

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Charlotte Sarah Weiss Shayne Estate,
Plaintiff, et al.,

vs.

Sondra Lampl,
Defendant.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

CASE #2023CP3700052

ORDER

This matter commenced with the filing of an appeal from the Probate Court. The case involves the estate of Appellant's mother. Appellant makes very serious allegations of misconduct against the Respondent. The probate case originated in Oconee County, although the Supreme Court of South Carolina transferred the case to the Honorable Amy McCulloch of Richland County when the Oconee County Probate Judge Kenneth Johns was removed by order of that court. The Appellant appeals an order from Judge McCulloch, seeking a modification of the order pertaining to the scope of an accounting from the Respondent. The Appellant seeks a finding of default under Rule 55 of the South Carolina Rules of Civil Procedure. The Respondent contests this request, citing S.C. Code Section 62-1-308, which outlines the specific procedure to be followed when a party appeals a ruling of the Probate Court to the Circuit Court. Counsel of the Respondent argues that no brief was submitted by the Appellant, making a Respondent's brief unnecessary. The Appellant filed this matter as a Summons and Complaint, although the Richland and Oconee Probate Court case numbers were used. The Appellant also filed a number of exhibits with his motion. The Court denies the Appellants Motion for a default judgment on the grounds that 62-1-308 governs this matter rather than Rule 55.

I find that the Appellant's filing, while not labeled as an appeal, shall be treated as an appeal tolling the time requirements under 62-1-308. However, the Appellant shall amend his appeal documents so that they conform with the requirements of the statute within fifteen (15) days. The Respondent's brief and the record on appeal shall then be filed in accordance with the statute. The matter will then be reset for a hearing on appeal.

The Respondent has made a motion to dismiss on the grounds of lack of subject matter jurisdiction. The Court denies this motion without prejudice since this matter is set for a hearing in probate court.

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SC Court of Appeals



Oconee Common Pleas

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s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

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