

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Case Tracking No. 2013-2319

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APR 22 2014

APPEAL FROM LAURENS COUNTY  
Civil Action No. 2012-CP-30-258  
The Honorable Frank R. Addy, Circuit Court Judge  
**SC Court of Appeals**

In the Matter of the Estate of Marion M. Kay

Edward D. Sullivan, as Personal Representative  
of the Estate of Marion M. Kay .....Appellant/Respondent,

vs.

Martha Brown and Mary Moses ..... Respondents/Appellants.

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**APPELLANT-RESPONDENT'S MOTION TO EXCLUDE CERTAIN  
MATTER DESIGNATED BY RESPONDENTS-APPELLANTS TO  
BE INCLUDED IN THE RECORD ON APPEAL**

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**TO: THE HONORABLE JUSTICES OF THE SOUTH CAROLINA COURT OF APPEALS:**

Pursuant to Rule 240, SCACR, Appellant/Cross-Respondent Edward D. Sullivan, as Personal Representative of the Estate of Marion M. Kay, respectfully moves this Court for an Order excluding certain matter from the Record on Appeal designated by Respondents-Appellants to be included.

Rule 210 (c), SCACR, provides that, "The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however,

include matter which was not presented to the lower court or tribunal.” Respondents-Appellants have designated for inclusion in the Record on Appeal the following matter that was not presented to either the probate court (Judge Hocker) or the circuit court (Judge Addy):

1. the PR’s letter to the Respondents inviting them to request a hearing on his accountings;
2. documents from heirs (Presbyterian Home, B. Heard, M. Orias) accepting PR’s terms of settlement; and
3. Return to Petition to Distribute Estate Proceeds.

Since the foregoing was not presented to the lower court(s), Rule 210 (c) requires that this designated matter be excluded from the Record on Appeal.

**RESPECTFULLY SUBMITTED,**

**LAW OFFICE OF DARYL G. HAWKINS, LLC**

By \_\_\_\_\_

Daryl G. Hawkins  
SC Bar No. 2844

1331 Elmwood Avenue, Suite 305  
Columbia, SC 29201-2150  
Email: [dgh@dghlaw.net](mailto:dgh@dghlaw.net)  
(803) 733-3531 Ofc  
(803) 744-1949 Fax

April 21, 2014

*Attorneys for Appellant/Respondent*

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

Case Tracking No. 2013-002319

**APPEAL FROM LAURENS COUNTY**  
**COURT OF COMMON PLEAS**

Civil Action No. 2012-CP-30-258  
The Honorable Frank R. Addy, Circuit Court Judge

In the Matter of the Estate of Marion M. Kay

Edward D. Sullivan, as Personal Representative  
of the Estate of Marion M. Kay .....Appellant-Respondent,

vs.

Martha Brown and Mary Moses ..... Respondents-Appellants.

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**PROOF OF SERVICE**

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I certify that I served the Motion to Exclude Certain Matter Designated by  
Respondents-Appellants via U.S. Mail upon:

John R. Ferguson, Esquire  
Cox Ferguson & Wham LLC  
PO Box 286  
Laurens, SC 29360-0286

**LAW OFFICE OF DARYL G. HAWKINS, LLC**

*Kimberly E. Harbison*

\_\_\_\_\_  
Kimberly E. Harbison, Legal Assistant

April 21, 2014

TELEPHONE  
(803) 733-3531

LAW OFFICE OF  
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Post Office Box 11906  
Columbia, South Carolina 29211

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April 21, 2014

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**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk, SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211-1629

RE: *In the Matter of the Estate of Marion M. Kay*  
Edward D. Sullivan, as Personal Representative of  
the Estate of Marion M. Kay, Appellant-Respondent v.  
Martha Brown and Mary Moses, Respondents-Appellants  
Laurens Co Circuit Court Appeals File No. 2012-CP-30-258  
Laurens Co Probate Court File No. 2007-ES-30-208  
SC Court of Appeals Tracking No. 2013-2319

Dear Ms. Kitchings:

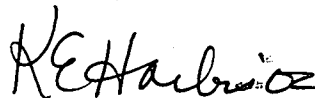
Enclosed for filing with your office are the originals and one copy each of:

1. Motion to Exclude Certain Matter Designated;
2. Respondent's Initial Brief of Appellant-Respondent in the cross-appeal; and
3. Designation of Matter in the cross-appeal.

I would appreciate your returning a clocked copy of each in the return envelope provided for your convenience. I have included a check in the amount of \$25 to cover the cost of filing.

By copy of this letter to counsel for the Respondents-Appellants, I am herewith serving a copy of each of the above upon him.

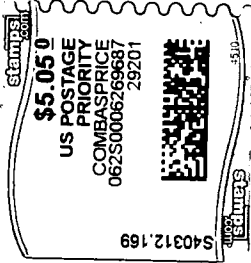
Sincerely,



Kimberly E. Harbison  
Legal Assistant to Daryl G. Hawkins

Enclosures

cc: John R. Ferguson, Esquire



LAW OFFICE OF

**DARYL G. HAWKINS, LLC**

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Columbia, South Carolina 29211

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Clerk, SC Court of Appeals  
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