

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

RECEIVED

SEP 04 2015

SC Court of Appeals

Case No. 2014-CP-26-1665
Appellate Case No. 2015-000680

Emily Carlson and Alice Preyer, Petitioners,

v.

John C. Dockery, III, Respondent.

In re Emily Cheshire Dockery,

Of Whom Emily Carlson and Alice Preyer..... are the Respondents,

and

Emily Cheshire Dockery..... is the Appellant.

**RESPONDENT'S DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

The Respondents, Emily Carlson and Alice Preyer, request that the following documents be included in the Record on Appeal:

I. PLEADINGS.

1. Summons and Petition for Finding Appointment of Guardian dated November 29, 2010
2. Summons and Petition for Appointment of Conservator dated November 29, 2010

3. Answer and Counterclaim of Emily Cheshire Dockery dated February 4, 2011
4. Petitioner's Reply to Counterclaim of Emily Cheshire Dockery dated February 16, 2011
5. Answer of John C. Dockery, III dated February 17, 2011
6. Examiner's/Doctor's Affidavit and Report Regarding Capacity of Leonard Goldschmidt, Psy.D., J.D. dated October 26, 2011
7. Examiner's/Doctor's Affidavit and Report Regarding Capacity of Jeff A. Benjamin, DO dated October 28, 2011
8. Visitors Report of Joan Clark, MA, LISW, MAC, CEAP, CSAP dated November 4, 2011

II. MOTIONS AND BRIEFS.

9. Petitioner's Motion to Strike Respondent's Counterclaim dated February 16, 2011
10. Motion to Enforce Settlement Agreement dated August 31, 2011
11. John C. Dockery, III, Response to Motion to Enforce Settlement and Affidavit of John C. Dockery, III dated September 14, 2011
12. Respondent's Motion to Void Settlement Agreement dated December 29, 2011
13. Motion to Require Petitioners to Pay for Fees and Costs and Motion to Remove V. Lee Moore, Esq., as Guardian Ad Litem dated February 29, 2012
14. Motion to Require All Court Examinations of Emily C. Dockery be Administered in Writing dated March 19, 2012
15. Motion to Require Dr. Goldschmidt to Produce Any and All Data and Testing Generated During His Examination of Emily Cheshire Dockery dated March 19, 2012
16. Motion to Exclude Expert Testimony of Dr. Jeff Benjamin Regarding Raw Psychological Data dated May 16, 2012

17. Motion in Limine to Exclude Portions of Deposition and Live Testimony and Written Materials of Dr. Jeffrey Benjamin dated July 5, 2012
18. Motion to Preserve Right to Contest Assignment of Fees (Regarding: TeAnne Oehler) dated October 12, 2012
19. Motion for Attorney's Fees & Costs in Connection with Motion to Enforce Settlement Agreement dated December 7, 2012
20. Motion in Opposition for Attorney Fees and Costs to Enforce Settlement Agreement dated December 17, 2012
21. Motion in Opposition to Petitioners' Request for Attorney's Fees and Costs in Connection with Motion to Enforce Settlement Agreement dated December 27, 2012
22. Motion to Reconsider/Alter or Amend the Order Finding Incapacity of Emily C. Dockery dated January 30, 2013
23. Motion to Reconsider/Alter or Amend the Order Denying Motion to Pay Fees and Costs dated January 30, 2013
24. Motion to Reconsider/Alter or Amend the Order Granting Petitioners Motion to Exclude Portions of Depositions and Live Testimony and Written Materials of Dr. Jeffrey Benjamin dated January 30, 2013
25. Motion to Reconsider/Alter or Amend the Order Denying Motion to Void Settlement Agreement dated January 30, 2013
26. Motion to Reconsider/Alter or Amend the Order Denying Motion to Void Settlement Agreement on Behalf of John C. Dockery, III dated January 29, 2013
27. Motion to Reconsider/Alter or Amend the Order Finding Incapacity of Emily C. Dockery on Behalf of John C. Dockery, III dated January 30, 2013
28. Motion to Reconsider/Alter or Amend the Order Denying Motion to Pay Fees and Costs on Behalf of John C. Dockery, III dated January 30, 2013
29. Motion to Reconsider/Alter or Amend the Order Granting Petitioners Motion to Exclude Portions of Deposition and Live Testimony and Written Materials of Dr. Jeffrey Benjamin on Behalf of John C. Dockery, III dated January 30, 2013

30. Petitioner's Response in Opposition to All Motions for Reconsideration dated February 8, 2013
31. Motion in Limine to Exclude any and all Evidence Relating to the Management of Ms. Dockery's Assets and Funds dated May 24, 2013
32. Motion to Reconsider/Alter or Amend the Order Denying Motion in Limine to Exclude any and all Evidence Relating to the Management of Ms. Dockery's Assets and Funds dated June 18, 2013
33. Motion to Reconsider/Alter or Amend the Order Appointing Guardian and Conservator dated June 18, 2013
34. Motion to Reconsider/Alter or Amend the Order Granting Petitioners' Motion for Attorney Fees and Costs in Connection with Motion to Enforce Settlement Agreement dated June 18, 2013
35. Motion to Reconsider/Alter or Amend the Order Denying Motion in Limine to Exclude any and all Evidence Relating to the Management of Ms. Dockery's Assets and Funds on Behalf of John C. Dockery, III dated June 20, 2013
36. Motion to Reconsider/Alter or Amend the Order Appointing Guardian and Conservator on Behalf of John C. Dockery, III dated June 20, 2013
37. Motion to Reconsider/Alter or Amend the Order Denying Granting Petitioner's Motion for Attorneys Fees and Costs in Connection with Motion to Enforce Settlement Agreement on Behalf of John C. Dockery, III dated June 20, 2013
38. Initial Brief of Appellant dated May 23, 2014

III. TRANSCRIPTS.

39. Transcript dated May 4, 2012 – p. 13, line 10-p. 76, line 19; p. 77, line 24-p. 80, line 19; p. 81, line 22-p. 129, line 11; p. 129, line 23-p. 145, line 4
40. Transcript dated July 6, 2012 – p. 5, line 7-p. 28, line 13; p. 30, line 13-p. 37, line 24; p. 38, line 17-p. 41, line 21; p. 92, line 20-p. 103, line 9; p. 104, line 13-p. 106, line 22; p. 113, line 17-p. 115, line 14; p. 124, line 11-p. 126, line 18; p. 136, line 11-p. 139, line 22; p. 140, lines 9-15; p. 141, line 1-p. 142, line 15; p. 142, line 22-p. 145, line 7; p. 145, line 10-p. 148, line 2; p. 150, line 11-p. 155, line 1

41. Transcript dated May 30, 2013 – p. 33, line 18-p. 42, line 18; p. 58, line 15-p. 65, line 23; p. 71, line 24-p. 102, line 2; p. 105, line 17-p. 109, line 2
42. Transcript dated October 1, 2014 – p. 16, lines 9-23; p. 44, lines 23-24; p. 45, line 22-p. 46, line 1

IV. ORDERS.

43. Order Appointing Counsel (V. Lee Moore) dated December 1, 2010
44. Order Granting Motion to Strike Counterclaim of Emily Cheshire Dockery dated April 25, 2011
45. Order Granting Motion to Continue dated May 9, 2011
46. Order Granting Motion to Appoint a Medical Examiner dated July 26, 2011
47. Order to Send Visitor Joan Clark, LISW dated October 12, 2011
48. Order Granting Motions to Remove Visitor, Strike Visitor's Report and Appoint New Visitor dated October 27, 2011
49. Order Denying Motion for Continuance and Granting Motion to Enforce Settlement Agreement dated October 31, 2011
50. Order Denying Motion to Remove V. Lee Moore, Esquire as Guardian Ad Litem dated April 25, 2012
51. Order Requiring Dr. Goldschmidt to Produce any and All Data and/or Documents Generated During his Examinations of Emily C. Dockery dated April 25, 2012
52. Consent Order to Exclude Expert Testimony of Dr. Jeff Benjamin Regarding Raw Psychological Data dated July 2, 2012
53. Order Finding Incapacity dated January 22, 2013
54. Order Denying Motion to Require Petitioners to Pay Fees and Costs dated January 22, 2013
55. Order Denying Motion to Preserve Right to Contest Assignment of Fees dated January 22, 2013

56. Order Denying Motion to Void Settlement Agreement dated January 22, 2013
57. Order Granting Motion in Limine to Exclude Portions of Deposition and Live Testimony and Written Materials of Dr. Jeffrey Benjamin dated January 22, 2013
58. Order Dismissing Motion to Require all Court Examinations of Emily Cheshire Dockery be Administered in Writing dated January 22, 2013
59. Order Denying Motion in Limine to Exclude any and all Evidence Relating to the Management of Ms. Dockery's Assets and Funds dated June 10, 2013
60. Order Granting Petitioners' Motion for Attorneys Fees and Costs in Connection with Motion to Enforce Settlement Agreement dated June 10, 2013
61. Order Appointing Guardian and Conservator dated June 10, 2013
62. Order Granting Partial Relief on Motion to Reconsider Order Granting Petitioner's Motion for Attorney's Fees and Costs in Connection with Motion to Enforce Settlement Agreement dated March 10, 2014
63. Order Granting Partial Relief on Motion to Reconsider Order Denying Motion in Limine to Exclude Any and All Evidence Relating to the Management of Ms. Dockery's Assets and Funds dated March 10, 2014
64. Order Granting Partial Relief on Motion to Reconsider Order Granting Motion in Limine to Exclude Portions of Deposition and Live Testimony and Written Materials of Dr. Jeffrey Benjamin dated March 10, 2014
65. Order Denying Motions to Reconsider/Alter or Amend Order Denying Motion to Void Settlement Agreement dated March 10, 2014
66. Order Granting Partial Relief on Motion to Reconsider Order Denying Motion to Require Petitioners to Pay Fees and Costs dated March 10, 2014
67. Order Granting Partial Relief on Motions to Reconsider/Alter or Amend Order Finding Incapacity dated March 10, 2014
68. Order Denying Motions to Reconsider/Alter or Amend Order Appointing Guardian and Conservator dated March 10, 2014

69. Order Affirming Probate Court dated October 13, 2014
70. Order Denying Motion to Reconsider/Alter or Amend Order Affirming Probate Court dated February 4, 2015

V. NOTICES OF APPEAL.

71. Notice of Intent to Appeal to Circuit Court of John C. Dockery, III dated March 12, 2014
72. Notice of Intent to Appeal to Circuit Court of Emily Cheshire Dockery and John C. Dockery, III as Guardian of Emily Cheshire Dockery dated March 14, 2014
73. Notice of Appeal of Emily Cheshire Dockery dated March 27, 2015

VI. DEPOSITION TRANSCRIPTS.

74. Deposition Transcript of Leonard Goldschmidt, J.D., Psy.D. dated March 15, 2012 – p. 6, line 6-p. 100, line 2; p. 170, line 7-p. 172, line 2
75. Deposition Transcript of Jeff A. Benjamin, D.O. dated December 9, 2011 - p. 76, lines, 4-8
76. Deposition Transcript of Jeff A. Benjamin, D.O. dated February 7, 2012 - p. 5, line 21-p. 23, line 14; p. 19, line 3-p. 45, line 3; p. 45, line 18-p. 46, line 3; p. 46, line 8-p. 47, line 3; p. 47, line 7-p. 60, line 1; p. 60, line 12-p. 62, line 3; p. 62, line 8-p. 68, line 11; p. 75, line 23-p. 76, line 15

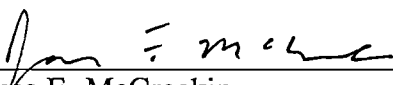
VII. EXHIBITS.

77. Emily Dockery Power of Attorney
78. Deed transferring property from S&H Investments, Inc. to 29th Ave. Corp. Inc. recorded December 15, 1972
79. Whitlark Limited Partnership Agreement
80. CV of Leonard Goldschmidt
81. 2012 Report of Leonard Goldschmidt
82. Mini Mental Examination dated September 21, 2011

83. Jeff Benjamin Letter dated May 11, 2012

I hereby certify pursuant to SCACR 209(c) that this Designation contains no matter which is irrelevant to this appeal.

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Attorneys for Emily Carlson and Alice Preyer

Myrtle Beach, South Carolina

September 2, 2015

THE STATE OF SOUTH CAROLINA
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APPEAL FROM HORRY COUNTY
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Emily Carlson and Alice Preyer, Petitioners,

v.

John C. Dockery, III, Respondent.

In re Emily Cheshire Dockery,

Of Whom Emily Carlson and Alice Preyer..... are the Respondents,

and

Emily Cheshire Dockery..... is the Appellant.

PROOF OF SERVICE

I, the undersigned Paralegal of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondents, Emily Carlson and Alice Preyer, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

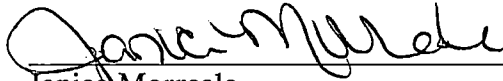
Initial Brief of Respondents

Respondent's Designation of Matter to be Included in the
Record on Appeal

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Janice Morreale
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September 2, 2015

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September 2, 2015

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SC Court of Appeals

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Emily Carlson v. John C. Dockery
Appellate Case No. 2015-000680
Our File No. 36618/09000

Dear Ms. Kitchings:

Enclosed please find an original and one copy of the Initial Brief of Respondents, Respondent's Designation of Matter to be Included in the Record on Appeal and Proof of Service in regard to the above-referenced matter. We would ask that you file the originals and return a clocked-in copy to us in the envelope provided.

By copy of this letter to counsel of record, we are serving them with a copy of the same.

Very truly yours,



James F. McCrackin

JFM:jem

Enclosures

cc: Thomas C. Brittain, Esquire
Mary Madison Brittain Langway, Esquire
V. Lee Moore, Esquire

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PRIORITY MAIL

09/02/2015

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