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Jun 23 2025

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM KERSHAW COUNTY
District Court

Honorable Daniel Coble, Circuit Court Judge

Court of Appeals Case No. 2024-001152

In Re: Estate of M.K. Jennings 2010ES2800169

Beverly Hennager.....Appellant

Mary E. Dearden, Personal Representative of the Estate of M.K.Jennings...Respondent

MOTION BY RULE 60(b)(4)

**CASE IS VOID FOR LACK OF JURISDICTION
(evidence of fraud on the court)**

“When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected.”

El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.—Houston [14th Dist.] 1994, no writ):

A void judgment is "a complete nullity and without legal effect" because the court acted without jurisdiction. It is not merely voidable but fundamentally invalid (Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291 (1995)).

A probate order entered without jurisdiction is void and can be challenged and set aside at any time (Coon v. Coon, S.C. Ct. App. 2003)

I. JURISDICTION

A. Jurisdictional Limits of South Carolina Probate Courts

1. Under S.C. Code § 62-3-201, probate jurisdiction requires either the decedent's domicile in South Carolina or the presence of estate property in the state at the time of death. The South Carolina Probate Code (§ 62-1-302) grants jurisdiction over "*estates of decedents*," but limits this authority to property physically located within the state.

2. The decedent, MK Jennings, was domiciled in Virginia, and contested assets were located in Virginia. Ancillary proceedings in South Carolina are only valid for assets situated in South Carolina. Orders attempting to control out-of-state property are legally void for lack of subject matter jurisdiction.

B. Void for Lack of Subject Matter Jurisdiction

3. If a probate court attempts to adjudicate property outside its jurisdiction, its orders are void ab initio (invalid from the outset). This principle is supported by case law:

In *Campbell v. Taylor*, the court held that probate courts cannot adjudicate property disputes beyond their statutory authority.

In *re Estate of Carr*, the court dismissed a probate action for lack of jurisdiction over the assets in question.

Under Rule 60(b)(4), a judgment is void if the court lacked subject matter jurisdiction, and the court must grant relief if this is established.

C. Evidence Supporting Lack of Jurisdiction

- a). MK Jennings's death certificate confirms Virginia residency (Exhibit 1).
- b). Virginia Promissory Note (R. 147-148)
- c). Va Shipping record (R. 158, 159).
- d). Bank accounts held in Virginia (Exhibit 2).

II. FRAUD AND FRAUD ON THE COURT

A. Fraudulent Conduct

4. Shortly after Mary Dearden's appointment as executor on April 28, 2010, I emailed her: *"According to Virginia law, probate is done in the county where the person was residing prior to death, which would be Fauquier County, VA, not Camden, SC. Please do not proceed with probate in SC if you are not in the proper jurisdiction."* (Exhibit 3). *She was unresponsive.*

5. On May 1, 2010, I emailed Judge Pierce to ask whether South Carolina was the correct state for probate. I wrote: *"I have gotten no response to my question from the executor of her estate, Mary Dearden, so I contacted the attorney in charge of probate, M. Burns, whose name I got through your office. He says my mother considered SC to be her home and intended to return."* (Exhibit 4). As Judge Pierce did not respond, I assumed Burns was correct.

6. I am not an attorney. For years, I believed that having any assets listed on the inventory in South Carolina allowed probate to take place there. I only recently discovered that only assets physically located in the state can be adjudicated in SC probate court. The emails are evidence of deliberate misrepresentation (e.g., concealing domicile/assets). As further proof that Burns knew where the decedent was

domiciled, during the 2016 hearing Dearden testified several times to the fact that the decedent was living in VA.

B. INTENT TO HARM

7. Dearden's and Burns' falsification enabled the statute of limitations to expire on the contested claims. It was also meant to financially weaken me in preparation for a lawsuit brought in VA to force a below value sale of my family partnership assets where Dearden, Dauphin and M Jennings would benefit from the sale.

C. CAUSAL DAMAGES

8. Probate filed in SC allowed the expiration of statutes of limitations. This also resulted in fifteen years of unnecessary litigation and depletion of financial resources until I was forced to represent myself Pro Se. As a result of the financial stress causing inability to represent myself with competent attorneys, I also lost millions in VA.

D. Legal Remedies for Fraud and Fraud on the Court

9. The clear misrepresentation by Dearden and her attorney regarding jurisdiction constitutes fraud and, under South Carolina law, supports a claim for punitive damages, especially where the conduct is egregious (*Cartee v. Lesley*, 290 S.C. 333, 350 S.E.2d 388 (1986)). This is a case of clear fraud on the court given the entire judicial system was tricked for fifteen years. It clearly meets the standards of egregious.

10. South Carolina Case Law: Fraud on the Court for Falsification of Jurisdiction

Ray v. Ray, 373 S.C. 426, 646 S.E.2d 880 (2007)

The South Carolina Supreme Court directly addressed "*fraud upon the court*" and defined it as conduct that "*does, or attempts to, subvert the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases.*"

South Carolina Statutory and Common Law Grounds

11. Fraudulent Intent in Fiduciary Relationships:

South Carolina Code § 15-3-240(2) explicitly allows recovery when a defendant "*acted with fraudulent intent or reckless disregard for the truth*" in contractual/fiduciary contexts.

Executors and attorneys owe fiduciary duties; deliberate jurisdictional fraud qualifies under this statute.

Punitive Damages for Fraudulent Conduct:

12. Cartee v. Lesley (1986) established that punitive damages apply when tortfeasors act with "*willful, wanton, or reckless disregard*" for others' rights.

Deliberately filing in the wrong jurisdiction to suppress claims constitutes such conduct.

Lister v. Nations Bank (1997) SC- Punitive damages for breach of duty with fraudulent act.

Perry v. Heirs of Gadsden (1993) SC - Punitive damages for fraud in estate administration.

Probate-Specific Penalties:

13. *Marshall v. Marshall*, 547 U.S. 293 (2006). The U.S. Supreme Court upheld a federal court's award of both compensatory and punitive damages for tortious interference with an expected inheritance, where the defendant engaged in willful, malicious, and fraudulent conduct to manipulate probate outcomes:

"The District Court awarded Vickie some \$44.3 million in compensatory damages and, based on 'overwhelming' evidence of Pierce's willfulness, maliciousness, and fraud, an equal amount in punitive damages".

14. This case is a leading authority for the proposition that punitive damages are available in probate-related fraud and tortious interference cases, even when the conduct involves manipulating probate proceedings or jurisdiction.

CONCLUSION

15. In summary, the South Carolina probate court's orders regarding assets outside its jurisdiction are void and subject to vacatur, and the fraudulent conduct of the executor and her attorney warrants severe punitive damages under established South Carolina precedent. South Carolina courts permit punitive damages under § 15-3-240 and Cartee principles, given the deliberate jurisdictional fraud. Federal precedent (*Marshall*) further supports such claims.

Requested Remedies

16. The Court is requested to order the following remedies:

1. **Attorney's Fees and Costs under S.C. Code Ann. § 62-1-111**
Award all reasonable attorney's fees and litigation costs incurred due to the Personal Representative's actions, to be paid by the PR personally and/or Moultrie Burns as justice and equity require.

2. Sanctions under S.C. Code Ann. § 15-36-10
Impose sanctions against the PR and/or Moultrie Burns for maintaining frivolous litigation in bad faith on a void case for fifteen years, including monetary penalties and reimbursement of costs.
3. Breach of Fiduciary Duty under S.C. Code Ann. § 62-3-712
Find the PR liable for breach of fiduciary duty and order: Return of all compensation received for administering the void case and Personal liability for losses caused by her conduct.
4. Return of Assets Disbursed Under Void Order
Order the return of all assets disbursed pursuant to the void probate orders, as void judgments confer no legal rights and cannot justify asset transfers.
5. Remove Mary Dearden as Personal Representative.
6. Order severe punitive damages for defrauding the court and damaging the estate and beneficiaries by intentionally bringing probate without jurisdiction knowing that it would be declared void.
7. Any other remedy the Court deems just under the circumstances.

17. The PR's prolonged administration of a void case warrants fee-shifting, sanctions, disgorgement of compensation, punitive damages and asset recovery under South Carolina law.

Respectfully Submitted,

S/ Beverly Hennager date June 23, 2025

Beverly Hennager
315 Wood Lane, Corvallis, MT 59828
hennagerbev@gmail.com
406-361-0796
PRO SE

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**THE STATE OF SOUTH CAROLINA
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APPEAL FROM KERSHAW COUNTY
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Honorable Daniel Coble, Circuit Court Judge

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In Re: Estate of M.K. Jennings 2010ES2800169

Beverly Hennager.....Appellant

Mary E. Dearden, Personal Representative of the Estate of M.K.Jennings...Respondent

AFFIDAVIT OF BEVERLY HENNAGER

I, BEVERLY HENNAGER, being duly sworn, depose and state as follows:

1. I am the Petitioner in the above-captioned matter.
2. I submit this affidavit in support of my Motion Pursuant SCRCR Rule 60(b)(4) to void this case for lack of jurisdiction.
3. Attached are exhibits not included in the Record on Appeal.
 - a) death certificate of decedent
 - b) Virginia Promissory Note (R. 147-148)
 - c) Va Shipping record (R. 158, 159).
 - d) Bank accounts held in Virginia (Exhibit 2).

e) 4-2010 email to Mary Dearden

f) 5-2010 email to Judge Pierce

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

S/ Beverly Hennager date June 23, 2025

Beverly Hennager
315 Wood Lane, Corvallis, MT 59828
hennagerbev@gmail.com
406-361-0796
PRO SE

Sworn to and subscribed before me

this _____ day of _____, 20.

Notary Public for Montana

My Commission Expires: _____



EXHIBIT 1

CERTIFIED COPY OF A DEATH RECORD

COMMONWEALTH OF VIRGINIA - CERTIFICATE OF DEATH
DEPARTMENT OF HEALTH - DIVISION OF VITAL RECORDS - RICHMOND

FOR DIVISION OF VITAL RECORDS

REGISTRATION DATE NUMBER 130		CERTIFICATE NUMBER 132		STATE FILE NUMBER	
DECEDENT					
1. FULL NAME OF DECEDENT Minnie Katherine Jennings					
2. DATE OF DEATH March 31, 2010					
3. AGE 89					
4. DATE OF BIRTH Feb. 25, 1921					
5. PLACE OF DEATH Fauquier Hospital					
6. CITY OR TOWN OF DEATH Warrenton					
7. STATE (OR FOREIGN COUNTRY) OF DECEDENT'S RESIDENCE Virginia					
8. COUNTY OF DEATH (If independent city, leave blank) Fauquier					
9. STREET ADDRESS OR RT. NO. OF PLACE OF DEATH 500 Hospital Drive					
10. CITY OR TOWN OF RESIDENCE Calverton					
11. STREET ADDRESS OR RT. NO. OF RESIDENCE 3534 Old Weaversville Road					
12. ZIP CODE 20138					
13. RACE OF DECEDENT'S FATHER Beverly Randolph McCreight					
14. RACE OF DECEDENT white					
15. MARRIAGE STATUS U.S.A. South Carolina					
16. HUSBAND'S NAME Louis Allen Jennings					
17. SOCIAL SECURITY NUMBER 240-30-4145					
18. USUAL OR LAST OCCUPATION Owner					
19. KIND OF BUSINESS OR INDUSTRY Auto Dealer					
20. EDUCATION (Specify only highest grade completed) College (14 or 15) +2					
21. PART I. Enter the disease, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.					
IMMEDIATE CAUSE (Final disease or condition resulting in death) CARDIOPULMONARY ARREST					
CAUSE (Disease or injury that caused death) DEHYDRATION, PNEUMONIA, RESPIRATORY ARREST					
22. PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.					
DEMENTIA, CONGESTIVE HEART FAILURE, DIABETES MELLITUS					
23. SIGNATURE OF PHYSICIAN Dr. M. F. Johnson					
24. PLACE OF BIRTH (Home, farm, factory, street, office bldg., etc.) 500 Hospital Ave, Warrenton VA 20138					
25. TIME OF BIRTH 1:08 a.m. 3/31/10					
26. PLACE OF DEATH (Home, farm, factory, street, office bldg., etc.) Moser Crematory Warrenton, VA					
27. SIGNATURE OF FUNERAL DIRECTOR OR PERSON LEGITIMATELY HOLDING THIS CERTIFICATE Ken Carowen					
28. NAME OF FUNERAL HOME, INC. Moser Funeral Home, Inc.					
29. ADDRESS 233 Broadview Ave. Warrenton, VA					
30. DATE RECORD FILED 4-1-2010					

MAJOR REVISIONS FOR BUREAU OF VITAL RECORDS USE ONLY. THIS IS A PRELIMINARY RECORD AND SHOULD BE REPRODUCED BY THE COUNTY AND STATE DEPARTMENT OF HEALTH.

This is to certify that this is true and correct reproduction of the original record
Filed with the Fauquier County Department of Health, Warrenton Virginia.

Date Issued: **4-1-2010**
(SEAL) **Ken Carowen**
Registrar or Deputy

ANY REPRODUCTION OF THIS DOCUMENT IS PROHIBITED BY STATUTE.
DO NOT ACCEPT UNLESS THE IMPRESSED SEAL OF THE FAUQUIER COUNTY
DEPARTMENT OF HEALTH IS CLEARLY AFFIXED.

EXHIBIT 2

Minnie K Jennings
P O BOX 242
WARRENTON VA 20136-0242

14 MONTH CD SPECIAL Certificate 11321

Original Issue Date:	07/30/2009	Interest Rate:	2.2310 %
Original Issue Value:	100,000.00	Maturity Date:	09/30/2010
		Term:	14 Months

* Approaching Renewal Advice *

Your certificate will mature on 09/30/2010. Interest will be credited to your certificate quarterly. The current balance of your 14 MONTH CD SPECIAL Certificate is 102,849.73. If the certificate renews, the new maturity date will be 09/30/2011.

THE INTEREST RATE AND ANNUAL PERCENTAGE YIELD (APY) HAVE NOT BEEN DETERMINED; THEY WILL BE AVAILABLE ON 09/30/10 BY CALLING 800-347-2700. THERE IS A GRACE PERIOD OF 10 CALENDAR DAYS AFTER MATURITY IN WHICH YOU MAY WITHDRAW FUNDS WITHOUT A PENALTY BEING ASSESSED. WE USE THE DAILY BALANCE METHOD TO CALCULATE INTEREST ON YOUR ACCOUNT. INTEREST BEGINS TO ACCRUE ON THE BUSINESS DAY YOU DEPOSITED FUNDS. THE MINIMUM BALANCE TO OPEN THIS ACCOUNT IS \$500.00. OUR CERTIFICATE OF DEPOSITS ARE TIERED ON DAILY BALANCES AS FOLLOWS: TIER 1: \$0.00 UP TO \$199.99; TIER 2: \$500.00 AND UP. THE STATED RATE AND ANNUAL PERCENTAGE YIELD WILL BE PAID ON THE ENTIRE BALANCE BASED ON THE TIER YOUR BALANCE FALLS UNDER. A PENALTY CALCULATED USING THE CURRENT RATE ON THE ACCOUNT WILL BE ASSESSED ON PRINCIPAL WITHDRAWALS PRIOR TO MATURITY. IF THE TERM IS 12 MONTHS OR LESS THE PENALTY IS 3 MONTHS INTEREST. IF THE TERM IS GREATER THAN 12 MONTHS THE PENALTY IS 6 MONTHS INTEREST. A WITHDRAWAL WILL REDUCE EARNINGS. DEPOSITS MAY NOT BE MADE ONCE THE ACCOUNT IS OPEN.

BEST RATE CHECKING 892876307
Printed by: BETH MALABY

THE FAUQUET BANK

5/10/2009 2:52:01 PM
Reporting Institution: 54

Demand Deposit 892876307 - Minnie K Jennings

	Rel	Birthdate	Phone	Tax Identification
[C1] Minnie K Jennings	F	*****	*****	*****
[C2] Mary E Dearden	S	*****	*****	*****

Post Office Box 242
Calverton VA 20133-0242

Tax Name: [1] Minnie K Jennings

Previous Cycle

Description	Debits	Credits	Date	Balance
Balance Forward:			Jul 31, 2009	\$0.00
Deposit		\$30,000.00	Jul 31, 2009	\$30,000.00
Interest		\$7.36	Aug 11, 2009	\$30,007.36
Balance This Statement:			Aug 11, 2009	\$30,007.36

BH 000188



Primary Account #10022623

TOTAL MERRILL

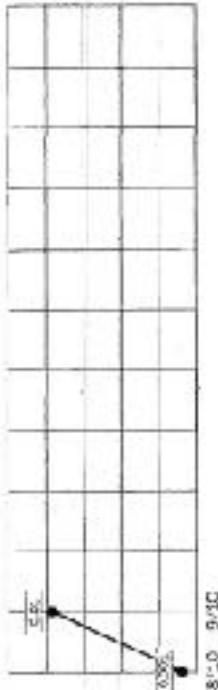
2025 SEP 01 2015 SEP 30 2015

YOUR MERRILL LYNCH REPORT

PORTFOLIO SUMMARY

	September '05	Aug of '05	Month Change
Net Portfolio Value		\$0.08	(\$0.08)
Your Assets		\$0.08	(\$0.08)
Your Liabilities			
Your Net Cash Flow (Inflows/Outflows)	(\$0.05)	\$0.00	
Securities You Transacted In/Out			
Subtotal Net Contributions	(\$0.05)	\$0.00	
Your Dividends' Interest Income			
Your Market Change			
Subtotal Investment Earnings			

Net Portfolio Value (in hundreds), 2010-2010



MAX JENNINGS
PO BOX 242
CALVERTON VA 22520-0242

Need Investment Guidance?
Call Your Financial Advisor

Your Financial Advisor:
ALBERT MURPHY II
2000 MAIN STREET 8TH FLOOR
CO LUMBIA SC 29203
albert.murphy@merrill.com
(803) 723-2426

If you have questions on your statement,
call 24-hour Assistance:
(800) MERRILL
(800) 657-7100
Access Code: 70735-4224

Up-to-date account information can be viewed
at: www.mfml.com, where your statements
are archived for three or more years.

Questions about WOL? Click the "help" tab at
the top of the screen once you log in.

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statements are sent to the email address you provided in your account information. Visit www.merrill.com for more information. Recurring
statements are also sent to the email address you provided in your account information. Visit www.merrill.com for more information.

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Merrill Lynch, Pierce, Fenner & Smith Corporation. Investment products are not insured by FDIC. See www.merrill.com for more information.

MIRJENNICE
 PO BOX 240
 CALVERTON VA 20134-0240

Primary Account: 7FR12324

TOTAL MERRILL

YOUR MERRILL LYNCH REPORT

September 21, 2010 - September 30, 2010

PORTFOLIO SUMMARY

	September 30	August 31	Month Change
Net Portfolio Value		\$0.00	\$0.00
Your assets		\$0.00	\$0.00
Your liabilities			
Your Net Cash Flow (Inflows/Outflows)	(\$0.00)	\$0.00	\$0.00
Securities You Transferred In/Out			
Subtotal Net Contributions	(\$0.00)	\$0.00	\$0.00
Total Dividends/Interest			
Your Net Asset Change			
Subtotal Investment Earnings			

Your Financial Advisor:
 ALICE M WRIGHT II
 1023 MANSTRIVE B HILLCOM
 COLUMBIA SC 29201
 Tel: 803 733 2508

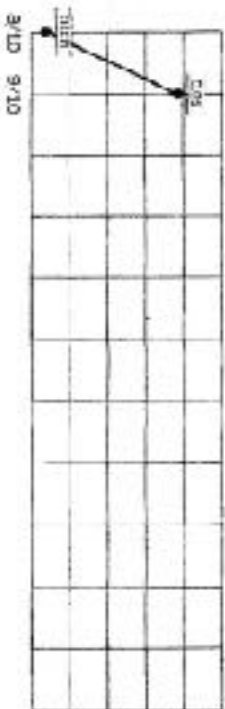
You have questions or your statement,

call 24-hour Assistance:
 800) MERRILL
 800) GET-7-405
 System Code: 79-756-12024

Portfolio account information can be viewed at www.merrill.com, where your statements are provided for three or more years.

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Net Portfolio Value (in hundreds), 2010-2010



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EXHIBIT 3

Probate

From: Beverly Hennager <b@nefferdun.myrf.net>

Date: 04/28/2010 10:16

To: Ziba & Mary Dearden <mglory@erols.com>, Beverly Hennager <b@nefferdun.myrf.net>, Michael Jennings <MJennings@kjtoyota.com>, "Louis A. Jennings Jr." <LAJ@cfl.rr.com>,andy dauphin <rjdauphin@msn.com>

Mary

According to VA law, probate is done in the county where the person was residing prior to death, which would be Fauquier County, VA, not Camden SC.

Please do not proceed with probate in SC if you are not in the proper juristicition.

EXHIBIT 4

Probate for Minnie K. Jennings

From: Beverly Hennager <bh@neffordun.myrf.net>

Date: 05/01/2010 21:44

To: <harriet.pierce@kershaw.sc.gov>

Dear Ms. Pierce,

I am concerned that probate for my mother, Minnie Katherine Jennings, is being done in the wrong state. My mother was living in Va for over two years prior to her death. On her death certificate, 3534 Old Weaversville Rd Calverton, VA, is given as her residence. That is in Fauquier County, VA.

I have gotten no response to my question from the executor of her estate, Mary Dearden, so I contacted the attorney in charge of probate, M. Burns, whose name I got through your office. He says my mother considered SC to be her home and intended to return. My mother left Camden SC in 2007 when her sister could no longer care for her because of physical and mental disability. She lived with my sisters in VA visiting Camden only once or twice that I know of. The conditions contributing to her death (listed on the death certificate) are dementia, congestive heart failure and diabetes and she was 89 when she died so it was very unlikely that she would ever have returned to Camden. The memorial service for my mother was held in Va and she was buried in Va.

I am confused as to why the probate is being held in SC. I was just informed of this and have set up an appointment with an attorney to get more information. Please do not proceed with probate until we are all certain that this is being done in the correct state and county.

Sincerely,

Beverly Hennager

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Jun 23 2025

SC Court of Appeals

CERTIFICATE OF SERVICE

I, Beverly Hennager, do hereby certify that I have served a copy of the foregoing

MOTION BY RULE 60(b)(4) to the following addresses:

Moultrie Burns, Esquire
Savage Royal & Sheheen, LLP
PO Drawer 10
Camden, SC 29021
Attorney for Respondent, Mary Dearden

South Carolina Office of Administration 1220 Senate Street, Suite 200 Columbia, SC
29201

Enclosed is a fifty dollar motion filing fee.

Hard copies to follow.

Respectfully Submitted,

S/ Beverly Hennager date June 23, 2025

Beverly Hennager
315 Wood Lane, Corvallis, MT 59828
hennagerbev@gmail.com
406-361-0796
PRO SE