

**THE STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

**RECEIVED**

**DEC 16 2025**

**SC Court of Appeals**

---

In Re: Estate of M.K. Jennings 2010ES 2900169

Beverly Hennager, Appellant

v.

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

Appellate Case No: 2024-001152

---

Appeal from Kershaw County  
Daniel Coble, Circuit Court Judge

---

(Amended)

**RESPONSE TO MOTION TO RECOVER COSTS AND ATTORNEY'S FEES**

---

Petitioner respectfully submits that the Court should deny Respondent's motion for attorney's fees and reject his factual misrepresentation regarding final estate distributions. The 2020 personal representative's accounting (R.165) affirmatively shows that Petitioner is owed \$16,734.40, and no document in the Record reflects that this amount was ever tendered or refused by Petitioner. Moreover, the September 3, 2021 order (R.43) expressly directs Moultrie Burns to make a distribution, and Burns has not complied with that order as to Petitioner. Petitioner has never received the \$16,734.40 shown as due on the 2020 accounting, has never

been presented with those funds for acceptance or rejection, and has never refused any distribution.

Petitioner objected on the record at the 2024 hearing when Burns asserted that Petitioner had “refused” a distribution, but the court did not inquire further or make any finding on that point. In light of the clear Record showing (1) an acknowledged amount due to Petitioner and (2) a standing court order requiring distribution that has not been obeyed, Burns’s misrepresentation that Petitioner “refused” payment underscores his lack of candor and ongoing noncompliance. Under these circumstances, it would be inequitable and inappropriate to reward Burns’s conduct with an award of appellate attorney’s fees.

Petitioner further notes that certain issues were not addressed in this appeal because the Court determined they should be raised, in the first instance, through Rule 60 motions in the lower court. Petitioner has twice attempted to file such Rule 60 motions, which raise fraud, misconduct, and due process violations by Moultrie Burns, but those motions have not yet been accepted for filing or adjudicated. Unless and until the Rule 60 motions are accepted and resolved on the merits, Moultrie Burns has not been cleared of misconduct, and it would be premature and inequitable to award him appellate attorney’s fees.

Petitioner is contemporaneously seeking mandamus relief to compel the trial court to accept and file Petitioner’s Rule 60 motions raising fraud-on-the-court and due process violations in the underlying proceedings. Those motions seek to address serious defects in the judgment that Respondent relies upon, and further underscore that it would be unjust to award Respondent appellate attorney’s fees while Petitioner is still being denied both the ordered distribution and a

meaningful opportunity to obtain post-judgment relief. The pendency and non-docketing of these Rule 60 motions further demonstrate that any award of appellate fees to Burns at this stage would be unjust and would effectively reward alleged misconduct that has not yet been heard or resolved in the trial court. Respectfully Submitted,



date 12-10-2025

Beverly Hennager  
315 Wood Lane  
Corvallis, MT 59828  
[hennagerbev@gmail.com](mailto:hennagerbev@gmail.com)  
Pro Se

**CERTIFICATE OF SERVICE**


I, Beverly Hennager, do hereby certify that I have served a copy of the foregoing (Amended) RESPONSE TO MOTION TO RECOVER COSTS AND ATTORNEYS FEES 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

Hard copies to follow.

Respectfully Submitted,

 date 12-10-2025

Beverly Hennager  
315 Wood Lane  
Corvallis, MT 59828  
[hennagerbev@gmail.com](mailto:hennagerbev@gmail.com)  
Pro Se

**RECEIVED**  
DEC 16 2025  
SC Court of Appeals