

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Thomas G. Anderson,)
)
 Plaintiff,)
)
 v.)
)
 Wachovia Bank, N.A. d/b/a Wachovia)
 Trust n/k/a Wells Fargo Bank,)
 National Association, a wholly owned)
 Subsidiary of Wells Fargo & Company,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 2011-CP-40-06715

RECEIVED

OCT 29 2012

SC Court of Appeals

ORDER

JEANETTE W. McBRIDE
 C.C.P. & G.S.
 2012 OCT -1 AM 11:57
 RICHLAND COUNTY
FILED

This matter was brought before the Court for a September 10, 2012 hearing upon the Motion of Wells Fargo Bank, N.A., seeking dismissal of the Plaintiff's Summons and Complaint (and in the alternative, for summary judgment), pursuant to S.C. Code Ann. Section 62-1-302, S.C. Code Ann. Section 62-7-201(a), and South Carolina Rules of Civil Procedure 12(b)(1), 12(b)(6), 8(a)(1), 8(a)(2), and 56. Present at the hearing were Rolf M. Baghdady, Esq. of the Law Office of Rolf M. Baghdady (Counsel for the Plaintiff, Thomas G. Anderson) and Laurel R.S. Blair, Esq. of Womble Carlyle Sandridge & Rice LLP (Counsel for the Defendant, Wells Fargo Bank, N.A.).

After careful consideration of all information properly before the Court, the Court does hereby grant the Defendant's Motion to Dismiss on the basis that this Court lacks subject matter jurisdiction with respect to trust administration issues, which trust administration subject matter forms the basis of all causes of action in the Plaintiff's Complaint. Under S.C. Code Ann. Sections 62-1-302(a)(3) and 62-7-201(a), the Probate Court has exclusive original jurisdiction

SCANNED


over trust administration subject matter. The Complaint fails to state any claim upon which relief may be granted by this Court, since this Court lacks subject matter jurisdiction.

The Plaintiff's constitutional arguments fail, as those very provisions allow the South Carolina legislature to vest jurisdiction in an inferior Court; the legislature did so by virtue of S.C. Code Ann. Section 62-1-302(a)(3) and 62-7-201(a), which give the Probate Court exclusive original subject matter jurisdiction over all trust administration issues.

Further, the Plaintiff's argument that this case would be before this Court had it been properly removed under S.C. Code Ann. Section 62-7-302(d) does not alter the fact that this case was never initially filed in Probate Court, nor was it properly removed to the Circuit Court by timely motion. S.C. Code Ann. Section 62-7-302(d) clearly contemplates the action being first filed in the Probate Court, which was not done in this case.

Accordingly, the Plaintiff's Summons and Complaint, and all causes of action contained therein are hereby dismissed.

AND IT IS SO ORDERED.



George C. James, Jr.
Judge, Richland County Court of Common Pleas

Date: 9/20/12

