

The South Carolina 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,

v.

Martha Brown and Mary Moses,
Respondents/Appellants.

Appellate Case No. 2013-002319

ORDER

Appellant/Respondent has filed a motion to remand this case for consideration of his petition to distribute a portion of estate proceeds to beneficiaries Presbyterian Home of South Carolina, Bart Beard, and Maria Orias and approval of a partial settlement as to those beneficiaries. Respondents/Appellants, who are also beneficiaries to the estate, do not object to the motion.

Although this appeal may affect the amount of the distribution to the beneficiaries, our review of this matter indicates the probate court's resolution of Appellant/Respondent's motion could not adversely affect the amount of the distribution to Respondents/Appellants. Accordingly, this is not a matter affected by the appeal, and the probate court may proceed with Appellant/Respondent's motion. *See* S.C. Code Ann. § 62-1-308(h) (Supp. 2014) ("When an appeal according to law is taken from any sentence or decree of the probate court, all proceedings in pursuance of the order . . . appealed from shall cease until the judgment of the circuit court, court of appeals, or Supreme Court is had."); Rule 205, SCACR (providing "[n]othing in these Rules shall prohibit the lower court . . . from proceeding with matters not affect by the appeal").



FOR THE COURT

FILED

March 3, 2015

Columbia, South Carolina

cc:

The Honorable Donald B. Hocker

Daryl G. Hawkins, Esquire

John R. Ferguson, Esquire