

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

IN THE MATTER OF:
EMMA COOK MIMS

Jeri M. Adams,

Petitioner,

vs.

Phyllis M. Watson, Personal Representative of
the Estate of Emma Cook Mims,

Respondent.

) IN THE PROBATE COURT

) Case No. 2019-ES-16-00436

ORDER
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Maureen
JUDGE OF PROBATE
DARLINGTON COUNTY, S.C.

THIS MATTER COMES BEFORE THE COURT, for a final hearing in the Estate of Emma Cook Mims (the "Estate") regarding the three pending Petitions of Petitioner Jeri M. Adams ("Ms. Adams"), the Answer and Counterclaims of Respondent Phyllis M. Watson ("Ms. Watson"), Ms. Watson's Final Accounting, Application for Settlement, and Notice of Right to Demand Hearing submitted in her capacity as the Estate's Personal Representative (the "Closing Documents"), and Ms. Adams' objections to the Closing Documents.

The Court scheduled and conducted hearing on September 25, 2024, and counsel for Ms. Watson served the Notice of Hearing to counsel for Ms. Adams on July 31, 2024. Attending the hearing were Ms. Watson, her husband, and her counsel Matthew Myers, and Adam Silvernail as counsel for Ms. Adams. Ms. Adams did not attend or request to reschedule the hearing.

WHEREFORE, based on the pleadings and other filings with the Court and arguments of legal counsel, the Court makes the following findings of fact and conclusions of law:

1. Emma Cook Mims died August 25, 2019, survived by her children Ms. Adams and Ms. Watson, who are also equal beneficiaries under her probated Last Will and Testament. Ms. Watson has served as sole Personal Representative throughout the Estate's administration.

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2. Jurisdiction of the Court is proper under S.C. Code Ann. §§ 62-1-302(a)(1) and 62-3-105. Venue is proper in the Court pursuant to S.C. Code Ann. §§ 62-1-303 and 62-3-201.

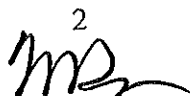
3. Ms. Adams filed a Petition for Partition on September 22, 2020, a Petition for Removal of Personal Representative on June 10, 2021, and a Petition for Formal Testacy and Appointment of Petitioner filed June 10, 2021.

4. Ms. Adams' prior counsel filed a document showing delivery of one Petition by commercial delivery, but it does not include Ms. Watson's signature and therefore cannot be used to hold Ms. Watson in default pursuant to Rule 4(d)(9), SCRPC, nor did Ms. Adams' counsel argue that Ms. Watson should be held in default on any of Ms. Watson's Petitions.

5. On July 16, 2023, Ms. Watson ultimately served her Answer and Counterclaims to all three Petitions by both mail and email to counsel for Ms. Adams as well as the Court. Ms. Watson also included a copy of her signed Final Accounting that was subsequently served with her other Closing Documents.

6. On July 31, 2023, Ms. Watson resent her Answer and Counterclaims, which had been returned undelivered to the Court, along with her Closing Documents, the Notice of Hearing, and Proof of Delivery of the foregoing. These were simultaneously served on counsel for Ms. Watson by mail and email and were filed with the Court on August 1, 2024.

7. On September 10, 2024, Ms. Adams' counsel emailed the Court and Ms. Watson's counsel a copy of her Demand for Hearing, Reply to Counterclaims, and cover letter, all dated August 30, 2024, which Ms. Adams' counsel indicated he had mailed to the Court and Ms. Watson's counsel on August 30, 2024. As of the hearing, this mailing had not been delivered to the Court, Ms. Watson's counsel, nor been returned to Ms. Adams' counsel. The August 30, 2024 letter does not indicate that it was sent by overnight or express mail or delivery.

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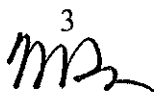
8. Even if validly served on August 30, 2024, Ms. Adams' Demand for Hearing is untimely because it was not filed within 30 days after the filing of the Closing Documents on August 1, 2024, as required by S.C. Code Ann § 62-3-1003(c). In fact, her original Demand for Hearing has yet to be filed.

9. In addition, even if validly served on August 30, 2024, Ms. Adams' Reply to Counterclaims is untimely because it was not served within 35 days of the original service of Ms. Watson's Answer and Counterclaims on July 16, 2024, as required by Rules 6(e) and 12(a), SCRPC.

10. Ms. Adams' counsel argued Ms. Watson's Closing Documents did not satisfy the requirements of S.C. Code Ann. § 62-3-1001(a) because Ms. Watson did not include a proposal for distribution of the Estate's remaining tangible personal property located at their mother's former residence of 509 East Richardson Circle in Hartsville.

11. However, S.C. Code Ann. § 62-3-1001(a)(2) only requires a proposal for distribution of "assets not yet distributed" and Ms. Watson's Final Accounting indicated that all of the Estate assets had been distributed. Ms. Adams failed to file a timely objection to Ms. Watson's Final Accounting, or for that matter attend the final hearing, and therefore waives her right to contest that all Estate assets were distributed.

12. Moreover, as explained by Ms. Watson's counsel and evidenced by Exhibit A to Ms. Watson's Answer and Counterclaims, the Estate assets that Ms. Adams' counsel complained of had in fact been distributed because they were left for Ms. Adams to pick up from 509 East Richardson Circle in Hartsville, which is a house Ms. Adams has co-owned with Ms. Watson since it was distributed from the Estate in 2020, and which house Ms. Adams demonstrated no problem entering to take all of the jewelry without permission.

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13. Accordingly, the Court finds that Ms. Watson's Closing Documents are proper, and that Ms. Adams waived her right to object to the same.

14. Ms. Adams' counsel also argued that Ms. Watson's Counterclaims were not proper to the extent that Ms. Adams' Petitions were never served on Ms. Watson.

15. However, Ms. Watson's counsel noted that "pleadings subsequent to the original summons and complaint, which includes answers[and] counterclaims" can be served by mail pursuant to Rule 5(a), SCRCF, as well as by email pursuant to South Carolina Supreme Court Order 2022-000029, each of which Ms. Watson's counsel did on July 16, 2024.

16. Moreover, Ms. Watson's service and filing of her Answer and Counterclaims itself constituted an acceptance of service. Accordingly, the Court finds that Ms. Adams is in default of Ms. Watson's Counterclaims and that the minimum amount of attorney fees and costs therefore owed by Ms. Adams are fixed by the Final Accounting to which Ms. Adams failed to file an objection.

17. In addition, even if the Counterclaims were not validly served or Ms. Watson's Answer and Counterclaims did not constitute an acceptance of service, Ms. Watson's counsel affirmed his acceptance of the Petitions at the hearing, thereby removing any possible doubt that a "formal proceeding" existed before the Court pursuant to S.C. Code Ann. § 62-1-201(17).

18. As a formal proceeding, even without Ms. Watson's Counterclaims, the Court has jurisdiction to award reasonable attorneys' fees and other costs and expenses to be paid by any party to another party, as justice and equity may require, pursuant to S.C. Code Ann. § 62-1-111.

19. To that end, Ms. Watson's counsel argued that justice and equity also required the Court to compel Ms. Adams to pay Ms. Watson the total legal fees and costs of \$16,201.70 that

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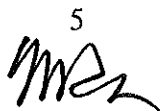

Ms. Watson had reported on her Final Accounting as being loaned by Ms. Watson for administration of the Estate.

20. As noted by Ms. Watson's counsel, Exhibit A of Ms. Watson's Counterclaims shows Ms. Watson generously allowed Ms. Adams to select half of their mother's jewelry and leave the other half for Ms. Watson, but Ms. Adams instead took all of the jewelry without authority or warning and has still not returned it nearly one year later, a period of time in which Ms. Watson's counsel sent Ms. Adams' counsel a series of seven emails about the missing jewelry before Ms. Adams' counsel responded.

21. In addition, the emails also show that the remaining Estate property has been available for Ms. Adams to retrieve for a similar length of time, but she has refused to do which has unnecessarily prolonged the closure of the Estate. Similarly, Ms. Adams has failed to withdraw the three Petitions that she never served on Ms. Watson or otherwise show up at the Court's scheduled final hearing to attempt to explain her Petitions and other alleged grievances. Rather, her counsel has asked to delay the closure of the Estate even longer.

22. In contrast, so that the Court would not need to delay the closure of the Estate for purposes of conducting a damages hearing, Ms. Watson willingly waived her request for punitive damages and capped her request for legal fees at the amount reflected on her Final Accounting signed July 11, 2024, even though she has personally borne additional fees through the hearing date and beyond.

23. Based on the record before it, the Court has no choice but to conclude that Ms. Watson has properly completed the administration of her mother's large estate, at significant benefit to Ms. Adams as one-half beneficiary, despite Ms. Adams's efforts to obstruct Ms. Watson's administration without justification. Accordingly, the Court finds that justice and

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equity do require Ms. Adams to pay Ms. Watson for the \$16,201.70 of legal fees and costs Ms. Watson advanced during her administration of the Estate.

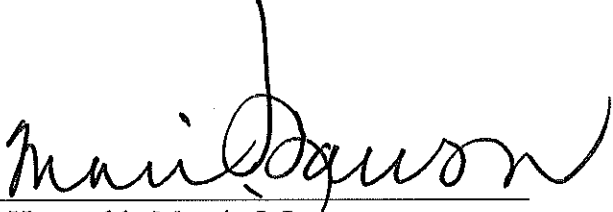
24. Finally, the Court finds that Ms. Adams' three Petitions should be dismissed. As stated previously, Ms. Adams has failed to prosecute her three Petitions, each filed over three years ago. In addition, because the Estate has no property to partition or otherwise administer, her Petitions are also moot and do not state facts sufficient to constitute a cause of action.

NOW THEREFORE, based on the record in this matter and relevant law as set forth above, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

A. Within 30 days of the date of this Order, Jeri Adams shall deliver Phyllis Watson \$16,201.70 in immediately available U.S. dollars by check or wire to an account of Phyllis Watson's choosing, shall take such tangible personal property from 509 East Richardson Circle, Hartsville as she may want and otherwise waive her rights to the same, and shall return one-half of the jewelry she took therefrom, notifying Phyllis Watson at least 48 hours before she returns such jewelry.

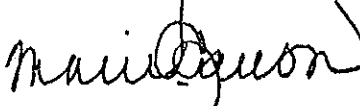
B. Jeri Adams' three Petitions are hereby dismissed with prejudice and, upon satisfaction of the requirements of paragraph A herein above and notice thereof to the Court by Phyllis Watson, her Counterclaims shall be dismissed with prejudice and the Court shall issue a closing order for the Estate.

IT IS SO ORDERED.


The Honorable Marvin I. Lawson
Darlington County Probate Judge

Darlington, South Carolina
, 2024

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