

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS
IN THE PROBATE COURT

JUDGMENT IN A CIVIL CASE

CASE NO.: 2007ES3000208

IN THE MATTER OF
THE ESTATE OF MARION M. KAY

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.**
- ACTION DISMISSED.** (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other -
- ACTION STRICKEN** (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other -
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- See attached order. (Formal order to follow)
- Statement of Judgment by the Court:

Dated at Laurens, South Carolina, this 27th day of March, 2012.

Donald B. Hocker

PRESIDING JUDGE

This judgment was entered on the 27th day of March, 2012, and a copy mailed first class this 28th day of March, 2012, to attorneys of record or to parties (when appearing pro se) as follows:

John R. Ferguson, Esquire
P.O. Box 286
Laurens, SC 29360

Daryl G. Hawkins, Esquire
P.O. Box 11906
Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Betty W. Baker

Clerk of Court

could not have been presented at trial.

Reopening the record now would mandate a continuation of the proceedings for cross-examination and the potential admission of new evidence. This case has already been fully litigated for a significant length of time by excellent attorneys. Both sides had a full and fair opportunity to present any existing and available evidence to the Court and are not entitled to re-litigate their cases.

Although I am unclear why the Boddifer bill for tax return preparation is in the Motion to Reconsider, I do find that it is a legitimate Estate expense which the Estate should pay. The Estate is authorized to pay this invoice out of Estate assets.

As to the court reporter bills, it appears that Shorb has been paid and that Garber has been partially paid. Both sides have benefitted and will benefit from these court reporting services, so the Estate shall pay any court reporting bills which are currently unpaid. Ms. Brown and Ms. Moses are responsible for one-half of the total, and their share is to be deducted at the closing of the Estate from their distributions. Any additional court reporting charges to date shall be paid equally from each side. Mr. Hawkins will provide Mr. Ferguson with a copy of the transcript, and the copying charges will be borne by Mr. Ferguson's clients.

I deny the Motion to Alter or Amend Judgment. The Court painstakingly reviewed the entire record in making its original decision and has once again reviewed everything. I find that there is no basis to alter or amend any provisions of the May 24, 2011


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Order.

Martha Brown had requested that I award her a five acre parcel which was allegedly part of a partition/land swap. Insufficient evidence was presented to grant any relief on this issue.

I deny both sides' request for attorney fees. The PR is not entitled to attorney fees because he did not prevail and his motions were primarily for his own benefit. Ms. Moses and Ms. Brown have sought an attorney fee award as well, but I find that the Common Fund Doctrine does not apply because no extra assets were generated for the Estate.

AND IT IS SO ORDERED.



DONALD B. HOCKER
Associate Probate Judge

Laurens, SC
March 27, 2012

3