q Have you notified the apartment complex that
24 you're leaving in January?

25 A Not yet.

1 Q Do you have any intention of notifying the
2 apartment complex that you're leaving in January?

3 A I guess I will.

4 Q Have the renovations been completed at Summerlea?

5 A Not yet. They're working on them now. They are
6 working on it now.

7 Q How much is left for the general contractor to
8 complete?

9 A I don't know. They got to put a new floor in
10 [indiscernible]

11 Q I'm going to have to ask you to repeat that
12 because I'm afraid I didn't understand what you
13 said.

14 A I'm going to go in January when they get through
15 putting the floor down.

16 Q They're putting a floor down in January, okay.
17 What else are they doing? What else do they still
18 need to do?

19 A Sheetrock and put tile in the bathroom.

20 Q Sheetrock and tile in the bathroom, okay. What
21 else do they need to do?

22 A They're going to build some shelves and put
23 [indiscernible] The one that doesn't open now so I
24 can clean them and [indiscernible]. . .

25 Q Do they have more or less than 50 percent of the

1 work to do left?

2 A I think we have about 40.

3 Q They've done about 40 percent of the work?

4 A Yeah.

5 Q Who is the general contractor?

6 A Michele Moseley's brother.

7 Q Ms. Baskin, earlier you were talking with
8 Mr. Detwiler about Lee County property and a check
9 related to the sale of that property. Do you
10 remember that?

11 A Yeah.

12 Q Isn't it true that you gave the check from the
13 proceeds of that sale to Mr. Walkup?

14 A I gave it to him to keep and when I needed it, I
15 could get it. Because it came to me, not him.

16 Q Are you aware of Mr. Walkup's concern that the
17 money, that your money, your trust funds are going
18 to run out?

19 A No.

20 Q Do you know what will happen if the trust funds
21 run out? Do you have a plan?

22 A No, I don't.

23 Q What happens if you can't pay back the loan to
24 Ms. Watson?

25 A It'll have to be paid.

1 Q But my question is, what if you can't pay off the
2 loan, what will happen?

3 A If there isn't any money --

4 Q Ma'am? I'm sorry, I didn't hear you.

5 A If there isn't any money, I'm going to pay them
6 off if there isn't any money.

7 Q Yes, ma'am, but earlier you said you didn't know
8 how you were going to pay them off.

9 A I know I don't.

10 Q My question is, what happens if you cannot pay
11 them off?

12 A If I can't pay them off, I can't pay them.

13 Q Ms. Baskin, have you ever misplaced dollar bills?
14 And I don't mean necessarily dollar bills, but
15 10-dollar bills, 20-dollar bills, 100-dollar
16 bills?

17 THE COURT: Ever? Can we put it in a
18 context?

19 MS. DURANT: I think she knows what --

20 BY MS. DURANT:

21 Q Have you ever misplaced money and --

22 A Yeah, I have, but it wasn't my fault.

23 Q Can you tell me about that, please, ma'am?

24 A One of them was in the car and it went down
25 between the seats. And man, the guy must have

1 come out to the car and saw it and took it.

2 Q I'm talking about do you remember an incident
3 where you placed money in shopping bags?

4 A No, I didn't never do that.

5 Q Have you ever told anyone that Bill Walkup was
6 stealing money from you to go on trips?

7 A That was just a funny thing.

8 Q But that was incorrect?

9 A Yeah.

10 Q Who did you tell that to?

11 A I told them just as a joke, I didn't mean anything
12 by it.

13 Q Who did you tell that Mr. Walkup was stealing your
14 trust funds to go on trips?

15 A My cousin Anne up in North Carolina.

16 THE COURT: I heard the name Anne. Can you
17 help me understand who Anne is.

18 THE WITNESS: She is a cousin in North
19 Carolina.

20 BY MS. DURANT:

21 Q Anybody else, Ms. Baskin?

22 A No.

23 Q Ms. Baskin, do you remember -- who is your primary
24 care physician?

25 A Dr. Henderson.

1 Q Dr. Henderson. Is that correct?

2 A Yes.

3 Q Did Dr. Henderson assess you for entry into
4 Jenni-Lynn?

5 A Yes, I guess he did.

6 Q Do you mind looking at Exhibit No. 6 -- would your
7 attorney mind directing you to Exhibit No. 6. And
8 you talked with your attorney earlier about this
9 document.

10 Ms. Baskin, do you recognize what's been
11 marked as Exhibit No. 6?

12 A Yeah.

13 Q Do you have any recollection of when this
14 examination occurred because we already talked
15 about with your lawyer there's two different dates
16 at the bottom, 2/17 versus 2/27. Unfortunately,
17 Dr. Henderson does not have the best handwriting.

18 A No.

19 Q You don't have any independent knowledge of when
20 you went to see Dr. Henderson, do you, the
21 specific date?

22 A I thought it was on a Monday.

23 THE COURT: Is there a purpose to this two
24 days being such a controversy, because I don't
25 understand why it's in contest.

1 MS. DURANT: Give me about five minutes, I'll
2 show you. It's not really that big a deal. I'll
3 show you.

4 THE COURT: I don't think it is. At least
5 not for this case.

6 MS. DURANT: I'll show you.

7 BY MS. DURANT:

8 Q Do you remember Dr. Henderson giving you an exam,
9 Ms. Baskin, a physical exam?

10 THE COURT: When you ask a question like
11 that, do you mean in 2017 in relation to this
12 form?

13 BY MS. DURANT:

14 Q In relation to Exhibit No. 6, were you medically
15 evaluated by Dr. Henderson?

16 A I don't remember him doing any of that.

17 BY MS. DURANT:

18 Q If you will go to Exhibit No. 39. Ms. Baskin,
19 I'll represent to you that Exhibit No. 39 is
20 Dr. Henderson's notes that he has on you as a
21 patient. If you would go to page, it's Bates page
22 Henderson 0008. This is where the discrepancy in
23 the dates is. I just want to clarify this for the
24 record.

25 Ms. Baskin, about halfway down you'll see an

1 entry from Dr. Henderson where you came in
2 February 27, 2017. Do you see that?

3 A Yeah.

4 Q He says the chief complaint is to fill out
5 assisted living form. Do you see that?

6 A I see it, but I didn't know he put it in there.

7 Q You don't know that he filled it out, okay. Then
8 you'll see he describes what happened that day
9 when he examined you. Do you see that in the
10 history of present illness? And this was on
11 February 27, 2017. Do you see that?

12 A Yeah.

13 Q I'll just read it for you. It says history of
14 present illness: "Ms. Baskin is in to have a form
15 filled out and an examination done to go to
16 assisted living. However, she says she's not
17 willing to go. She denies any acute problems.
18 She" -- it just says con, it might be continues,
19 but that's speculation -- "she con have episodic
20 falls. She has a past issue of severe cerebral
21 palsy with severe dystonia and some cord
22 compression and myopathy."

23 Does that sound familiar, Ms. Baskin? Do you
24 remember that after I read it to you?

25 A I haven't heard that before.

1 Q I'm sure you haven't heard his notes before, but
2 do you remember that examination going on in the
3 form?

4 A I didn't, but I don't think he did anything but he
5 filled out the form. He didn't talk to me about
6 it.

7 Q He didn't talk to you about the form?

8 A No.

9 Q But you see you say that you're not going to go to
10 assisted living and that you deny any acute
11 problems. Is that correct?

12 A Yeah.

13 Q And then if you'll flip to Exhibit No. 12, please,
14 ma'am.

15 MR. DETWILER: Are we looking at the email
16 from Kathy Parr?

17 MS. DURANT: No, it's the Doctors Care.

18 BY MS. DURANT:

19 Q Do you remember, Ms. Baskin, looking at Exhibit
20 No. 12, going to Doctors Care?

21 A Yeah.

22 Q And you went -- whose decision was it to go to
23 Doctors Care?

24 A Mine.

25 Q And what date did you go to Doctors Care?

1 A I think it was two weeks before I went to
2 Dr. Henderson.

3 Q I might be able to help you out. If you'll turn
4 to the third page of this document about a third
5 of the way down, visit information?

6 MR. DETWILER: This is page one of three that
7 you're referring to?

8 MS. DURANT: Yes, and it says additional
9 information when the visit was 3/19/2017.

10 MR. DETWILER: We'll stipulate it was on
11 March 19, 2017.

12 BY MS. DURANT:

13 Q Why did you go to Doctors Care, Ms. Baskin?

14 A On account of there was a contusion on my left
15 arm.

16 Q And what do you allege happened to cause that
17 contusion?

18 A When Mr. Walkup grabbed me and told me I had to go
19 with him to that appointment.

20 Q Do you remember the date in which Mr. Walkup
21 allegedly grabbed you?

22 A It was that morning, it was the morning he came.

23 Q I'm sorry, I missed what you said.

24 A He came about 11 or 12 and told me he had an
25 appointment at one.

1 Q What was the date in which he showed up at
2 11 o'clock? Do you remember that?

3 A I wish I could remember the exact date.

4 Q I will tell you that in your complaint, you allege
5 that it happened on February 17, 2017.

6 A Yeah.

7 Q Does that sound right?

8 A If that was during the week.

9 Q Now, if the incident, the alleged incident
10 happened on February 17th, and then you saw your
11 primary care physician on February 27th, why was
12 there no reference to the contusion in
13 Dr. Henderson's notes?

14 A I don't know, because that doctor at Doctors Care
15 didn't notify him.

16 Q Do you remember the note said that there were no
17 acute problems? Dr. Henderson's notes said that
18 there were no acute problems?

19 A No, I didn't know that.

20 Q And you waited for over a month to go to Doctors
21 Care?

22 A No, it wasn't a month. I waited about two weeks.

23 Q Well, if you just agreed with me that the incident
24 happened on February 17th and then Doctors Care,
25 as your lawyer stipulated, occurred on March

1 19th, isn't that approximately a month later
2 before you sought medical --

3 THE COURT: I'm going to interrupt you. I
4 know this is important for the parties in the
5 sense that it's something else. It's not
6 important for what I'm trying to do today.

7 MS. DURANT: Okay, I'll move on.

8 BY MS. DURANT:

9 Q Ms. Baskin, what will happen to your house at
10 Summerlea upon your death?

11 A It'll go to whoever I left it to.

12 Q Who is that?

13 MR. DETWILER: Your Honor, objection.

14 THE COURT: Tell me why it's relevant,
15 Ms. DuRant.

16 MS. DURANT: It goes to show that there's
17 control being exerted over Ms. Baskin that creates
18 a manufactured friction between she and
19 Mr. Walkup.

20 MR. DETWILER: Of course, Your Honor, that
21 goes to the point I made when we first started
22 this morning. That's not anything that's alleged
23 in the pleadings.

24 THE COURT: Who she leaves her house to, I
25 don't see is relevant as to her concerns about his

1 actions or inactions as trustee. Sustain the
2 objection.

3 MS. DURANT: Your Honor, if I could remind
4 you, I believe in one of your orders you told me I
5 could ask her this here.

6 THE COURT: You could. You did ask. And I
7 will absolutely rule on the issue now. I gave you
8 permission to ask. It's not relevant in the sense
9 that you're not connecting that to something
10 that's important for me.

11 If she's left her house to Michele, which if
12 your assumption or your belief or a fact, that
13 does not in any way impact how she feels about
14 what Mr. Walkup is or is not doing in the
15 allegations of this lawsuit.

16 You're wanting to say that Michele is
17 responsible for all of this, the great disruption
18 as it's been described. We're not factually there
19 yet, if at all.

20 MS. DURANT: But can't I start building that
21 record?

22 THE COURT: You had asked the question about
23 who she's left her house to. He's objected. I've
24 sustained the objection.

25

1 BY MS. DURANT:

2 Q Earlier today, Ms. Baskin, you said you would like
3 a bicycle. Is that true?

4 A Yeah.

5 Q When's the last time you've ridden a bicycle?

6 A Well, you don't ever forget how to ride. It's
7 been about maybe ten years.

8 THE COURT: Ms. DuRant, I appreciate the
9 concept of the question, but I in no way
10 interpreted her answer previously as a ride around
11 the neighborhood bicycle. So let's make sure I
12 understand.

13 Ms. Baskin, when you said earlier you wanted
14 an exercise bike, what kind of a bicycle or
15 exercise bike are you wanting?

16 THE WITNESS: I want one that's a stationary
17 bike to do exercise on. And I want a regular bike
18 I can take out.

19 THE COURT: You do want a regular bike that
20 you can take out?

21 THE WITNESS: Yes, three wheels. They make
22 them for handicapped people.

23 THE COURT: They do make them for handicapped
24 people, okay. And she asked when was the last
25 time you had ridden a bicycle. I assume it's been

1 a while.

2 THE WITNESS: Yeah, about ten or 15 years.

3 THE COURT: All right. Thank you very much.

4 BY MS. DURANT:

5 Q Ms. Baskin, you understand that Michele Moseley is
6 your agent under your power of attorney? Do you
7 understand that?

8 A Agent?

9 Q That she serves as your agent under your power of
10 attorney?

11 A Yeah.

12 Q Do understand that she also serves as your agent
13 under your healthcare power of attorney?

14 A Yeah.

15 Q If I could show you Exhibit No. 8, please, ma'am
16 -- I'm sorry, it's Exhibit No. 7, the power of
17 attorney, durable power of attorney.

18 If you'll flip to page, it's 12 Walkup 0005.
19 In paragraph number six -- let me make sure. Do
20 you recognize number seven as your power of
21 attorney to Michele Moseley?

22 A Yeah.

23 Q And on page 12 of that power of attorney care
24 paragraph six it stated, no duty to monitor
25 health. "My agent shall have no responsibility to

1 monitor on any regular basis the state of my
2 physical health or mental capacity to determine if
3 any actions need to be taken under this
4 instrument."

5 Did you know that that language was in the
6 power of attorney?

7 A Yeah, but I don't remember reading it.

8 Q Have you ever read the power of attorney, what's
9 been marked as Exhibit No. 7?

10 A Not really. I know a little bit about it.

11 MS. DURANT: I direct the Court's attention
12 to Exhibit No. 20.

13 BY MS. DURANT:

14 Q Ms. Baskin, do you recognize what's been marked as
15 Exhibit No. 20?

16 A Yeah.

17 Q Ms. Moseley typed up this demand, right?

18 A Yeah.

19 Q With this demand, you stop the lines of
20 communication with you and Mr. Walkup, right?

21 A Yeah.

22 Q And you inserted attorneys into the process.
23 Isn't that right?

24 A Yeah.

25 MS. DURANT: And if you'll flip to 21,

1 please, Mr. Detwiler, and the Court, please direct
2 your attention to Exhibit No. 21.

3 BY MS. DURANT:

4 Q Similar question, Ms. Baskin. Do you recognize
5 this letter from Alex Weatherly, Jr. to Benjamin
6 Bruner dated May 16, 2018?

7 A Yes.

8 Q And the fourth paragraph down it begins with,
9 "Therefore, I am writing on Ms. Baskin's behalf to
10 demand that Mr. Walkup have no further direct
11 contact with her."

12 Do you remember this letter, Ms. Baskin?

13 A Yeah.

14 Q Was this two days after the letter from Michele
15 that we just looked at, Exhibit No. 20?

16 A Yeah.

17 Q Again, cutting off lines of communication with the
18 trustee. Is that true?

19 A Yeah.

20 Q And forcing attorneys to get involved. Is that
21 true?

22 A Yeah.

23 MS. DURANT: Fourteen, please, Mr. Detwiler,
24 if you don't mind.

25 MR. DETWILER: Fourteen?

1 MS. DURANT: Please.

2 MR. DETWILER: This is the Bruner letter?

3 MS. DURANT: Yes. Bruner to Mr. Weatherly,
4 May 4, '17.

5 BY MS. DURANT:

6 Q Ms. Baskin, earlier in your testimony today you
7 talked with Mr. Detwiler about this letter. Do
8 you remember that?

9 A Uh-huh.

10 Q And earlier you testified that this letter didn't
11 tell anything about -- or didn't show you anything
12 about any fees of Mr. Walkup, either trustee or
13 management fees. Do you remember that?

14 A Yeah.

15 Q Will you please flip within this exhibit to Walkup
16 142. And you can take your time, Ms. Baskin, but
17 I can direct you to a line item on April 1st
18 with a trustee fee of \$4,500. Do you see that,
19 Ms. Baskin?

20 A Yeah.

21 Q And on 4/7, an E*TRADE account management fee of
22 \$1,075.24. Do you see that, Ms. Baskin?

23 A Yeah.

24 Q And then 10/17/26 another E*TRADE account
25 management fee for \$1,036.47. Do you see that?

1 A Yeah.

2 Q Does that change your testimony about whether fees
3 were disclosed to you as of this letter?

4 A I wouldn't know which fees were for what.

5 MS. DURANT: If I can beg the Court's
6 indulgence for a moment.

7 BY MS. DURANT:

8 Q Ms. Baskin, I'm going to ask you hopefully one
9 last question. In your testimony with
10 Mr. Detwiler, you went through several letters
11 between Mr. Bruner and Mr. Weatherly in which
12 information, financial information was requested
13 and financial information was provided. Do you
14 remember that discussion with Mr. Detwiler?

15 A Yeah.

16 Q Do you remember those letters when the financial
17 information was provided to Mr. Weatherly?

18 A I guess they were.

19 Q Do you ever remember Mr. Weatherly complaining to
20 Mr. Bruner that there was not enough information?

21 A There wasn't enough information --

22 Q There wasn't enough financial information provided
23 to you?

24 THE COURT: Is there a time frame we're
25 asking these questions in relationship to?

1 MS. DURANT: It's --

2 THE COURT: Is this the 2017 communications
3 or the 2008 communications? Because Mr. Detwiler
4 asked her about those two time frames earlier in
5 terms of financial disclosures. Which one are you
6 speaking of?

7 MS. DURANT: I'm thinking it's -- I think Mr.
8 --

9 THE COURT: The '08 is Rita Cullum's request.
10 I don't want you to confuse her in your time frame
11 or your questions about whose asking.

12 MS. DURANT: Thank you for clarifying that.
13 Let me clarify the question for you, Ms. Baskin.

14 BY MS. DURANT:

15 Q Ms. Cullum on your behalf asked Mr. Walkup for
16 some financial information. Do you remember that?

17 THE COURT: In the 2008 -- always put a time
18 frame on it for her and me.

19 BY MS. DURANT:

20 Q In the 2008 year.

21 A Yeah.

22 Q Ms. Cullum requested financial information on your
23 behalf from the trust. Do you remember that?

24 A Yeah.

25 Q Do you remember receiving financial information in

1 return from Mr. Walkup as the trustee?

2 A I got one paper, yeah.

3 Q What did that paper say?

4 A It had different --

5 THE COURT: Show her the piece of paper or
6 bring reference to it again if you're going to
7 question her about it. It's an exhibit attached
8 to the letter.

9 MR. DETWILER: Can we stipulate that it says
10 what it says?

11 MS. DURANT: Well, let me ask this simply.
12 Will you please look at number three, Exhibit
13 No. 3, Ms. Baskin.

14 THE COURT: This is the attachment to
15 Mr. Walkup's letter?

16 MS. DURANT: It does not have a date
17 unfortunately.

18 BY MS. DURANT:

19 Q Do you remember receiving this letter, Ms. Baskin,
20 Exhibit No. 3?

21 A I received this, but not that. I've haven't seen
22 that one before. This one I have, it has the
23 4,000 in fees.

24 Q So you didn't see the enclosure. Is that what
25 she's saying?

1 MR. DETWILER: She's saying that she did see
2 the enclosure, she does not recall seeing the
3 letter.

4 BY MS. DURANT:

5 Q Gotcha.

6 Ms. Baskin, do you remember Ms. Cullum --
7 after receiving this letter from Mr. Walkup, do
8 you remember Ms. Cullum asking Mr. Walkup for any
9 more information regarding the finances of the
10 trust?

11 A No.

12 Q The same thing for Mr. Weatherly. When
13 Mr. Weatherly requested information back on March
14 29, 2017, Exhibit No. 13?

15 A He might have, but I don't know.

16 Q Ms. Baskin, you see that Exhibit No. 13 is the
17 request for information from Mr. Weatherly?

18 THE COURT: Just for the record, March 29,
19 2017, is the letter you're asking her to
20 reference?

21 MS. DURANT: Yes. And I'll be more cognizant
22 about dates, there's several dates in my
23 questions.

24 THE WITNESS: Yeah.

25 BY MS. DURANT:

1 Q You remember the March 29, 2017 letter,
2 Ms. Baskin. Do you remember the May 4, 2017
3 letter, which has been marked as Exhibit No. 14
4 from Mr. Bruner to Alex Weatherly?

5 A What does all of this have to do with me?

6 Q The large question that I'm asking is, did you
7 ever request additional information after
8 receiving financial information from Mr. Walkup --

9 A No.

10 Q -- and the Court has asked me to --

11 A No.

12 MR. DETWILER: Let -- excuse me, let her
13 finish, please, she was answering your question.

14 MS. DURANT: I'm sorry.

15 THE WITNESS: No.

16 BY MS. DURANT:

17 Q So the --

18 A No.

19 Q You did not get additional information after
20 receiving financial information?

21 A No.

22 Q Okay. That's all I wanted to clear up, and I
23 apologize for taking you through that awkward
24 exchange.

25 MS. DURANT: Would the Court like me to ask

1 anything else to clarify the time frame?

2 THE COURT: Are you finished with questioning
3 her now?

4 MS. DURANT: For the time, yes.

5 THE COURT: Re-direct?

6 - - - - -

7 RE-EXAMINATION

8 BY MR. DETWILER:

9 Q I get to ask you a few more questions, but they're
10 going to be quick.

11 First of all, there were a lot of letters
12 back and forth between Mr. Walkup's lawyer and
13 Alex, right?

14 A Right.

15 Q Not just these two, right?

16 A Yeah, and I didn't read them.

17 Q Ultimately, you were not satisfied with what you
18 got, right?

19 MS. DURANT: Object to the form.

20 BY MR. DETWILER:

21 Q I'm sorry, were you satisfied with what you got?

22 A No.

23 Q And you ultimately brought this lawsuit, didn't
24 you?

25 A Uh-huh.

1 Q Is this lawsuit a request for information, Jane?

2 A Yeah.

3 Q Now, Ms. DuRant asked you a question a while ago
4 about yours and Michele's note to Mr. Baskin [sic]
5 dated May 14, 2018. Do you remember that?

6 A Yeah.

7 Q And you signed that. Is that your signature?

8 A Yeah.

9 Q And you told Mr. Walkup that you don't want him to
10 come over there anymore and see you, you don't
11 want to deal with him?

12 A Yeah.

13 Q Is that pretty much what it says?

14 A Yeah.

15 Q Now, this letter two days later, May 16th, is from
16 Alex to Mr. Walkup's lawyer, right?

17 A Right.

18 Q Two days later. Now, it talks about a letter that
19 Mr. Weatherly had written to Mr. Walkup's lawyer
20 on May 2nd. Do you see that?

21 A Uh-huh.

22 Q And so it's not accurate to suggest that this --

23 THE COURT: All right. You can't ask her the
24 question like that, that is an absolute leading
25 objectionable question. You want to make an

1 argument and you're doing it in a form of a
2 question to her.

3 MR. DETWILER: Thank you, Your Honor.

4 BY MR. DETWILER:

5 Q Were your lawyers in touch with Mr. Walkup's
6 lawyers before you wrote this letter to
7 Mr. Walkup?

8 A I don't know.

9 MR. DETWILER: That's all I have, Your Honor.

10 THE COURT: Re-cross?

11 - - - - -

12 RE-CROSS EXAMINATION

13 BY MS. DURANT:

14 Q Ms. Baskin, remember Michele Nunn, she was the
15 court appointed guardian in this case? Do you
16 remember her?

17 A Yeah.

18 Q You remember that she recommended that you needed
19 24-hour care, seven days a week?

20 A No. I never. I don't need it.

21 Q And why not?

22 A Because I need a few hours for me and the dog to
23 be by ourselves without somebody can I get you
24 this, can I get you this, can I get to that? No.

25 Q Ms. Baskin, you want ten hours of caregiving. Is

1 that correct?

2 A Yeah, and that's enough.

3 Q Does that include over-the-night stay? Would the
4 caregiver stay with you overnight?

5 A No.

6 Q What happens if there's a fire at your house at
7 Summerlea? How would you get out at night?

8 MR. DETWILER: Your Honor, I object. I have
9 an objection. This is not relevant to the issues
10 in this case. She's once, again, trying to turn
11 this about Jane Baskin rather than about Bill
12 Walkup.

13 And Ms. Baskin has the ability to make the
14 decisions for herself, where she wants to live.
15 And these questions have no relevance to the
16 issues in this case.

17 THE COURT: I think the trustee has a
18 responsibility to evaluate what he's paying for
19 and what is in her best interest. And in the
20 concept of caregivers, and the rub and the role
21 between what Ms. Nunn has recommended and what
22 Ms. Baskin is wanting and what the trust is to pay
23 for, the concept of safety has been an issue
24 throughout.

25 So I'm going to allow the question. It's

1 encouraging her to help me understand the plan
2 moving forward in any way that I'm supposed to be
3 supportive of that.

4 MR. DETWILER: Thank you, Your Honor.

5 THE COURT: Ms. Baskin, just out of the
6 concept of your safety, you don't want caregivers
7 at night. How would you handle an emergency
8 situation? I think that's a safety question for
9 you to evaluate for me in the sense that, what's
10 in your best interest.

11 THE WITNESS: I don't know if I could get
12 out.

13 MS. DURANT: No further questions, Your
14 Honor.

15 MR. DETWILER: Your Honor, that was well
16 beyond direct, cross, and everything else. May I
17 ask a follow-up --

18 THE COURT: That should've been your
19 objection. But yes, you absolutely may. I don't
20 know why the same question wouldn't be pertinent,
21 Ms. DuRant, for where she's living now.

22 MS. DURANT: It is the same and I meant to.

23 THE COURT: That point is not lost on me, if
24 that's what your point was going to be.

25 MR. DETWILER: That is one of the points.

1 FURTHER EXAMINATION

2 BY MR. DETWILER:

3 Q Jane, do you have one of those medallions or
4 wristwatches that are medical alert device?

5 A Yeah.

6 Q When did you get that?

7 A I got it last week.

8 Q How long have you lived in that apartment without
9 a medical alert device?

10 A I hadn't. This will be the first I've had it in
11 there.

12 Q In the apartment?

13 A Yeah.

14 Q So did Mr. Walkup ever inquire of your safety and
15 how you were going to get out of a fire before
16 this lawsuit?

17 A No. He told me he would find me, me and the dog
18 gone, burnt to a crisp.

19 Q But he didn't get you a medical alert device?

20 A No, not then.

21 MR. DETWILER: Thank you, Your Honor. That's
22 all I have.

23 THE COURT: All right. Thank you very much.
24 We're going to take our lunch break now.

25 (Off the Record)

1 EXAMINATION BY THE COURT

2 BY THE COURT:

3 Q I want to ask you a few follow-up questions from
4 this morning's direct and cross-examination. And
5 if you could just help me with the following
6 questions. Have you ever been married?

7 A No.

8 Q And that would mean you're not currently married?

9 A Yeah.

10 Q Have you ever had children?

11 A No.

12 Q Have you ever adopted children?

13 A No.

14 Q Do you know who your what we call intestate heirs
15 would be if you did not have a current Will in
16 place?

17 A Yeah.

18 Q Can you tell me generally what level of heirship
19 that would be to you?

20 A That would be my first cousins.

21 Q Would it be the same group of people that would
22 take the trust at your death?

23 A Yeah.

24 Q Was that "yes?"

25 A Yes.

1 Q I know you have a current Will in place. Is that
2 accurate?

3 A Yeah.

4 Q Who has possession of the original current Will?

5 A Alex.

6 Q Mr. Weatherly?

7 A Yeah.

8 Q What attorney assisted you with your durable power
9 of attorney I believe executed in 2017?

10 A Alex.

11 Q Mr. Weatherly again?

12 A Yeah.

13 Q I think that's all of my questions. Thank you
14 very much, Ms. Baskin?

15 THE COURT: Additionally, on the text
16 messages and emails between Ms. Moseley and
17 Mr. Weatherly, my ruling is that I'm going to be
18 turning over the majority of those communications.
19 There's one or two that I want to pull out that is
20 completely attorney-client privilege. It has
21 nothing to do with the issues that you're trying
22 to argue. So you're gonna have to give me a
23 minute to make sure I pull those out because I
24 meant to do it, but we made the copies, but I
25 could've pulled out of two other sets. So I'll

1 get that to you.

2 There is nothing I see in the totality of
3 those documents that you haven't already read in
4 some other version or format or that isn't pure
5 scheduling, coordination of sitters, coordination
6 of stress about sitters, going out of town, what
7 are we gonna do, anxiety about sitters. There's a
8 lot of that. So a majority of the emails other
9 than these one or two pages that were true -- I
10 almost felt like I was invading reading
11 communications about me and the court and the
12 rulings on record. Nothing that was embarrassing
13 or inappropriate at all, but, you know, you just
14 start getting into a level of communication that
15 you know you should not be seeing because it's
16 between -- and it wasn't rude, it wasn't
17 inappropriate, it wasn't sarcastic. I'm just
18 saying, you know, when you cross that level of
19 stepping over into the private communications. So
20 I'm going to pull that out because it's clearly
21 private and not relevant before I turn it over to
22 you.

23 Mr. Detwiler I'm going to turn it over to
24 you, and I believe you're calling Michele Moseley
25 who is in the courtroom and seated at the table.

1 MR. DETWILER: Your Honor, if you could
2 indulge me for just a second. I'm typing an email
3 at your request to my secretary to receive a
4 better copy of that attachment to the email.

5 - - - - -

6 Whereupon,

7 Michele Moseley,
8 being duly sworn and cautioned to speak the truth, the
9 whole truth, and nothing but the truth, testified as
10 follows:

11 - - - - -

12 DIRECT EXAMINATION

13 BY MR. DETWILER:

14 Q Where are you from?

15 A I'm from Columbia, South Carolina.

16 Q Did you grow up in Columbia?

17 A Yes.

18 Q I think you told me before you went to high school
19 at Flora and Keenan?

20 A Yes.

21 Q You graduated from Keenan?

22 A Yes.

23 Q What year?

24 A 1986.

25 Q Are you married?

- 1 A Yes.
- 2 Q What is your husband's name?
- 3 A Richard David Moseley Jr. known as Dickie.
- 4 Q How long have y'all been married, Michele?
- 5 A Since 1988, so about 32 years.
- 6 Q Do you have children?
- 7 A Yes.
- 8 Q What are their names and ages?
- 9 A Kristin Lee Moseley, she's 21 and Richard Moseley,
10 III, he's 19.
- 11 Q Did they continue to live with you at this time?
- 12 A Yes.
- 13 Q I can't remember if the Judge asked you this, but
14 what is your address, your current address?
- 15 A 1805 Forest Trace Drive.
- 16 Q That's in Forest Acres?
- 17 A Yes.
- 18 Q Do you attend church?
- 19 A Yes.
- 20 Q Where?
- 21 A Christ Covenant Church, previously known as
22 Covenant Presbyterian Church.
- 23 Q And it's on Covenant Road?
- 24 A Yes.
- 25 Q And that's where Jane Baskin goes to church as

1 well?

2 A Yes.

3 Q How do you know Jane?

4 A From church.

5 Q How long have you known Jane?

6 A Thirty plus years. I don't know exactly.

7 Q But you met her from attending the same church?

8 A Yes.

9 Q How do you know Alex Weatherly?

10 A Previously from church.

11 Q Does he attend the same church now?

12 A No.

13 Q How long has it been since he attended church at
14 Covenant?

15 A I don't remember, I really don't remember.

16 Q Other than trying to assist Jane -- and we're
17 going to get into that in a minute, but other than
18 trying to assist Jane, do you have any other
19 relationship with Alex?

20 A We're on the school board together at Christ
21 Covenant -- I mean Covenant Classical Christian
22 School.

23 Q So there's a school associated with the church?

24 A It's separate now, it used to be affiliated with
25 the church, but now it's separated. It's its own

1 entity.

2 Q You and Alex are on the board. How many board
3 members are there?

4 A There are six.

5 Q How long have you been on the board?

6 A I think maybe five years. I really don't recall.

7 Q Is that a volunteer situation?

8 A Yes.

9 Q You don't get paid for that, do you?

10 A No.

11 Q You have become Jane's caregiver?

12 A Yes.

13 Q How did that come about, Michele?

14 A Well, in 2017 June, Pat Watson had called me and
15 said Jane needed some help because she had a hard
16 time getting up off the couch because it sits low.
17 And so I went with her, we drove separately, we
18 went over there to the apartment complex.

19 Q We're talking about the apartment that she
20 currently lives in?

21 A Currently lives in.

22 Q Go ahead.

23 A So when I got over there, yeah, I noticed that she
24 had a hard time getting up off the couch. So I
25 was kinda like why don't you have a lift chair,

1 you know, something to help. So I helped to get
2 her up and then we went back to the bathroom. And
3 then also the same with the toilet, the toilet was
4 lower, so she had a hard time getting off the
5 toilet. So pretty soon after that, like it
6 might've been the next day, I went to Hawthorne
7 and got her a three-inch toilet seat so she would
8 be higher up to get up off the toilet.

9 Q What about the lift chair, did you ever solve that
10 issue?

11 A Yes, I had a client that I clean for and her
12 mother-in-law passed away, so I asked her if I
13 could have it maybe. So she gave it to me and so
14 I brought it over to Jane's so it would be easier
15 for her to get up out of the chair.

16 Q And it's an electric chair that will actually lift
17 you up?

18 A Yeah, you use a little thing you hold it and it
19 lifts you up, yes.

20 Q What do you do for a living?

21 A I clean houses. I have my own cleaning service.

22 Q Do you have employees that work for you?

23 A No, just me.

24 Q You do that for individuals or businesses?

25 A Individuals.

1 Q What does your husband do?

2 A He's an electrician.

3 Q How long -- you were telling me the story of how
4 you came about being a caregiver for Jane. That
5 was in June of 2017 I think you said?

6 A Yes.

7 Q Have you been a caregiver for Jane since that
8 time?

9 A Oh, yes, every day.

10 Q Well, let's get into that now. How many hours per
11 week do you care for Jane?

12 A When I started out in 2017, it was two hours every
13 single night.

14 Q From when to when?

15 A From 9:30 until 11:30, so couple hours a night.

16 Q What would you do at that late hour?

17 A Well, when I come in, I take the dishes if there's
18 any dishes and take them in the kitchen and wash
19 them and take the dog out for a walk and then come
20 back and get everything squared away for bedtime.
21 We'll go back to the bathroom and, you know, we're
22 ready and then get ready, do our bathroom things
23 and then head out to the bedroom and then get her
24 in the bed. Make sure everything is ready for the
25 next day.

1 Q Prior to your coming in and helping with that, who
2 was helping Jane with those functions?

3 A At nightttime, nobody.

4 Q Nobody was there?

5 A No.

6 Q Before your involvement, what caregivers were
7 there?

8 A Well, as I found out, Jenny had been there just a
9 month prior than I had started coming. She
10 started in May.

11 Q Who is Jenny?

12 A Jenny Vega is the caregiver that is there now from
13 seven until one.

14 Q She had just started?

15 A In May.

16 Q Of 2017?

17 A 2017.

18 Q Prior to that, if you know, who was the caregiver?

19 A Sheila Wolfe was the caregiver before then.

20 Q Do you recall, if you know, what Jenny Vega's
21 hours were about that time when you first got
22 involved with Jane?

23 A She was basically like eight until two.

24 Q Eight o'clock in the morning till two in the
25 afternoon?

1 A Yes.

2 Q And otherwise Jane was by herself?

3 A Yes.

4 Q How did Jane cook supper and do all those things?

5 A Well, Jenny prepared the food for her and the
6 neighbor across the hall, Pat McIntosh, would come
7 over every day to walk the dog and warm up her
8 food and then when she was done, clean up and then
9 go back to her apartment.

10 Q You mentioned Pat McIntosh, is that the lady --
11 where does Pat McIntosh live now?

12 A At the moment, she lives at Jane's house. She's
13 helping with the move and then she's going to
14 Virginia shortly after that. She wants to move
15 back to Virginia.

16 Q 2017 you're helping Jane two hours a day every
17 day?

18 A Every night.

19 Q Has that evolved into more care that you give to
20 Jane?

21 A Yes.

22 Q Tell us about that. When and how much care do you
23 give her now?

24 A Now, in July 2018, July 1st, it was on a Sunday,
25 she had fallen at church. I had not gotten there,

1 I did not bring her then. She had fallen. My
2 husband helped get her up and I got her back home
3 and then the next morning she had fallen in the
4 bedroom while Jenny walked the dog. She went to
5 take Lamb Chop out for his walk and came back and
6 she was on the floor. So after that, I told her I
7 really did not want her to get up anymore without
8 somebody being there. Because it makes you
9 nervous, she was nervous about walking, you know,
10 when they first fall. So she was just nervous. I
11 said, I really don't want you to get up anymore.
12 I said, I'll come at five and help you back to the
13 bathroom. So I started coming from five to seven,
14 seven days a week.

15 So I started then in 2018. And then we got
16 into school time and that's when basketball season
17 starts and I keep score for the basketball games
18 away and home, so I needed help. So I asked Jenny
19 if she could help. So she had to run it by
20 Mr. Walkup to find out if she could do that. So
21 she helped for four evenings a week, I forget the
22 exact days, but it was more of the weekdays. And
23 so she started doing the five to seven so that
24 gave me a chance to get my kids there in
25 basketball. It's a small school, so the parents

1 are more involved. So I did that.

2 Q So you, at this point in time, you were helping
3 Jane from five to seven on several days a week and
4 Jenny started helping her at the same time slot on,
5 other days that you couldn't?

6 A Yes.

7 Q And you still came every night from 9:30 to 11:30,
8 you say?

9 A Yes, and I was also coming on Sundays too.

10 Q Tell the Court about that.

11 A On Sundays I started to pick her up and bring her
12 to church, bring her back home, and getting her
13 back to the bathroom and her chair and come back
14 at five and then back at 9:30. It was pretty much
15 all day on Sunday.

16 Q So what is your currently your schedule just to be
17 clear?

18 A Okay. Sunday is all day, it's like eight to two,
19 because by the time we get to church and then get
20 back from church because I have to help her to the
21 bathroom, somebody's got to help her. Help her
22 get up out of the pew. So, you know, I can't just
23 drop somebody off and leave them. So I help her.
24 We get back, get her back to the bathroom. So
25 anyway, it's from eight to two, and then it's from

1 five to seven and then 9:30 to 11:30 on Sunday,
2 that's all day.

3 And then Monday I go from 9:30 to 11:30;
4 Tuesday 9:30 to 11:30; Wednesday five to seven,
5 that way all the way through Saturday 9:30 to
6 11:30.

7 Q From Wednesday through Saturday, you go in the
8 five to seven time slot and again at the 9:30 to
9 11:30 time slot. Is that right?

10 A Yes.

11 Q Have you ever been paid for that work?

12 A No.

13 Q Has there ever been a time when you asked
14 Mr. Walkup to be paid for that work?

15 A Not that specifically. I did approach him on --
16 when Jenny could not be there, she would go out of
17 town, then I would come in for her. And I figured
18 well, if I'm coming in for her, I should probably
19 get paid for those times. So I went to his office
20 on Jane's birthday 2018, March, her birthday.

21 Q Of what year?

22 A 2018. It was March 26, 2018, because I was taking
23 her out for her birthday, and I thought well, I'll
24 go by there and ask him, you know, I was dressed
25 up, and say, you know, I can fill in for Jenny

1 when she's not there because I'm already filling
2 in. It's hard to find somebody at the last
3 minute, so I figured I could get paid at least.
4 And then she needed some housekeeping, because
5 when you have a caregiver, they do light
6 housekeeping. She needed more in depth
7 housekeeping. And so anyway, when I went over
8 there, I said that to him and he just said that
9 she didn't need --

10 Q Wait, you spoke directly to Mr. Walkup?

11 A I spoke directly in his office.

12 Q What did you tell Mr. Walkup, what did you ask him
13 and what did he say?

14 A I told him that Jenny needed to go out of town and
15 I could fill in and I said Jane needs some
16 cleaning done at the house at her apartment, and
17 so I told him that I could do that monthly.

18 Q And what was his response?

19 A He just said that Jenny doesn't need to take time
20 off and she could do the cleaning. That was
21 pretty much it.

22 Q After you had that conversation with Mr. Walkup,
23 did you continue to be a caregiver for Jane on the
24 hours you just described to the Court?

25 A Yes.

1 Q If you didn't get paid, would you quit doing it?

2 A No. I'll be there until she dies. I'm committed,
3 so I'm not going anywhere.

4 Q Now, in the exhibits here, the joint trial
5 exhibits, there's one exhibit that is a bunch of
6 what I refer to as invoices. I think they might
7 be referred to in the exhibit list as time sheets.
8 Do you remember that?

9 A Yes.

10 Q And did you ever submit those to Mr. Walkup?

11 A I did submit the Mother's Day one, yes.

12 Q The Mother's Day one, what year?

13 A 2018.

14 Q Why did you submit that one to Mr. Walkup?

15 A Because it was a date that Jenny could not come
16 and I felt that if he's going to be the one that's
17 going to be in charge of caregiving, that he
18 should have somebody there and there was nobody
19 there. So I sort of had to, and it was a special
20 day for mothers, and I just felt like, you know, I
21 charge \$20 an hour, it was last minute, and I
22 came. So I just felt like that was appropriate.

23 Q Did he pay the invoice?

24 A No.

25 MR. DETWILER: And, Your Honor, we're looking

1 at Exhibit No. 38 in your book.

2 BY MR. DETWILER:

3 Q Did you ever submit any additional invoices to
4 Mr. Walkup other than the one for Mother's Day
5 2018?

6 A Yes.

7 Q Tell us about those.

8 A Sundays again. I was having to go over there each
9 Sunday morning to help her get ready, and I was
10 trying to get him to -- well, through Jenny,
11 trying to get him to hire somebody to help. So I
12 started submitting invoices, and Jenny would take
13 them to him, and she said he finally said stop
14 bringing them to me, I'm not going to pay her. If
15 Jane wants to pay her, she can use her money. I
16 was thinking that the trust was her money, but I
17 guess -- I don't know.

18 Q Exhibit No. 38 consists of, I don't know, maybe 25
19 or 30 pages, maybe more, I didn't count them and
20 they're a little bit out of order, but did you
21 submit all of these invoices to Mr. Walkup for
22 payment?

23 A No. People kept telling me you need to keep up
24 with your time, it's important. So I thought,
25 well, I should keep up with my time. So I wanted

1 to go ahead and print this out to show how much

2 I'm coming because I'm coming daily. So I did.

3 Q But you didn't ask Mr. Walkup for payment for all
4 of this?

5 A No, I did not. He wouldn't pay for the little
6 ones, why would I get paid for those?

7 Q Approximately, if you can remember, how many of
8 these invoices did you actually give to Mr. Walkup
9 either through Jenny or directly?

10 A I don't know if it was around ten or something
11 like that. I started and he said stop bringing
12 them, so I stopped printing them out.

13 Q You also had become Jane's general financial power
14 of attorney or attorney-in-fact and the healthcare
15 attorney-in-fact. Are you aware that?

16 A Yes.

17 MR. DETWILER: And those are exhibits seven
18 and eight, Your Honor.

19 BY MR. DETWILER:

20 Q Those are dated, it looks like they're dated 2017.
21 Do you remember that?

22 A Yes.

23 Q Did you ask to become Jane's power of attorney?

24 A No.

25 Q How did that come about?

1 A We were at a basketball game, I think we were in
2 Sumter, and I got a phone call from Alex. I
3 thought oh, okay, because we hadn't talked in
4 years. So I answered the phone, I had to go in a
5 little closet because the game was in between.
6 And so he asked me if I would like to be Jane's
7 power of attorney. I was like oh, yeah, that
8 sounds cool, sure, because I mean, I would love
9 to.

10 Q Let's talk about that for a minute. What powers
11 as the attorney-in-fact have you exercised on
12 Jane's behalf?

13 A The only thing I can think of is signing checks
14 for her because her handwriting is a little, it's
15 gotten difficult. So I just help her with the
16 checks that she writes for bills. That's pretty
17 much that's about it as far as I can think.

18 Q So you write checks, you sign checks?

19 A For her, yes.

20 Q Do you pay Jane's bills?

21 A Yes, with her checks.

22 Q Are you aware of any joint accounts where you and
23 Jane are both account holders?

24 A No.

25 Q Jane's money is in Jane's account. Is that what

1 you're saying?

2 A Yes, that is correct.

3 Q Michele, I'm going to ask you to embarrass Jane a
4 little bit, but could you tell me or tell the
5 Court a little bit about Jane. Can you tell us
6 what kind of person she is, could you describe
7 her.

8 A Yes. She's very outgoing, she loves to joke with
9 you. And so it's just a lot of fun to be around
10 her, and I'm just thankful she's that kind of
11 person. She just makes everything great. So,
12 yes.

13 Q How else would you describe her?

14 A Well, she's just -- I know she loves her dog, and so
15 we take the dog out to the bank, to the
16 drive-through, and we just love to watch his
17 little face as he is looking at the teller. And
18 so -- and I love to take her, like we'll go to the
19 Christmas craft bazaar, Craftsman Classic and
20 stuff. Learning the things that she likes and
21 doesn't like. I know what food she likes. I know
22 how she likes her lima beans, squashed and covered
23 with ketchup. So I have to make sure I get those
24 right. How much cream to put her coffee, things
25 like that. I've learned a lot about just watching

1 her and what she likes and stuff like that, so.

2 Q Tell the Court about your relationship with Jane.

3 Are y'all good friends?

4 A Yes.

5 Q Enjoy each other's company?

6 A Oh, yes. Very much so.

7 Q Tell us who some of Jane's other friends are

8 besides you?

9 A Well, you've got Pat Watson, Pat McIntosh.

10 Occasionally, we'll go out together to eat and

11 some people from the church that we are with.

12 Q Now, Jane has a number of cousins?

13 A Yes.

14 Q You know that?

15 A Yes.

16 Q Have you met some of them?

17 A I've only talked to, like, Anne on the phone, Anne

18 Webster, on the phone. I've talked to Wesley

19 Stephenson. He's come by, he came by before. He

20 came by a couple times to see Jane.

21 Q Anybody else you can remember?

22 A You said relatives?

23 Q Cousins, relatives.

24 A I think that's all that I'm aware of.

25 Q To your knowledge, when was the last time Anne

1 Webster came to see Jane?

2 A When I was there, none. She hasn't come by since
3 I've been around.

4 Q Since 2017?

5 A Correct.

6 Q Do they talk on the phone?

7 A Occasionally.

8 Q Tell us about Jane's relationship with Bill
9 Walkup, if you have any knowledge of that or any
10 observations of it.

11 A When I started coming over there, she did not --
12 she just said if I never saw him again that would
13 be okay. She just doesn't care for him. And so
14 she has told me many different things why she
15 doesn't care for him. I figured it wasn't good.

16 Q And that was -- you learned that early on?

17 A Oh, yes, I learned it early on, yes.

18 Q In 2017?

19 A Yes.

20 Q Could you relate to the Court some of the things
21 that you learned about why Jane felt that way
22 toward Mr. Walkup.

23 MR. SOWELL: I object on the ground of
24 inappropriate hearsay.

25 THE COURT: Hearsay, sustained.

1 BY MR. DETWILER:

2 Q Was Jane's relationship with Mr. Walkup good when
3 you first met Jane? I mean when you first started
4 being her caregiver?

5 A No.

6 Q Are you aware of anything that you, Michele
7 Moseley, has done to sour the relationship between
8 Jane and Bill Walkup?

9 A Yes.

10 Q You do know of something you've done to sour the
11 relationship?

12 A Yeah. Well, no, I didn't sour the relationship.
13 That was already sour, but I knew I made him mad
14 when I threw the For Sale sign in her -- he was
15 trying to sell her house and she didn't want to
16 sell it, I asked her and she said no. So I took
17 the sign and threw it in the trash. That made him
18 mad, so. But I didn't sour the relationship, it
19 was already that way. I just know I didn't make
20 things better.

21 Q Let me make sure I understand what you just said.
22 Mr. Walkup put a For Sale sign in front of her
23 Summerlea house?

24 A Yes. Well, there was a For Sale sign in her yard
25 with a phone number. I don't know who's phone

1 number it was. I don't know who put it there, but
2 I knew she didn't want to sell house. I said you
3 don't have to sell your house. So I took the sign
4 and I threw it in the church dumpster.

5 Q How do you know that made Mr. Walkup mad?

6 A Well, I know he was trying to sell it, and I know
7 there was a contract on it that fell through. I
8 saw the contract. And she didn't want to sell it.

9 Q On May 14th, Michele, of 2018, you and Jane
10 signed a letter to Bill Walkup, which is Exhibit
11 No. 20, Your Honor. Do you remember that?

12 A Yes.

13 Q And it says, "After today's visitation with Jane,
14 Jane and I agree that you should not contact Jane
15 directly in any way. Please correspond through
16 her attorney with any information. We feel that
17 this is best due to your manipulating actions you
18 tried to use on her about the AC unit. A copy of
19 this will be sent to Jane's attorney today, May
20 14, 2018." Do you remember that?

21 A I do.

22 Q And it's signed by Jane and you?

23 A Yes.

24 Q Did Jane actually sign that?

25 A Yes, she did.

1 Q Did Jane want you to send that?

2 A Yes, she did.

3 Q You typed it up?

4 A I typed it up.

5 Q Was this Jane's idea or your idea?

6 A It was her idea. I asked her if she wanted him to
7 not come over anymore, because he's come over at
8 inopportune times in the past when she's in her
9 Depends and just walked in. So, therefore, I
10 asked her, you know, does she want him to not come
11 over anymore and she said yes. I said we could
12 type a letter and give it to him. I'll give it to
13 him and I'll give a copy to Alex. So that's how
14 it came about.

15 Q Could you tell the Court what led to this letter.
16 You refer to an incident "today's visitation with
17 Jane." Tell us what happened, and you're probably
18 going to need to give the Court a little
19 background about what happened?

20 A Okay. At the house, okay, we had been going over
21 there to do the yard.

22 Q The Summerlea house?

23 A The Summerlea house. In the summer time, we had a
24 group of church people come over and we were doing
25 the yard. And I had my brother come over because

1 I said I'd like for you to change the locks on the
2 door because I don't know who has a key and I
3 don't want just anybody having a key, so I had him
4 do that. I went underneath and I asked my
5 husband, I said what is this thing sitting on the
6 ground? Because it's just off to the side. She
7 has a standup basement you can just walk under.
8 So there is this unit sitting under there, and I
9 asked my husband, he says I think that's a heating
10 furnace. I said well, why is it sitting here. I
11 mean it looked, you know, new. It didn't look
12 used.

13 Q Was it connected?

14 A No. It's just sitting by itself off to the side
15 because you could see where the one was off to the
16 right that was connected, the old one. Because
17 the heat wasn't working. So I had asked him, and
18 I said well, --

19 Q Asked who?

20 A I asked Dickie to call him because I knew that he
21 was aggravated with me.

22 Q You asked Dickie to call --

23 THE COURT: Mr. Detwiler, call who?

24 MR. DETWILER: That's what I'm trying to get
25 to.

1 BY MR. DETWILER:

2 Q When you say "he," you need to be clear. Dickie
3 called who?

4 A I had my husband Dickie call Mr. Walkup and ask
5 him about the heating unit that was sitting on the
6 ground. So my husband called him and he said --

7 MR. SOWELL: I object. I don't know if she's
8 referring to her husband Dickie or Bill Walkup.
9 If it's Dickie, it's okay, but not Bill Walkup.

10 THE COURT: Based on?

11 MR. SOWELL: Hearsay. Inappropriate,
12 inadmissible hearsay.

13 THE COURT: Hearsay sustained as to what she
14 didn't hear Mr. Walkup say.

15 MR. SOWELL: Well, I don't know if she heard
16 him or not. I'm just trying to jump in here
17 before she spits it out.

18 MR. DETWILER: Why don't we find out?

19 THE COURT: Thank you, Mr. Sowell.

20 MR. SOWELL: Thank you.

21 BY MR. DETWILER:

22 Q Did you hear Mr. Walkup -- You asked your husband
23 to call Mr. Walkup?

24 A Yes.

25 Q Don't tell me what Dickie said, but what did you

1 ask Dickie to do?

2 A To ask him about the unit, why it was sitting
3 there and not hooked up.

4 Q And did you hear Mr. Walkup's response?

5 A I did not in person. I just know that he started
6 work on the unit.

7 THE COURT: He who?

8 BY THE WITNESS:

9 A I'm sorry, Mr. Walkup started -- had workers over
10 there to start on the unit to put the unit in.

11 THE COURT: Can you put a summer time
12 timeframe on what summer we're talking about?
13 When did this happen?

14 A July 2018.

15 BY MR. DETWILER:

16 Q So in July of 2018, Mr. Walkup had commissioned
17 somebody to fix the heating and air unit?

18 A Not in July 2018, no.

19 Q When did Mr. Walkup commission somebody to fix the
20 unit?

21 A It was around February 2019.

22 Q This incident where you saw the unit sitting on
23 the floor, what month was that? Or saw it on the
24 ground.

25 A That was in the summer of 2018.

1 Q So who was it, if you know, did Mr. Walkup
2 commission to fix the unit or to install the unit?

3 A I do not know specifically, just people he had
4 hired.

5 Q And then I guess you discovered in July of 2018
6 that it had not been completed. Is that what
7 you're saying?

8 A Correct.

9 Q Did you ever learn what happened or why it had not
10 been completed?

11 A No, I don't know why. He just told Jane he had
12 hooked it up. It wasn't hooked up.

13 Q Did you ever have any interaction with the worker
14 that he hired to put it in?

15 A No, my husband did.

16 Q You were telling me what led to this letter when
17 we got sidetracked talking about the air-condition
18 unit. Tell me what led to this letter, let's be
19 brief about if you can.

20 A My husband was over there replacing the stairs to
21 go up to the back, and I asked him how they were
22 doing. My husband said it was terrible. He's in
23 the construction business, so. He told me it's
24 just terrible. So anyway, I had a couple of
25 people come over to look at it to give an estimate

1 and to see what was wrong that was being done.

2 THE COURT: I need to get you to stop again.

3 You've got to give time frames to this. You start

4 by saying -- reference the letter and then we're

5 telling a story.

6 BY MR. DETWILER:

7 Q I'll try to help out. We're talking about the

8 letter that you sent to Mr. Walkup on May 14,

9 2018.

10 A Okay, 2018, I'm trying to get my dates right.

11 Q Let me hand it to you.

12 A Yeah, you're right, not seeing it. I might need

13 to --

14 Q Let me do this. We're supposed to have this in

15 front of you anyway. This is a list of all the

16 exhibits, and we're looking at Exhibit No. 20.

17 A I do have the dates wrong. So much has happened.

18 I'm trying to remember them without looking, so

19 I'm so sorry.

20 Q Look, just flip -- there's an index there. Look

21 at 20, flip over to 20.

22 A Okay.

23 Q Do you see the letter?

24 A Yes, that helps me because I've got the dates

25 wrong, and I apologize.

1 Q The question I'm trying to get to as quickly as I
2 can is what led to your sending this letter. You
3 refer to an incident in here. Tell us about the
4 incident.

5 A So in 2018 February, I may have said 2019, but I
6 meant 2018 in February, I had my husband call
7 Mr. Walkup about the unit. And the job that they
8 came and did was very poorly done. In March, I
9 think, I don't know exactly the time frame. So
10 anyway, they didn't get finished with the job
11 because his worker had a stroke.

12 Q They meaning the workers that Mr. Walkup hired?

13 A I'm sorry, yes. I'm so sorry. Yes, the worker
14 that Mr. Walkup hired had a stroke and could not
15 finish the job. And so he came, Mr. Walkup came
16 over to Jane's apartment to talk to her. Jane
17 called me and asked me to watch on the camera,
18 which is in the dining room. And so I watched.
19 And when he got to the point where he was offering
20 Jane \$200 to have somebody she knows fix it to
21 finish up the work that was done on the heat and
22 air, then he went to \$300. And I was like no, no,
23 no, you're not going to sit there and manipulate
24 her or take money to do what he should have
25 finished and now have Jane finish. So I called on

1 the phone and I was talking to Jane, and then
2 Mr. Walkup got on the phone. And I was very irate
3 at the moment because I was watching him
4 manipulate her and tried to use her to get
5 something done that Mr. Walkup should have
6 finished.

7 So therefore, he got on the phone and started
8 talking, but I was yelling at him because he was
9 saying "my guy." I said I don't care about your
10 guy because you should have finished this instead
11 of offering Jane money from her trust to finish
12 the job over at Summerlea. So anyway, he hung up
13 on me and then he walked out and that was that.
14 That was this date right here on May 14, 2018.

15 Q Was Jane upset by all this?

16 A She was not happy at all.

17 THE COURT: I've got to get my time frame
18 straight. This summer incident is really the
19 summer of '17?

20 THE WITNESS: It was the summer of '17, I
21 apologize, Your Honor.

22 BY MR. DETWILER:

23 Q Other than this incident, had you observed
24 Mr. Walkup's interactions with Jane before?

25 A Not personally, no.

1 Q So you're aware that, and you've even alluded to
2 the fact that there is some work being done at
3 Jane's Summerlea Drive home. You know that?

4 A Yes.

5 Q What has been your involvement in the renovations?

6 A What do you mean? Like ...

7 Q Well, let me -- who is the general contractor?

8 A The general contractor is Callahan Enterprises,
9 which is my brother Ron Callahan.

10 Q And who is the electrical subcontractor?

11 A Is my husband Dickie Moseley.

12 Q Do you what the budget is for that renovation?

13 A It's about \$30,000.

14 Q Describe what is being done for \$30,000.

15 A On Jane's side of the house, which is on the left
16 side of the house, we're making the bathroom
17 handicap accessible because she's got a roll-in
18 shower now and we're going to put a bar up where
19 she can stand up. And the toilet will be
20 handicap, higher toilet, and then the sink will
21 have where you can roll underneath. And then the
22 bedroom is open. She had a sunroom which we
23 added. You know, like we enclosed it to make it
24 her bedroom.

25 Q So you're converting the sunroom into her bedroom?

1 A Yes, and adding closets because there were not any
2 closets at the time for her clothes.

3 Q What else is being done as part of this
4 renovation?

5 A We had to have heating and air done, redone. So
6 we had three estimates done and we picked the one
7 that was the lowest. It was roughly under \$9,000.
8 We had the termite people come in because there
9 were termites everywhere underneath the house. I
10 went under there with the guy and he showed me all
11 the termites that were underneath the house. So
12 we had to get that done. That was like 1500. And
13 then the mold, the mold was terrible because when
14 you have a house sitting for five years with no
15 heat or air, it just creates mold. So I had a
16 mold person come in that I know and treat for the
17 house, the part that was not being renovated. So
18 that way we could have that part treated.

19 Q To be clear, why was the house sitting there for
20 five years without any heating and air?

21 A Because the heat -- the heating was not replaced
22 when we were told it was.

23 Q So these, I call them renovations, some of them
24 are repairs?

25 A Yes.

1 Q And then some of them are renovations. Is that a
2 fair statement?

3 A Yes.

4 Q Do you believe -- I know this is sort of a loaded
5 question because it's your brother that's the
6 general contractor, your husband is electrical
7 contractor. Are there other contractors or
8 subcontractors working on the project?

9 A We have a sheet rock person and a plumbing person.

10 Q You know the budget is \$30,000?

11 A Yes.

12 Q Do you think that that is a reasonable amount to
13 pay for the scope of the renovations and repairs
14 that are being done?

15 A Yes, I do.

16 Q Who's writing the checks to the contractor?

17 A Alex Weatherly writes the check and I sign off on
18 them.

19 Q Tell me what you mean by that. How do y'all go
20 about getting the contractor paid?

21 A The invoice is submitted to Alex Weatherly.

22 Q From the contractor?

23 A From the contractor. My brother, Ron Callahan,
24 will email the invoice to Alex Weatherly, and then
25 the check is created and I signed off on it.

1 Q You approve the payment?

2 A Yes.

3 Q But the money is coming out of Alex's or his law
4 firm's trust account?

5 A Yes.

6 Q Do you go over the invoice with Jane to explain it
7 to her?

8 A Yes, I'll show her the invoice.

9 Q Do you get her approval as part of this approval
10 process?

11 A Yes.

12 Q Let's talk for a minute about what is it that you
13 think Jane needs in her life right now that the
14 trust can satisfy or help with.

15 A Well, she needs some extra items that she doesn't
16 get. Her coffeemaker broke, so we needed a coffee
17 maker. And her wheelchair, she needs a
18 wheelchair, she wants to be able to roll it around
19 herself when she gets to the house. She needs
20 some clothes. They get soiled; they get stained,
21 and so. And there's just some kitchen items that
22 we just kind have to do without. Ms. Jenny said
23 she needed another pan to cook in. She didn't
24 have very decent pans to work with.

25 Q She's in a wheelchair now. How long has she had

1 that wheelchair?

2 A About a month or two.

3 Q What did she use to ambulate around before? How
4 did she get around? Did she have a wheelchair?

5 A She has a transport chair that have the smaller
6 wheels.

7 Q Any reason that you can think of why she didn't
8 have a better wheelchair until a month ago?

9 A It's just not gonna be provided for her.

10 Q Do you think Jane can live safely in the Summerlea
11 Drive house?

12 A Yes.

13 Q Do you think it is any less safe than where she's
14 living now in the apartment?

15 A No. Because she doesn't get up when we're not
16 there. So she's not gonna go wandering around the
17 house by herself.

18 Q Based upon your personal observations, do you
19 think Jane's relationship with Bill Walkup will
20 improve with time?

21 A No, not at all.

22 Q Let's talk about Jane and money, okay. Jane has
23 asked the trustee -- or the Court to order the
24 trustee to give her a budget to live on. Are you
25 aware that?

1 A Yes.

2 Q Do you think Jane is capable of handling her own
3 money?

4 A Yes.

5 Q Does Jane have credit cards?

6 A Yes.

7 Q You handle her bill paying, right?

8 A Yes.

9 Q Does she pay off her credit cards every month?

10 A Every single month.

11 Q Other than the money she borrowed for the
12 renovations, does she have any personal debt?

13 A No.

14 Q What has been your personal observation about Jane
15 and her handling her money?

16 A She's done a great job, you know, before I got
17 there. So she's doing a good job.

18 Q Have you helped her open any accounts since you
19 became power of attorney?

20 A Yes. She wanted to open up an account. She
21 wasn't sure if William had any access to her Bank
22 of America, so she wanted to open up one over at
23 Palmetto Citizens, which is right up the road from
24 her. So we went over there and she opened a
25 checking account and savings account. They ran

1 her credit score and it was over 800. I was like,
2 whoa, go girl. It was better than mine. She must
3 be doing something right.

4 Q Do you think she can handle a monthly budget and
5 live within that budget?

6 A Oh, yes.

7 Q Michele, what do you want, what do you want for
8 Jane, what do you -- what do you want, if
9 anything?

10 MR. SOWELL: I object to this question on the
11 ground that it is wholly irrelevant.

12 THE COURT: Overruled.

13 BY THE WITNESS:

14 A I'd like to see Jane live in her house, and I'd
15 like to see her have the correct amount of
16 caregiving that she wants. And she wants to pay
17 me, but I won't take anything from her personally
18 because that's not her responsibility to pay me
19 from her personal money. I'd like to see her be
20 able to have people paid for what they're due and
21 to live in her home and enjoy the rest of her
22 life. And that's why I want to help her for the
23 rest of her life, make sure she has a happy
24 however many years she has left here. That's
25 pretty much what I want.

1 Q Do you want to be named as the trustee?

2 A No, I don't want to be trustee. I'm not a numbers
3 person. I take care of people, that's all I do,
4 that's all I want to do, is just take care of her.
5 I don't want to deal with money other than just
6 what we have a budget for. I would love to have
7 somebody I could work with. But I don't, so.

8 Q Can you as her attorney-in-fact work with Bill
9 Walkup?

10 A No. He won't work with me. He doesn't like me,
11 so no.

12 Q He's made that clear?

13 A Yes. In action, not necessarily in words so much,
14 but you can tell when they kinda give you the cold
15 shoulder, it's like okay, so.

16 Q There's been an assertion by Mr. Walkup's lawyers
17 that everything was just great between Mr. Walkup
18 and Ms. Baskin until you showed up on the scene in
19 2017. What you have to say about that?

20 A That was going on before I even came into the
21 picture. I just learned more about it when I came
22 and started helping her. I'm going to be there to
23 stand up for when she wants me to. When she needs
24 me, I'm there. I didn't have anything to do with
25 that other than I threw the sign in the trashcan.

1 I'm sorry, but Jane didn't want to sell her house.

2 I know it made him mad, I'm sorry. It's Jane's
3 house, so.

4 MR. DETWILER: Thank you, Michele, that's all
5 the questions I have. Answer any questions these
6 folks may have.

7 BY MR. SOWELL:

8 Q Ms. Moseley are you essentially --

9 MR. SOWELL: Can you hear me, Your Honor?

10 THE COURT: I want you to put the microphone
11 in front of you. Please be careful with my
12 microphones; you're already yanking it out of its
13 holder base.

14 MR. SOWELL: Can you hear me?

15 THE COURT: Yeah, I can hear you. In fact,
16 we're going to have to take a timeout, and I'm
17 going to see the attorneys in the jury room
18 through that door. Timeout.

19

20 (Off the Record)

21 THE COURT: All right. Mr. Sowell.

22 MR. SOWELL: May it please the Court.

23 THE COURT: Yes, sir.

24 - - - - -

25 CROSS EXAMINATION

1 BY MR. SOWELL:

2 Q Mrs. Moseley, are you the general contractor for
3 those renovations at Summerlea?

4 A No.

5 Q Who is the general contractor?

6 A My brother, Ron Callahan, Callahan Enterprises.

7 Q Does he have an in effect contractor's license,
8 current contractor's license?

9 A Yes.

10 Q Did he obtain a permit to make those reservations?

11 A Not that I'm aware of. He may have, but I'm not
12 aware of it personally. I don't know.

13 Q So as far as you know, he's making the renovations
14 without a permit?

15 A I guess so.

16 Q Well, I mean you, I think you have testified
17 before that you ran the books for your husband's
18 electrical business at some point. Is that true
19 or was it your father?

20 THE COURT: She hasn't testified to that in
21 here. She may have said that at a deposition, but
22 that's not prior testimony today.

23 BY THE WITNESS:

24 A No, I didn't run the books.

25 Q So you've never run the books in any contracting

1 business?

2 A No.

3 Q Are you running the books for this project?

4 A No.

5 Q Who is submitting the invoices to Mr. Weatherly?

6 A My brother is submitting his. The heating and air
7 guy submitted his, the mold guy submitted his.

8 Q Were they submitted through you?

9 A Oh, through me? Yes.

10 Q They were given to you and then you gave them to
11 Mr. Weatherly?

12 A Yes, or either I was copied on the email.

13 Q Does your husband have a license as an
14 electrician?

15 A Yes.

16 Q We were talking about, if you would, turn to
17 Exhibit No. 20, please.

18 A I'm already there.

19 Q You know, that is the letter that you and Jane
20 wrote to William Walkup on May 14, 2018?

21 A Yes.

22 Q And that was after you watched in on camera that
23 you had installed in Jane Baskin's apartment at
24 Atrium Way?

25 A Yes, at Jane's request, yes.

1 Q You got into an argument with Bill Walkup about
2 what it would cost to repair an air-conditioning
3 unit?

4 A No.

5 Q Look at the letter.

6 A Okay.

7 Q This is where I'm somewhat confused. You see that
8 there are three sentences there. I'll read them
9 to you. "After today's visitation with Jane" --
10 and that's the one you watched on the camera,
11 correct?

12 A Correct.

13 Q "Jane and I agreed that you should not contact
14 Jane directly in any way. Please correspond
15 through her attorney with any information. We
16 feel that this is best due to your manipulating
17 actions you tried to use on her about the AC
18 unit."

19 Now is that what he was talking to her about,
20 was the AC unit?

21 A That was part of the conversation, yes.

22 Q Well, what else is referenced in here other than
23 the AC unit?

24 A What he talked about to her?

25 Q Yes.

1 A What he talked, oh, haven't I done a great job for
2 you over the last 27 years? Hasn't Jenny done a
3 good job? Kind of conversation like that. Then
4 he moved over to the AC unit that was being
5 installed and he was offering her money.

6 Q Right. He offered her \$300?

7 A He started out at 200.

8 Q And then he offered her \$300?

9 A Yes.

10 Q And you took issue with that?

11 A I did.

12 Q Let me ask you this, how much experience do you
13 have with respect to installing, purchasing or
14 whatever air-conditioning units?

15 A I can look at one, but I mean I don't know a lot
16 about how they are installed.

17 Q Do you have any technical knowledge about
18 air-conditioning units?

19 A No.

20 Q Are you aware that Mr. Walkup has a Bachelor of
21 Science degree from the University of South
22 Carolina?

23 A I heard it through his deposition.

24 Q Well, just let me --

25 A Oh, I'm sorry, I thought that was a question.

1 Q That's all right, I'm trying to get us there. So
2 you are aware that Mr. Walkup has a Bachelor of
3 Science degree in mechanical engineering from the
4 University of South Carolina?

5 A As of his deposition, yes. But not before.

6 Q And you're also aware from his deposition that at
7 one time he was a licensed professional engineer?

8 A Yes.

9 Q And you are also aware that for 15 years he worked
10 for Trane Corporation, one of the largest
11 industrial air-conditioning manufacturers in the
12 world?

13 A Yes.

14 Q So do you believe then in light of that evidence
15 that you're aware of that you have better
16 knowledge about what it would cost to repair that
17 AC unit than Mr. Walkup?

18 A No. I went by the professionals that I had
19 contacted, got three different estimates, and they
20 told me it was done improperly.

21 MR. DETWILER: Your Honor --

22 MR. SOWELL: Uh-uh, nope nope. I don't think
23 so.

24 MR. DETWILER: You asked for it, here's the
25 answer.

1 MR. SOWELL: No, I did not, I did not ask for
2 it.

3 MR. DETWILER: Your Honor --

4 THE COURT: Y'all are having a private
5 conversation that started before uh-uh, nope,
6 nope. I don't know what just happened. You asked
7 her a question, she was the middle of answering it
8 and you said "uh-uh, nope, nope" you stood up. So
9 give me the back story, Gentlemen.

10 MR. DETWILER: Your Honor, he asked a
11 question, she was giving a perfectly pointed and
12 legitimate answer to the question. He didn't like
13 the answer and he interrupted her.

14 THE COURT: You asked her you thought you
15 know more than he does and she's telling you why
16 she knew that it wasn't just going to be two or
17 \$300. That's how I took it. What happened?

18 MR. SOWELL: She was saying what they told
19 her, what these contractors told her.

20 THE COURT: She said she got three estimates.

21 MR. SOWELL: That's true, and then she segued
22 into --

23 THE COURT: I'm gonna over overrule that
24 uh-uh, nope, nope if that was an objection. You
25 may fully answer the question starting at "I got

1 three estimates . . ." whatever it was you were
2 saying.

3 BY THE WITNESS:

4 A Yeah, I got three estimates, and then I learned
5 from the professionals what was not done correctly
6 through this process.

7 Q Now, at some point during direct examination by
8 Mr. Detwiler, you segued into talking about the
9 heating unit, furnace that was lying out in the
10 yard?

11 A I didn't say in the yard.

12 Q Okay, well, where were they lying?

13 A Underneath the house in the basement.

14 Q That's different from the air-conditioning unit?

15 A Yes.

16 Q When did that come about?

17 A When did what come about?

18 Q The furnace or heating unit was on the ground, is
19 what I understood.

20 A Yes, under the house.

21 Q Did that come about after this exhibit that is
22 number 20 or before this exhibit that's number 20?

23 A In the summer of 2017, there was a unit laying on
24 the ground.

25 Q Under the house.

1 A Under the house, sorry.

2 Q A heating unit.

3 A Heating unit under the house. And I asked my
4 husband, he said it was a heating unit and it was
5 not installed. It was a 2012 unit because it had
6 a date on it, and here we are in 2017. So it's an
7 older unit. And so it had not been installed.

8 Q Was anybody living in the house at that time?

9 A No.

10 Q So nobody was using the heat or the air
11 conditioning?

12 A No.

13 Q So what was your big concern about the heating
14 unit and that air conditioning, let's say the air
15 conditioning May of 2018 and the heating in I
16 guess July of 2017?

17 A It wasn't properly hooked up, it wasn't finished.

18 Q Right. I mean why were you concerned about it if
19 it was not being used?

20 A Because it wasn't hooked up properly and the job
21 was not finished.

22 Q That is the only reason?

23 A Well, and he called Jane to get her to finish
24 paying for it, that's a problem. I mean, he stood
25 before Jane and that's a problem.

1 Q Is this different from the May 14, 2018 incident
2 that you have on the camera?

3 A I'm trying to figure out what you're --

4 Q Well, we were talking about the heating unit, the
5 furnace, back in July of 2017.

6 A That's when I realized what it was.

7 Q Well, this letter that you wrote to Bill Walkup
8 asking him not to contact Jane Baskin, or I guess
9 you for that matter, it is an allusion to an
10 air-conditioning unit. It's in reference to an
11 air-conditioning unit.

12 A Yes, yes. Well, technically, it was the heating
13 unit, but I called it the air-conditioning unit
14 because I'm not a professional on this. I just
15 called it the AC unit, but it was the heating unit
16 under the house. It was not hooked up correctly
17 or finished.

18 Q So was there anything wrong with the
19 air-conditioning unit?

20 A I didn't try the air-conditioning unit, so I
21 didn't know.

22 Q As far as you know, the air-conditioning unit was
23 okay?

24 A Nothing was running in the house, so I have no
25 idea whether it was okay or not. I really don't.

1 Q I'm asking, though, are you aware of any
2 deficiency with respect to the air-conditioning
3 unit back on May 14, 2018?

4 A I do not know of anything.

5 Q You do not know of anything?

6 A I do not know if the AC unit was working or not.

7 Q What you were alluding to was this heating unit?

8 A Yes.

9 Q That's what Mr. Walkup was talking to Jane about
10 on camera?

11 A He was talking about her paying to have it
12 finished up or finding somebody that she knows to
13 finish up the job that his worker had a stroke and
14 could not finish. According to him, there's no
15 other people that he knows that can finish it,
16 just people that Jenny knows.

17 Q Is it also correct that sometime in the summer of
18 2017 you changed the locks on the house at
19 Summerlea?

20 A Yes.

21 Q So that the guy that you wanted to come back to
22 fix the furnace and hook it up for \$300 couldn't
23 get in the house?

24 A He got in the house. He went under it, yes.

25 Q Oh, he did?

1 A He did. He told my husband that.

2 Q So he got in the house?

3 A He got in the house, yes.

4 Q Did he hook it back up?

5 A He had a stroke.

6 Q Did he have it when he was in the house? When did
7 he have it?

8 A Yeah, he had a stroke during the process of -- I
9 don't know if they had to come back and finish
10 working, but he had a stroke. I don't know when
11 he had a stroke. I just know he could not come
12 back and finish.

13 Q So what we've got is a discussion about a heater
14 or a furnace and whether it would be repaired for
15 two or \$300 or not, and we don't have a discussion
16 about the air conditioner?

17 MR. DETWILER: Objection. Not a question.
18 That was not a question.

19 MR. SOWELL: It was a leading question.

20 THE COURT: It is a question, it is a leading
21 question. He's allowed to lead, yes, sir.

22 MR. SOWELL: Thank you.

23 BY MR. SOWELL:

24 Q If you would look at Exhibit No. 19 which is in
25 that book. It would be the one just prior to 20

1 obviously.

2 A Okay.

3 Q Is that a note that Mr. William B. Walkup wrote to
4 Michele Moseley? That would be you?

5 A That would be me.

6 Q Would you just read it aloud and then I'll ask you
7 a question about it.

8 A "Dear Michele, thanks for the visits and good will
9 you give to Jane. Please be advised that Jenny
10 will likely not be leaving for two days in April.
11 Also Jenny will continue to do the cleaning. Jane
12 threw out the vacuum cleaner that was just a
13 couple years old without letting us get it checked
14 out. We will be buying another one."

15 Q Is this a note that Mr. Walkup wrote to you in
16 response to your inquiry, I guess, about filling
17 in for Jenny when she was either going on vacation
18 or wanting to see one of her parents?

19 A Yes.

20 Q So he wrote you a note and told you that he did
21 not require your services. Is that correct?

22 A That's what it looks like here, yes.

23 Q Did you ever go to Mr. Walkup and ask for an
24 interview?

25 A No. And he did not ask me for an interview when I

1 came to him.,

2 Q Now, just to discern for a minute your
3 qualifications as a caregiver. As I understand
4 it, you went to Flora, you finished Keenan in
5 1986, and you did some vocational work to learn
6 how to be a typesetter and you were a typesetter
7 for about 12 years?

8 A Yes.

9 Q And that business dissolved and so then you
10 started a cleaning service?

11 A Yes.

12 Q And you have continued that cleaning service?

13 A Yes.

14 Q Through today.

15 A That's correct.

16 Q Have you ever had any training in taking care of
17 people with special needs like Jane Baskin?

18 A No.

19 Q Do you take care of anybody else with special
20 needs like Jane Baskin?

21 A No.

22 Q Have you ever taken care of anybody else with
23 special needs like Jane Baskin?

24 A No.

25 Q Now, I know you testified on direct that you

1 started coming more so, I think, July 1, 2018,
2 when Jane had fallen at church.

3 A Yes.

4 Q And the next day, which was Monday July 2nd, she
5 fell at home.

6 A Yes.

7 Q And, of course, during this period of time we're
8 talking about here, 2018, Jane did a lot of
9 falling.

10 A I don't recall her doing a lot over a period of
11 time, but she fell those two instances for sure.

12 Q Did she have -- at that point, didn't she have a
13 history of falling?

14 A Yes, she has.

15 Q And that house at Summerlea, I've been there, the
16 driveway goes down to that house from Summerlea
17 Drive is extremely steep, is it not?

18 A Yes.

19 Q And the backyard of that house going from the back
20 steps to the back property line is very steep?

21 A Yes.

22 Q And the steps going out the back door are very
23 steep?

24 A Yes.

25 Q Let me ask you this, do you go to Jane's visits

1 with Dr. Frampton Henderson?

2 A Some of them, yes.

3 Q Do you know that Dr. Henderson has made notes just
4 about every time he's seen her since I guess about
5 2003, I might not have that just right, that she
6 has a history of, a propensity to fall?

7 A Yes.

8 Q Do you also know she has a propensity to break
9 bones?

10 A I know she's fallen a lot and hasn't broken any
11 bones. She does the best she can with what she
12 has. I think she's done a great job.

13 Q You were not here, but I'll tell you this, Jane
14 testified she needs about ten hours a day care.
15 Is that what you believe as well?

16 A I believe, yes.

17 Q Have you read her Guardian Ad Litem's report that
18 said she needs 24/7 care?

19 A Yes.

20 Q So you think you're in a better position to give
21 an opinion about how much care Jane needs than a
22 Guardian Ad Litem who is a professional in that
23 business?

24 A Yes.

25 Q Do you have a license as a nurse or a caregiver?

1 A No.

2 Q Is Jane -- I know you've said she's the only
3 person you've ever worked with with special needs,
4 so I'm sure she's the first person. Talking about
5 Jane's falling at Summerlea, Jane, she cannot walk
6 now without her walker.

7 A Correct.

8 Q I mean she just can't go without a walker, she
9 can't ambulate, so to speak, without a walker?

10 A Correct.

11 Q She cannot walk up the driveway at Summerlea even
12 with a walker?

13 A I don't plan on her doing that, no.

14 Q I'm just asking.

15 A I understand. But yes, she could not walk up the
16 driveway with a walker as of today.

17 Q And she cannot walk down the driveway with the
18 walker.

19 A Correct.

20 Q And she cannot walk to or from the property line
21 in the backyard with a walker?

22 A Correct.

23 Q I know you testified in your deposition, but I
24 suppose you still believe Jane will live until
25 she's 94 years old?

1 A I pray so. I don't know, because I'm not -- I
2 don't know, I just don't know.

3 Q So she's 74 now?

4 A Yes.

5 Q Have you seen the budgets that Mr. Walkup has
6 presented to the Court and to Mr. Weatherly and
7 Mr. Detwiler, and therefore to Ms. Baskin, have
8 you seen those budgets with respect to how he
9 thinks he can take care of Jane in a reasonable
10 way over the next few years?

11 A Yes.

12 Q Do any of them project the life expectancy of
13 another 20 years?

14 A I don't think so.

15 Q How would you expect the money to last for another
16 20 years?

17 A I don't know. Just go day by day and year by year
18 and do the best we can.

19 Q Well, with respect to that, Pat Watson has loaned
20 her \$30,000, which she is paying primarily to your
21 brother and your husband to do the renovations at
22 her house. Is that correct?

23 A Yes, yes.

24 Q How do you think Jane is expected to pay that
25 money back to Pat Watson?

1 A Well, I feel like the trust should pay for it. I
2 know the payments will start in March and then
3 we'll work on that when it comes.

4 Q You said the church, right?

5 A No.

6 Q Oh, who will pay for it, then?

7 A We will. Jane and I will work on making sure the
8 money gets paid back.

9 Q And what kind of payment schedule are you
10 expecting?

11 A I don't know the details at the moment right off
12 the bat. I couldn't tell you at the moment.

13 Q You, Ms. Moseley, you and Mr. Detwiler talked
14 about the execution of your power of attorney for
15 Jane Baskin, which is Exhibit No. 7 in the
16 notebook. I think you said you agreed to do that,
17 you were in the closet in the gymnasium during a
18 basketball tournament?

19 A Yes, I agreed to be her power of attorney.

20 Q And Mr. Weatherly had called you and asked you to
21 do it?

22 A Yes.

23 Q You have no training or education to be a power of
24 attorney?

25 A I didn't know you needed to have training to be a

1 power of attorney. No, I did not.

2 Q As I further understand it, you do not understand
3 what is a fiduciary duty?

4 A Not directly. I know it has something do with
5 money I guess, but I have not researched that at
6 all.

7 Q And when Mr. Weatherly called you and you talked
8 to him at the gym, there was no discussion about
9 what your responsibilities would be?

10 A No. I didn't have time to talk about that at the
11 time.

12 Q Have you talked to him about it since?

13 A I just -- I don't think so, I don't believe so.

14 Q Do you understand what your powers, duties and
15 responsibilities are?

16 A Not all of them.

17 Q As power of attorney?

18 A I don't know them all. I'd have to read the paper
19 again, but I figure if I need them, I can look at
20 it, but right now I don't know specifically.

21 Q And nobody, no lawyer, no financial advisor,
22 nobody else has discussed the legal significance
23 of the power of attorney with you?

24 A No, not that I'm aware of.

25 Q Am I correct you are now, you became her power of

1 attorney, when you became Ms. Baskin's power of
2 attorney, did you inform Kathy Parr that you were
3 taking on that role?

4 A I did not even know she was former power of
5 attorney until later. I have no idea.

6 Q So I guess the answer would be no, you did not?

7 A No, I did not.

8 Q When you became the power of attorney, did
9 Ms. Baskin, Jane Baskin, also change her estate
10 plan to include you as a beneficiary?

11 MR. DETWILER: Objection, Your Honor, we've
12 been down this road I don't know how many times.

13 THE COURT: Overruled. He can ask her that
14 question.

15 BY THE WITNESS:

16 A I don't know if I'm in there or not.

17 Q Well now, I could pull it, I don't really want to
18 if I don't have to, but on page 77 of your
19 deposition -- Your Honor, may I show this to her?

20 THE COURT: Sure. Just put it on the table
21 and let her pull it over.

22 BY THE WITNESS:

23 A So you're talking about where I believe so?

24 Q Yes. Just read that part, the question and the
25 answer.

1 A Are you a beneficiary of her estate plan? I said
2 I believe so. What are you getting? I don't
3 know.

4 Q That's good, thank you. Who would you expect to
5 take care of Jane if her trust money runs out?

6 A I would.

7 Q So you have financial resources to support her?

8 A No.

9 Q Well, who would you expect to support her
10 financially. Listen, I understand you're a friend
11 of hers and I understand you care for her and I
12 understand you have care for her, but my question
13 really relates to the financial aspects of all
14 this. Who would take care of her financially if
15 all of the money ran out?

16 A I can't answer that at the moment, I don't know.

17 Q Am I correct that Jane is upset with Bill because
18 she thinks that he tries to run her affairs?

19 A Yes, control her.

20 Q And nothing else that you are aware of?

21 A There may be other things. I haven't really
22 thought about it, but.

23 Q Nothing else you are aware of right now?

24 A Well, I'm just trying to think of other instances,
25 but not at this moment.

1 Q Have you heard or have you been informed or
2 learned that even with Jane's life expectancy as
3 set out in the South Carolina Code, they call them
4 mortality tables, that her, you know, expected
5 life is probably about 11 or 12 more years. Have
6 you understood from the budgets submitted by
7 Mr. Walkup, that 500-and-some-odd thousand dollars
8 in corpus, if she lives that long, will not last?

9 A Okay, I don't know, I'm not a money person. I
10 don't project things out as well like a
11 professional does. I leave it to the
12 professionals to do that.

13 Q We were talking about Exhibit No. 20, which is a
14 note that you and Jane sent to William.

15 A Yes.

16 Q When you called him were you upset with him?

17 A I called Jane.

18 Q But did you not talk to Mr. Walkup?

19 A Yes.

20 Q Did you tell him you were upset with him?

21 A No. He could tell by the tone of my voice.

22 Q In fact, he hung up because you were hollering at
23 him. Is that right?

24 A Correct, yes.

25 Q And you knew at the time, I presume, that this

1 guy, and I'm talking about his worker, the guy who
2 was supposed to hook up the furnace, had had a
3 stroke?

4 A Yes.

5 Q Your invoices that have been alluded to for the
6 time you spent with Jane, and I know I've already
7 asked you this, but just to get this rolling, you
8 never went to Mr. Walkup to be interviewed to be a
9 caregiver?

10 A I went to him to talk about filling in for Jenny
11 and the cleaning. He said no, no.

12 Q And he wrote you that note.

13 A He wrote me the note, yes.

14 Q Has Bill Walkup to your knowledge ever directly
15 contacted Jane Baskin since the two of you wrote
16 that note?

17 A No. Jenny's made sure.

18 Q You've never personally or in the mail delivered
19 any invoices to Bill Walkup?

20 A In person?

21 Q Yes. I mean, listen, I know you said you sent
22 some through Jenny, but I'm asking you did you
23 ever send any through the mail or in person?

24 A I don't think so.

25 Q So am I correct that you would like a successor

1 trustee that knows how much Jane can spend each
2 month and make it last as well?

3 A It would be good to have someone that I can work
4 with and we can budget each month.

5 Q And make the money last until Jane no longer needs
6 the money?

7 A Yes.

8 Q Pat McIntosh is living in the Summerlea house now?

9 A She's currently at the house, yes.

10 Q Is she paying rent there?

11 A She helps with the electric and the water.

12 Q Do you know how long she expects to be there?

13 A Probably like maybe another month or two and she's
14 going to move back to Virginia. She was wanting
15 to see Jane get in her house and help her put
16 things where they go. She's also over at the
17 apartment packing up stuff now, so, while we're
18 gone.

19 Q Jane testified that the she thought the
20 renovations were about 40 percent complete. Is
21 that correct?

22 A Well, they're more than half. They're like
23 probably 70 percent. We didn't talk about how far
24 along. She doesn't know what's left to do as far
25 as percentage-wise.

1 Q But back to those invoices, most of them were
2 never submitted to Bill Walkup?

3 A No, they were not.

4 Q Do you have any reason to believe that Bill Walkup
5 has ever taken anything from Jane Baskin's
6 apartment?

7 A No. I don't know personally, no.

8 Q Kathy Parr, you know she was the power of attorney
9 before you?

10 A I know now. I didn't know back then.

11 Q Do you know why Mr. Weatherly called you to try to
12 replace her, or to replace her actually?

13 A He just called me and asked me if I would be her
14 power of attorney and I said yes. That's all I
15 know.

16 Q Do you have any kind of or have you talked with
17 anybody who has any kind of financial plan for
18 Jane Baskin if her trust runs out of money?

19 A No.

20 Q You were talking about throwing the For Sale sign
21 in the trash can. Do you know that Jane refused
22 to sign the contract for sale to sell the house,
23 you know, put it on the market or whatever?

24 A You're asking me what?

25 Q Do you know that Jane refused to sign?

1 A She said she didn't want to, but she didn't.

2 Q She did not?

3 A She did not. So -- you mean sign the contract?

4 Q She did not want to, so she did not?

5 A Right.

6 MR. SOWELL: Thank you.

7

8 RE-EXAMINATION

9 BY MR. DETWILER:

10 Q Michele, real quickly. When you watched that
11 encounter between Mr. Walkup and Jane that day,
12 May 14, 2018, that led to your writing a letter,
13 did you have estimates, real estimates for fixing
14 the heating and air-conditioning system?

15 A Yes.

16 Q You had already gotten those estimates?

17 A Yes.

18 Q And I think you said that Mr. Walkup had offered
19 Jane \$200 to get the work completed and that he
20 upped it to \$300?

21 A Yes.

22 Q Tell the Court what the estimates you had in your
23 hand how much they were.

24 A The estimates were just under \$9,000 for the
25 lowest one, and the other one, I can't remember.

1 It was at least ten or more thousand for the
2 second one, and the other one was 15,000.

3 Q And Mr. Walkup wanted her to take two or \$300 to
4 get it fixed?

5 A To finish up the job that the contractor did not
6 finish.

7 Q Everybody thinks that Jane needs more help than
8 the trust is paying for. You think that. Jane
9 thinks that. Michele Nunn thinks that.
10 Mr. Walkup thinks that. Do you have any idea why
11 Mr. Walkup isn't providing that level of care to
12 Jane?

13 A He doesn't want to spend the money. I mean, to
14 me, because he won't pay me. We have to fight
15 just to get somebody to come, you know, to help,
16 you know, with hours that she needs help with. I
17 mean it's a battle.

18 Q When do think Jane's going to die?

19 A I don't know.

20 Q Nobody knows, do they?

21 A No, I can't answer that question.

22 Q Might be tomorrow.

23 A Right. So I don't know.

24 MR. DETWILER: Thank you, that's all I have.

25 MR. SOWELL: Can we have one minute?

1 THE COURT: Sure. You need a minute in the
2 hallway?

3 MR. SOWELL: I guess.

4

5 (Off the Record)

6 MR. SOWELL: Nothing further, thank you.

7 THE COURT: I have a few questions that I
8 want to ask Ms. Moseley, please.

9 EXAMINATION BY THE COURT

10 BY THE COURT:

11 Q The loan that has been described between a woman
12 name Pat Watson and I assume Ms. Baskin, were you
13 a party to the contract?

14 A No.

15 Q So you did not sign the contract as her agent?

16 A No.

17 Q Do you know who drew the contract?

18 A I'm assuming Alex Weatherly.

19 Q Have you seen the contract?

20 A Not personally.

21 Q Who received the \$30,000 for the loan, who has
22 that money?

23 A Alex Weatherly has it.

24 Q So you're not in control of that money at all?

25 A No.

1 Q You said something about payments to start in
2 March. March of this year, I assume?

3 A Yes.

4 Q You say, though, you don't know the terms, like
5 how much per month will be owed?

6 A I don't recall at the moment. We kind of went
7 over it. I don't know right at this moment how
8 much, like, starting in March. I'd have to ask
9 Alex again.

10 Q Do you know how much of the 30,000 is left to pay
11 out?

12 A I think it's about \$10,000 left.

13 Q Do you know when the work will be done?

14 A I would say soon. I hope it's by the end of
15 January. I have to kind of call my brother and
16 ask him.

17 Q There was initially some communication or thought
18 that she was going to be in by Christmas. What
19 happened to that?

20 A My brother has other projects going on as well.
21 It's not like that's the only one he has.

22 Q When's the last time you were at Summerlea?

23 A We went by there Sunday, yesterday.

24 Q Who is the we?

25 A Jane and I.

1 Q When you go, describe -- there's been a lot of

2 issue made about the driveway. Describe how you

3 get her in and out of the house when you take her

4 for a visit.

5 A I back down the driveway and then I have her on

6 the side of the house that she goes in. So I just

7 get her walker out and then I turn around and sit

8 her on the walker and then I wheel her in.

9 Q So the wheelchair she's in currently, is that her
10 wheelchair?

11 A That is hers, yes, ma'am.

12 Q How many wheelchairs does she have?

13 A She has a transport chair, which has the small
14 wheels. And she wanted a wheelchair so when she
15 gets in the house, she can push the wheels by
16 herself.

17 Q So that satisfies that second need?

18 A Yes. Yes, ma'am.

19 Q And this is the wheelchair that's only two weeks
20 old?

21 A Yes. Two months old.

22 Q Two months old. Is she able to get around her
23 apartment with her own physical efforts?

24 A Well, it's got carpet. That makes it really hard.
25 Because at the house, she's going to have hardwood

1 floors, and you can go along the hardwood floors
2 much easier in a wheelchair than you can carpet.

3 Q What are the terms of her current lease?

4 A She doesn't have a lease.

5 Q Well, she lives in an apartment.

6 A Yeah, but when Mr. Walkup moved her in, there was
7 no lease.

8 Q So there is no lease?

9 A She never signed anything. And then we were
10 presented with a lease. I mean, as far as I know,
11 she's never signed a lease. She said she's never
12 signed a lease is what she told me. And then they
13 presented us with a lease I believe it was like --
14 shortly after --

15 Q Who is they presented you with a lease?

16 A I'm sorry. The company that bought out
17 Mr. Walkup's property, because he sold the
18 property that she's living at Atrium Luxury
19 Apartments, and then the company, I don't know the
20 name, gave Jane a lease. They stuck it in the
21 door of the apartment. And so I said oh. I gave
22 it to Alex Weatherly and Rick Detwiler to read
23 over. And I knew she didn't want to live there,
24 so there wasn't any point in signing a lease if
25 she doesn't want to live there.

1 Q When did this happen? The presentation of the
2 lease, when did that happen?

3 A I'm thinking around August 2020.

4 Q Have you in your capacity as her agent
5 communicated with the apartment complex that she's
6 going to be moving?

7 A No. They have not contacted her as well, or I.

8 Q They wouldn't contact you. They don't know she's
9 moving.

10 A We have not contacted them, no, we have not.

11 Q So you've not given them any kind of notice that
12 she's going to be moving out to make sure there's
13 no break of a lease situation?

14 A No. Because as far as I know, she doesn't have a
15 lease. Because she said she never signed any
16 paperwork to live there. Mr. Walkup just moved
17 her in. And he owned the place, so I don't know
18 how that went in 2015, June 9, 2015. I don't
19 know.

20 Q You say you sign her checks. You sign her name?

21 A Yes.

22 Q Or are you a signature on the account?

23 A I sign Jane's name.

24 Q Why would you not have set up the power of
25 attorney account?

1 A We just haven't. I don't know why.

2 Q So the process of getting to the place where
3 you're signing her name began when?

4 A I guess a year or two ago when she wanted me to
5 sign a check for her, the checks that she wrote
6 bills to.

7 Q So you've been the power of attorney since '17;
8 right?

9 A Yes, ma'am.

10 Q So it would make more sense to go to the bank and
11 have the account changed over to a power of
12 attorney account so you're signing as her agent
13 under the power of attorney, not signing her name.

14 A I didn't know that.

15 Q Did anyone give you any instruction on that?

16 A I don't think so. No, ma'am.

17 Q Do you do your own banking?

18 A I do my own banking, yes.

19 Q Sometimes in a couple, there's one that does the
20 banking. Do you do the banking for you and your
21 husband?

22 A Yes, ma'am, I do it.

23 Q But he does his business banking?

24 A No, I do that as well.

25 Q So when Mr. Sowell uses something like "run the

1 books," that's kind of the term for "do the
2 banking of the business."

3 A Okay, because I deposit the checks and we write --
4 you know, he goes to pay the bill at the Capital
5 Supply himself.

6 Q Right. Do you do your own tax return?

7 A No, we have a company that does that.

8 Q And they do the return for the business and for
9 you as a married couple?

10 A Yes, ma'am.

11 THE COURT: I don't have any follow-up
12 questions after that. I'm done.

13 So, Ms. Moseley, you're now off the stand,
14 but you're not going anywhere, I assume?

15 MR. DETWILER: That's right, Your Honor, she
16 needs to stay with Jane. May she stay in the
17 courtroom now that she's testified?

18 THE COURT: Any objection?

19 MS. DURANT: No, Your Honor.

20 THE COURT: I want you to stay there unless
21 we have another live witness. If we have another
22 live witness, you're going to need to stand back.
23 Next we're going to video?

24 MR. DETWILER: Actually, no. We have a live
25 witness that will be very, very brief. He's out

1 there now waiting on us.

2 THE COURT: Does Ms. Baskin need a break?

3 MS. MOSELEY: She says she's okay.

4 THE COURT: Okay, I need you to either go
5 behind there and sit down or go in the hallway if
6 you don't need to watch the witness. It's up to
7 you.

8 MR. DETWILER: Your Honor, this is Wesley
9 Stephenson who is Ms. Baskin's cousin.

10 Whereupon,

11 Wesley F. Stephenson, Jr.,
12 being duly sworn and cautioned to speak the truth, the
13 whole truth, and nothing but the truth, testified as
14 follows:

15 THE WITNESS: Wesley F. Stephenson, Jr., 144
16 Old Harden Road, Winnsboro, SC 29180.

17 - - - - -

18 DIRECT EXAMINATION

19 BY MR. DETWILER:

20 Q Thank you. May it please the Court.

21 Mr. Stephenson, thank you for being so patient
22 with us and particularly with me for waiting on us
23 and being ready to testify. Tell us who you are
24 to Jane?

25 A My mother and Jane's father were brother and

1 sisters.

2 Q And so you are first cousins?

3 A I'm her first cousin.

4 Q Did I get that right?

5 A That is correct.

6 Q How long have you known Jane?

7 A Ever since I was a child, my whole life.

8 Q How old are you?

9 A I'm 69.

10 Q So you're almost Jane's age?

11 A Okay.

12 Q Do you get to see Jane much?

13 A Not much. I reside between Winnsboro and
14 Newberry. It's a little commute down here.

15 Q But you see her and talk to her occasionally?

16 A Occasionally, or if Jane sends word to me that she
17 wants me to stop by and speak to her. Usually she
18 would tell cousin Ellen and she'll say Jane said
19 you haven't stopped by, it's time to stop, and I
20 would do so.

21 Q So Jane will shame you to come and see her?

22 A Yes.

23 Q Do you know Michele Moseley? Have you met her
24 before?

25 A Once at Jane's -- no, twice at Jane's location

1 where she is now, Atrium Way or whatever.

2 Q You went to visit with Jane and you met Michele?

3 A Yes, sir, that's correct.

4 Q I want to -- and you are a first cousin. I don't
5 even know if you know this, but you're aware that
6 Jane is the beneficiary of a trust that was set up
7 by her father in his Will?

8 A I knew that he set up a trust for her and also
9 gave her control over two houses and real estate
10 in Bishopville because I was her
11 attorney-at-large. I had power of attorney to
12 represent the sales on the properties in
13 Bishopville. Which over a five-year period, I've
14 surveyed out and sold the lots and closed the
15 family tenancy in common that we had.

16 Q So you handled that sale for Jane?

17 A I did.

18 Q Tell me how the money was dispersed. Was it
19 dispersed directly to Jane or who was it given to?
20 Do you remember?

21 A I remember one large check was dispersed to Jane,
22 to her in person. I did not mail it. And I said
23 due to circumstances, I don't know how you like to
24 handle this, but I thought it would be best I give
25 it to you. If you decide you want it in your

1 personal account, I'll drive you to the bank. If
2 you decide to give it to William, you would do
3 that, not I, because I don't want a conflict in
4 the caregiving process and I'm not familiar with
5 it to a large extent. But, and she said she would
6 hold onto it and make her own decision. I
7 consider her a rational person. I felt I
8 completed my job.

9 Q I didn't ask you this, do you know Bill Walkup?

10 A I've only spoken to him on the phone, but I know
11 he's my cousin. And I did leave a cantaloupe at
12 his office one day, but I didn't get to meet him.
13 I missed him.

14 Q Have you formed or did you form any opinion after
15 speaking with Michele Moseley and Jane about
16 Michele Moseley as a caregiver?

17 A Yes. I've had personal experience. I took care
18 of my mother from 2015 until 2020 -- I mean 2010
19 to when she passed. She was 93, she was in a
20 wheelchair the last two years. I had multiple
21 people I hired and dismissed. As mother would
22 give me the nod if she said she didn't like this
23 particular caregiver, I knew I had to start all
24 over. I was terrified, but I did it and I kept
25 doing it and I was very successful at the end.

1 Which I was very fortunate. A lady who had not
2 been on the Fairfield County list, the senior
3 citizens list as hiring ability. She had just
4 come back on the list. I interviewed her and she
5 came to work for me and she became a companion as
6 well as a licensed nurse. And she hired another
7 lady through her church. And I found that in the
8 caregiving process, companionship is right up
9 there next to the medical and clinical skill sets
10 that I considered necessary for my mother. And I
11 wrote a letter to my cousin Mr. Walkup that
12 wherever Jane ended up, I think she needs more
13 help and help on the level that would be like what
14 I did for my mother. And it started out there
15 were two four-hour shifts with the ladies I hired
16 and it got to be two six-hour shifts. And I went
17 through many thousand dollars over the period of
18 my mother's life. My end goal was to keep her at
19 home no matter what I had to do.

20 Q Mr. Stephenson, with that background, which I
21 think is very helpful for us to know you and what
22 you've been through personally in this regard,
23 with that background in mind, have you formed an
24 opinion about Michele Moseley as Jane's caregiver
25 and companion?

1 A If she had interviewed with me, and I know what I
2 know about her now over the period of time, I
3 would have hired her immediately to take care of
4 my mother. Because she is on that level.

5 Q Do you feel like she's done a good job for Jane?

6 A She has done as fine a job as any of the nurses I
7 ever had and goes beyond the call of duty. The
8 type of thing that if you are looking for somebody
9 to take care of family, that is what -- I don't
10 think anyone can look for anything any higher.

11 Q Do you believe that Michele Moseley has Jane
12 Baskin's best interest in her heart?

13 A Yes, I affirmatively believe that.

14 Q Do you think Jane Baskin is capable of making
15 decisions for herself?

16 A As much as I or anyone else.

17 Q Do you think that Jane needs more care than she is
18 currently getting?

19 A Absolutely. It's not up to my standards at all.

20 Q Do you think Jane's best interest would be best
21 served by -- let me ask it another way, let me
22 start with a foundation question.

23 Do you have any knowledge of the dispute
24 between Jane and Mr. Walkup?

25 A I'm limited to the knowledge that, in speaking

1 with Mr. Walkup and speaking with Jane and
2 Michele, that Jane desire to stay at home,
3 Mr. Walkup desire for her to stay at a facility of
4 his, and in the process, there has been a little
5 bit less harmony and perhaps a little toxicity in
6 the relationship that I think could've been
7 avoided by keeping her at home. The funds I spent
8 on my mother were substantial, but in my review,
9 the funds spent for current housing and a new
10 location could have provided one to one-and-a-half
11 to two caregivers at her old location and her not
12 having a complete -- in my case, I was power of
13 attorney for my mother and I had complete say-so
14 in all decisions. My sister and brother did not.
15 I found that was very convenient for me because if
16 I slept on something and made a decision, then
17 regardless of how challenged I may become, it was
18 my cross to bear. And I feel like Jane or someone
19 with her best interest -- and I say best interest,
20 I don't mean just financial. I mean over all
21 interest like I did with my mother. I think she
22 needs a larger voice and she has not had it.

23 I stopped by to see her one day and there
24 were a number of dog piles on the floor with a
25 small piece of newspaper on each one, and it upset

1 me. I didn't quite understand it, and I said
2 well, maybe it's people that can't take care of a
3 dog, don't need one, and then I felt extremely
4 guilty. I said she loves that dog, that's part of
5 her family. Maybe resources should've been spent
6 in housekeeping from whatever funds, even if she
7 had to borrow money, for someone to come in and do
8 the physical chores if she was unable to
9 accomplish on her own. We aren't granted the
10 ability to take care of ourselves all of our
11 lives. She needed help. And judged by the number
12 of piles I counted, it had been three or four days
13 since any adequate help had been in that house.

14 I don't want to stir up something now, but
15 there was not the kind of care that I gave going
16 on in that house.

17 Q Mr. Stephenson, based on what you've described
18 your knowledge is, talking to Mr. Walkup, talking
19 to Ms. Baskin, you're aware of her circumstances
20 and his circumstances and you're aware of why
21 we're here?

22 A Oh, yes, sir.

23 Q Do you think Jane's best interest would be best
24 served by the appointment of a new trustee?

25 MS. DURANT: Objection, Your Honor. Opinion

1 as to the issue of this case.

2 THE COURT: I think his opinions are really
3 clear so far, and I think that's one question too
4 far.

5 MR. DETWILER: Thank you, Your Honor. That's
6 all the questions I have then.

7 THE COURT: Cross-examination?

8 - - - - -

9 CROSS EXAMINATION

10 BY MS. DURANT:

11 Q Good afternoon, Mr. Stephenson, my name is Bess
12 Durant. Biff Sowell and I represent Mr. Walkup.
13 Thank you for swinging down from Fairfield County
14 to talk with us.

15 A You're welcome.

16 Q Earlier you were talking about a sale of
17 Bishopville property. Do you remember that?

18 A Yes.

19 Q And you mentioned there was one large check that
20 you disbursed to Jane?

21 A I think I disbursed possibly two checks over a
22 period of time, but one was quite large. There
23 were funds that were tied up where our family
24 attorney had some difficulties, and during the
25 process, he was saving our yearly rent checks to

1 develop property, survey properties and helping
2 with further sales. And so for several years, he
3 did not disperse the revenues to us. As he
4 transferred those monies over to me, his funds
5 were locked up for a period of time until they
6 could be audited. And so it took a while for
7 those back checks to become available to me.

8 During that time, I sold some lots as well.
9 And when I was able to get my hands on the
10 finances, I did not try to draw interest or hold
11 any assets. I disbursed them as quickly as
12 possible.

13 Q Do you remember -- there may have been bigger
14 checks -- or I'm sorry, there may have been other
15 checks, but from your testimony, I understand
16 there was one large check, correct?

17 A Yes, ma'am, it was.

18 Q Do you remember how much that check was written
19 for?

20 A It could've been 11 or 13,000, something in that
21 area. I have all that in the basement of my
22 mother's home in a sealed container because I
23 closed the estate, so I did not review this before
24 I came down here.

25 Q Does 13,000 sound familiar?

1 A Yes, ma'am, that could be it.

2 Q And you said you made it out to Jane?

3 A Yes, ma'am, it was a cashier's check from my bank
4 at Wells Fargo.

5 Q Do you know what Jane did with that check
6 afterwards?

7 A I had it in a large eight by ten brown envelope
8 and I left it with her. Later I think she told me,
9 she gave it to William to deposit.

10 Q Earlier you said you visit Jane occasionally.
11 What does occasionally mean? Give me how much you
12 see her in a year for the past five years?

13 A Once a year. I don't visit like I should. I
14 visit my cousin Eleanor because she had been
15 making repairs that are garden projects.

16 Q So regardless, you see her about once a year for
17 the past five years. Is that correct?

18 A That would be about right.

19 Q And you've met Michele Moseley twice at the
20 apartment?

21 A Yes. I was thoroughly impressed.

22 Q Are you aware that Michele Moseley does not have a
23 nursing degree?

24 A Oh, yes, I'm aware of people's credentials, of
25 course.

1 Q Are you aware that she's had no training regarding
2 being a caregiver?

3 A Yes, I'm aware.

4 Q Are you aware that she has no education about
5 being a caregiver?

6 A No, that's not correct. I've hired and went
7 through a number of caregivers. Knowledge of a
8 gain in the college of life, she has the
9 knowledge. I can witness that.

10 Q Ms. Moseley?

11 A She knows how to care, to talk, to coach, to
12 encourage, to physically assist. She's got the
13 skills I would hire.

14 Q You mentioned that your mother, that you spent
15 substantial funds on your mother's home care. Can
16 you tell us how much funds you spent?

17 MR. DETWILER: Your Honor, I object.
18 Relevance.

19 THE COURT: Yeah.

20 MS. DURANT: It goes to how much, how his
21 home care is worth.

22 THE COURT: Right. I think we can analyze
23 that. It's an individual situation, what you have
24 and what you need to spend. An individual would
25 require evaluation, so it's not relevant for what

1 we're trying to do for Ms. Baskin.

2 THE WITNESS: Am I allowed to answer this?

3 THE COURT: If you want to throw a number
4 out, sir, you may.

5 THE WITNESS: Are you asking about the hourly
6 wage, or what are we talking?

7 THE COURT: What we're saying is Richland
8 County and Fairfield County are going to have
9 different wage possibilities. How much money you
10 have and how much money is here for her could be
11 two different things. How much care she needs,
12 how much care your mother needed, it doesn't
13 become a good cross reference for us.

14 THE WITNESS: Well, if it's not a good cross
15 reference, may I decline to answer it?

16 THE COURT: Sure.

17 BY MS. DURANT:

18 Q Are you aware that a caregiver, at least that a
19 schedule is set up for a caregiver to see Jane
20 daily?

21 A Yes, there was a lady that worked for my cousin
22 Walkup there when I was there one day. I forgot
23 her name, but I met her.

24 MS. DURANT: That's all I have, Your Honor.
25

1 THE COURT: I assume you're -- Thank you so
2 much for driving down. I appreciate meeting you
3 and I appreciate most importantly the care you
4 gave your mother. It's not an easy job, not
5 everybody can do it, not everybody can afford to
6 do it. So thank you so much. I hope my son is
7 just as genuinely lovely.

8 MR. DETWILER: Your Honor, we've got
9 Ms. Wolfe teed up, but when I went out to get
10 Mr. Stephenson, I see Ken Wingate is out there.
11 I'd rather go ahead and get Mr. Wingate up and out
12 if I could.

13 THE COURT: Okay.

14

15 (Off the Record)

16 Whereupon,

17 KENNETH B. WINGATE,
18 being duly sworn and cautioned to speak the truth, the
19 whole truth, and nothing but the truth, testified as
20 follows:

21

- - - - -

22 DIRECT EXAMINATION

23 BY MR. DETWILER:

24 Q You are a lawyer, correct?

25 A Yes, I am.

1 THE WITNESS: And if I may ask, am I supposed
2 to keep the mask on or may I take the mask off?
3 What is the Court's desire.

4 THE COURT: At that point you are now, it's
5 your personal choice.

6 THE WITNESS: I feel like I can talk more
7 freely.

8 BY MR. DETWILER:

9 Q Very briefly, could you tell us what area of law
10 you practice in and how long you've been
11 practicing in that area and your general
12 qualifications.

13 A I was a former CPA before I became a lawyer. I
14 became a lawyer in 1986, so I think this was 35
15 years I'm completing of expertise focus certified
16 by the South Carolina Supreme Court as a
17 specialist in estate planning and probate law, and
18 that constitutes about 95 percent or more of my
19 practice which it has through my whole career.

20 Q Is it fair to say you are an expert in the area of
21 trust and estate law?

22 A I do hold myself out to that and as certified by
23 the Supreme Court and with their authorization.

24 MR. DETWILER: Your Honor, at this time, I
25 would offer Mr. Wingate as an expert witness to

1 testify in the area of estate and probate law.

2 THE COURT: Let the record reflect that I'm
3 laughing because there was an up-down movement.
4 Thank you so much. It's hard to get used to as a
5 lawyer to stay seated.

6 MR. SOWELL: May it please the Court.

7 THE COURT: Yes.

8 MR. SOWELL: You gave me the opportunity
9 which I took last Thursday to interview
10 Mr. Kenneth Wingate for about 45 minutes. It is
11 my belief that his opinions are all totally
12 related to the law which is province of the Court
13 and not Mr. Wingate. With all due respect, I
14 don't have any question about his qualifications
15 as a probate trust lawyer, but I don't think it's
16 appropriate to substitute his opinions for the
17 Court's, and I object on that ground.

18 THE COURT: I consider him incredibly smart,
19 incredibly well-respected. I would have him speak
20 or give opinions about anything, and I would trust
21 his opinions implicitly, but I agree with
22 Mr. Sowell that designation is not necessary
23 today.

24 MR. DETWILER: That an expert is not?

25 THE COURT: I will listen to everything he

1 has to say. I respect him. His credibility is
2 impeccable. But we don't need that designation
3 today.

4 MR. SOWELL: And I don't question either of
5 those facets either. I have great respect for him
6 --

7 THE COURT: And let me tell you. I'm going
8 to do the same thing with Julian Walker. I'm
9 going to do the same thing with any other person
10 like that you call. So it's across the board.

11 MR. DETWILER: May I -- if I may ask for
12 clarification. Are you allowing Mr. Wingate to
13 testify?

14 THE COURT: Absolutely, but he doesn't need
15 the designation of expert.

16 MR. DETWILER: All right. Then what would he
17 be?

18 THE COURT: A witness who's reviewed the
19 records who has an incredible reputation,
20 experience and education in all these areas. That
21 I will listen to and take into consideration
22 everything he has to offer as I will with any
23 other attorneys and CPAs that are going to be
24 called to testify about what they've seen or Mr.
25 Walkup's reputation.

1 MR. DETWILER: Thank you, Your Honor, I
2 understand.

3 BY MR. DETWILER:

4 Q Mr. Wingate, have you reviewed records in this
5 case?

6 A Yes, I have.

7 Q Could you tell the Court what you have reviewed.

8 A Pretty much all of the pleadings, certainly
9 everything that's been provided to me. All of the
10 discovery requests, the recent October of 2020
11 accounting information that was transmitted to the
12 Court by Ms. DuRant. The transcripts of several
13 people, most prominently the plaintiff and
14 Mr. Walkup and Mr. Weatherly. I've seen a few
15 other affidavits and other documents that were
16 included in the record.

17 Q And you also, as Mr. Sowell pointed out, you had
18 an opportunity to be interviewed by him and answer
19 whatever questions he had for you the other day.
20 Is that correct?

21 A Yes, I did.

22 Q Have you formed any opinions about this case, and
23 most particularly, have you formed any opinions
24 about how Mr. Walkup has handled Jane Baskin's
25 trust?

1 A Yes, I have.

2 Q Could you tell the Court -- I'm just going to turn
3 you loose, tell the Court about your opinions.

4 A What I've seen in relying principally on the
5 transcript of the deposition of Mr. Walkup, and
6 I'm assuming as facts things that he stated in
7 that transcript. So the assumptions of fact would
8 break into three or four different primary areas.

9 The first of which would be if I could call
10 it the quality or sufficiency of the accounting.
11 The second of those would be the conflicts of
12 interest or self-dealing as it relates to the
13 standards applicable to a fiduciary. The third of
14 those would be the investment strategy, I would
15 call it, how these assets have been treated and
16 what is the standard for diversification, et
17 cetera.

18 And then the fourth is a generic relationship
19 with a beneficiary which, again, I would view as a
20 standard applicable to the administration of a
21 trust and the ability and willingness, et cetera,
22 of a trustee and beneficiary to work together.
23 Those would be the first four principal areas.

24 Q Have you formed any opinions about the sufficiency
25 about the accountings Mr. Walkup has provided to

1 Ms. Baskin as the beneficiary?

2 A Yes, I have. And in short, my conclusion or
3 opinion would be that what has been provided is
4 essentially no accounting whatsoever. The fact
5 that -- and again, I'm referring as assumed facts
6 taken from the deposition of Mr. Walkup, that
7 until 2007 or '8, Rita Cullum in representing
8 Ms. Baskin, requested information that there was
9 no accounting given. And then from that point in
10 time until into 2018 and beyond when Mr. Weatherly
11 began to represent Ms. Baskin and again
12 information was asked for, there was not anything
13 that I saw as a sufficient and accurate accounting
14 of information until 2020. Then what was provided
15 in 2020, according to what I saw in the October
16 2020 email to the Court from Ms. DuRant, was an
17 enormous hodgepodge of information that I, and
18 forgive my informal terminology, but in trust and
19 estate litigation, I would refer to this as an
20 information dump.

21 There were bank statements, there were tax
22 returns, there were loose ends. But to the extent
23 that an accounting is intended, in my opinion, to
24 represent this is the beginning asset, that this
25 is the income, this is the growth, this is the

1 ending balance, this is what things have been used
2 for or spent on, this is the way I have approached
3 the management of a trust, I do not see that the
4 regularity or the quality of what was provided to
5 Ms. Baskin and to the Court qualifies as an
6 accounting per South Carolina Trust Code.

7 Q Now Mr. Wingate, you have a copy of all the trial
8 exhibits, do you not?

9 A I brought the notebook that was delivered to me,
10 yes.

11 Q I would point out to you that Exhibit No. 32, I
12 think is Ms. DuRant's letter to the Court of
13 October 12, 2020. Is that the accounting you just
14 referred to?

15 A Yes, that is.

16 Q Is this what you referred to as an information
17 dump?

18 A Yes, it is.

19 Q Is Exhibit No. 32 what you consider the
20 information dump as you described it?

21 A Yes, that this is the information that I recently
22 reviewed in connection with information provided
23 as an accounting, as I understand it, from
24 Mr. Walkup.

25 Q What, in your opinion, what is the duty of a

1 trustee to report to a fiduciary -- excuse me, to
2 a beneficiary?

3 A Sure. The principal duty would be to annually
4 report to a beneficiary information reasonably
5 sufficient to inform the beneficiary of the assets
6 and income of the trust, and therefore, showing
7 what assets and collected or reserved income, if
8 any, remain on hand at the end of the accounting
9 period, and with that to be done on an ongoing
10 cycle.

11 Q How often should that be done?

12 A At least annually.

13 Q In reviewing the records and reviewing
14 Mr. Walkup's deposition testimony, has Mr. Walkup
15 fulfilled his responsibility to account for this
16 trust to Ms. Baskin?

17 A Based on the facts I've alluded to, and therefore
18 I've assumed, the answer is no, he has not.

19 Q I'm going to bleed into one of the other topics
20 just a little bit. You mentioned, I think you
21 used the phrase "self-dealing" and "conflicts of
22 interest"?

23 A Correct.

24 Q Have you seen such instances in this case
25 reviewing the documents as it relates to

1 Mr. Walkup's handling of this trust?

2 A Yes, I have.

3 Q Tell us about that.

4 A Again, taken from the transcript and therefore
5 assuming them as facts. First, I see that there's
6 been reference to Ms. Baskin being living in an
7 apartment building which Mr. Walkup or his company
8 Walkup and Associates owns or has an ownership
9 interest in.

10 Secondly, I see that a substantial amount, in
11 fact, I think the record says 60 percent currently
12 of the assets of the trust are invested in an
13 investment known as Equity 95, of which I believe
14 Mr. Walkup testified that he has a majority
15 interest.

16 And thirdly, that there's another asset
17 called Columbia Cash Reserve, again in which he is
18 an owner, though the ownership percentages are
19 unclear from the record. And all of those being
20 entities from which he or his company is receiving
21 fees but for which those fees were not separately
22 accounted and reported. So it's impossible to
23 know what the fees have been.

24 And therefore, to the extent that the South
25 Carolina Trust Code says that if an asset is

1 invested in a business or an entity or a security
2 in which the trustee has an ownership interest,
3 there's a presumption of conflict of interest that
4 can be overcome with evidence of an accounting for
5 what the various fee structures and ownerships had
6 been, but I do not believe that those were
7 reported.

8 So my assumption and therefore my opinion is
9 that the standard of avoiding conflicts of
10 interest and avoiding self-dealing has not been
11 observed in this instance.

12 Q Do you recall off the top of your head which code
13 section you're referring to that has this
14 presumption?

15 A The 62-7-813, and I believe it's subparagraphs (c)
16 and possibly (f). I'm doing this off the top of
17 my head, but reference to the South Carolina Trust
18 Code subsections that govern no self-dealing,
19 revealing conflicts of interest and a presumption,
20 as I just said, that not doing those things is a
21 presumed violation of the accounting requirement.

22 Q I'm going from the top of my head, but let's not
23 do that. I have a copy of the Probate Code right
24 here. Does South Carolina Code 62-7-802 address
25 this issue? You mentioned 813, but is this also

1 addressed in 802? That is the conflict of
2 interest issue.

3 A 802 is the duty of loyalty as the heading of the
4 statute says. 813 is the duty to inform and
5 report as that heading says.

6 Q Let's speak to the duty of loyalty which is
7 provided in 62-7-802. Do you see the
8 responsibilities laid out on a fiduciary from that
9 code section, do you not?

10 A Yes, I do.

11 Q Can you tell us whether Mr. Walkup has complied
12 with the responsibilities that are set forth in
13 62-7-802?

14 A My opinion is that no, he has not. And the basis
15 for that is, in addition to what I've already
16 said, the fact that there is a an opening
17 statement in 802 that says that a trust is to be
18 administered solely for the interests of the
19 beneficiary. And I think a combination of the
20 terms of the will for Eldridge Baskin which
21 created this trust for his daughter Jane, which,
22 in my opinion, underscore the sole benefit for
23 Jane so much so that the remainder beneficiaries
24 under that will are simply the people who will be
25 the intestate heirs who then exist at the time of

1 Jane's death, wording to that effect.

2 And the fact -- again I'm assuming this fact
3 from the transcript and therefore an important
4 basis for my opinions -- that Mr. Walkup is a
5 relative of Eldridge Baskin, first cousin once
6 removed per the testimony, and that therefore,
7 those remaindermen also for whom the assets
8 remaining on hand at Jane's death would pass would
9 also be relatives of Mr. Walkup.

10 So pointing out Jane as the sole beneficiary,
11 the circumstances of her life in existence to
12 which Mr. Walkup testified with respect to her
13 physical condition and needs, and the remainder
14 beneficiaries being relatives of his own and the
15 investment vehicles being vehicles of his own, I
16 do have the opinion that the duty of loyalty has
17 not been met.

18 Q You also mentioned the relationship issue between
19 a trustee and the beneficiary. In this case,
20 Mr. Walkup and Ms. Baskin. Could you tell us your
21 opinion, if you have one, about the relationship,
22 the importance of a relationship between trustee
23 and beneficiary and what exists today?

24 A Under the South Carolina Trust Code, the standard
25 applicable to a trustee is to know the beneficiary

1 and his or her circumstances to thoughtfully have
2 strategy of meeting those needs financially and to
3 do so in a way that is, my words again,
4 "reasonable and proper and skillful." And to the
5 extent that communication has obviously broken
6 down, and per the testimony -- and again, I'm
7 assuming this as a fact -- that Mr. Walkup said he
8 had not spoken directly to Ms. Baskin in more than
9 two years. And given the fact that there has been
10 some verbal, if not, as alleged, physical abuse
11 taken place at some level with respect to
12 grabbing, to the extent that there has been a
13 breakdown of communication, that in and of itself
14 is an enormous impediment to a trustee being able
15 to fulfill any fiduciary duties whatsoever. And
16 so that adds to my opinion.

17 Q And your opinion is what? What is your opinion
18 about -- let me ask it again a different way.

19 This relationship issue that you've just
20 described between Jane Baskin and Mr. Walkup, how
21 does that affect -- in what ways does that affect
22 his administration of the trust and his continuing
23 as the trustee?

24 A What appears from the record to me is that there
25 is a disregard, disrespect for Ms. Baskin in that

1 he testified, and therefore I assume as a fact,
2 for example, that audited financial statements
3 which do exist, but which were not provided to
4 Ms. Baskin, were not provided for her to review or
5 read because he felt that she didn't have the
6 capacity to understand them, and therefore, to do
7 so, would be of no benefit.

8 So between the verbal and physical touching
9 or whatever terminology I should use in that case,
10 the efforts to forcibly remove her from her home
11 which she owns outside of this trust, his effort
12 to -- again, I'm assuming this as a fact -- take
13 an annuity that is payable directly to her outside
14 of the trust and to subsume it into the trust as a
15 trust asset, and the placing her in an apartment
16 of which he is an owner if not a majority owner,
17 and pushing for her even then to move into a 24/7
18 care facility against her stated wishes, amounts
19 to such a conflict and inability to communicate as
20 to arise to a breakdown and failure of execution
21 of fiduciary duty.

22 Q You mentioned the investment strategies employed
23 by Mr. Walkup. Could you speak to that issue.

24 A Yes, I would. From his testimony, and therefore
25 I'm assuming as a fact, that currently 60 percent

1 of the total trust corpus is invested in that
2 security or company called Equity 95. And
3 according to his testimony, and therefore an
4 assumption is, that it's stated written purpose is
5 growth. And given the fact that Columbia Cash
6 Reserve and the other entity which was mentioned
7 already, the apartment, are all assets that are
8 first of all illiquid. In fact, for Equity 95,
9 his testimony, and therefore an assumption of fact
10 by me, is that one can only withdraw investments
11 from Equity 95 one time per year at the end of the
12 year with an advance request, and then only if
13 paying accounting charges in order to liquidate
14 that interest.

15 So with Equity 95, Columbia Cash Reserve and
16 the other investments that are there, the vast
17 majority, a minimum of 60 percent. And the way I
18 could piece it together from the accounting
19 information, and greater than 60 percent,
20 substantially greater than 60 percent interest, is
21 invested solely for growth.

22 And therefore, the small amount of income
23 that is generated per the tax returns averaging
24 approximately \$14,000 per year on a portfolio with
25 an aggregate value of reportedly at least

1 \$575,000, that equates to a 2 percent or less
2 income rate that is being generated, and then on
3 assets that are risky in my opinion, don't meet
4 the standard of liquidity and the needs of the
5 beneficiary and therefore are improper.

6 Q Okay. And relate that, if you will, that strategy
7 you've just described, relate that to the terms of
8 the will that call for the trustee to distribute
9 all of the net income and the discretion to
10 distribute principal.

11 A Sure. This will, this testamentary trust, is as
12 was just stated an all income -- all net income
13 and discretionary principal to be distributed to
14 the beneficiary. My understanding from his
15 testimony, and therefore I'm assuming it as a
16 fact, is that Ms. Baskin is currently 74 years old
17 and is in difficult physical condition, and
18 therefore, it becomes part and parcel of the
19 analysis of what level of risk is tolerable for
20 these assets if suddenly liquidity were needed,
21 what would be the ability to liquidate it, what is
22 the possibility that asset values could decrease
23 in an unusual economy as we've experienced
24 recently. And the combination of lack of
25 liquidity, lack of security of those investments,

1 exposure to risk or change in value given the age
2 and life circumstances of the beneficiary, I think
3 do not equate to proper management of this trust
4 by a prudent fiduciary standard applicable under
5 South Carolina law.

6 Q Does it matter to you as someone who practices in
7 this area that a will -- or excuse me, a trust
8 that requires the distribution of income, but
9 makes discretionary the distribution of principal,
10 does it matter to you that the investment strategy
11 has been for growth as opposed to production of
12 income?

13 A It does. Again underscored by the terminology in
14 the will that this is a trust intended for the
15 sole benefit of Jane -- if I may refer to her by
16 first name for simplicity -- and the fact of her
17 then known and still existing condition, is one
18 that warrants a more income than growth strategy
19 and one that warrants security over risk as a key
20 investment strategy.

21 Q In summary, has William Walkup served Jane Baskin
22 well as her trustee?

23 A In my opinion, no.

24 MR. DETWILER: Your Honor, that's all I have.

25 THE COURT: Cross-examination.