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NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

James R. Barber, III, Circuit Judge

Case No. 2010-CP-28-0766

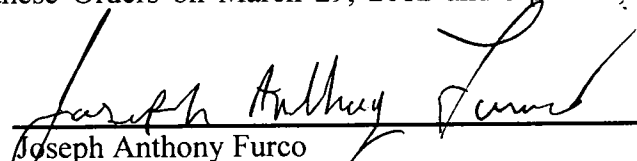
The Estate of Dollie L. Furco, by her Respondent,
duly appointed Personal Representative,
Doris A. Bedsole,

V.

Linda D. Furco, and Joseph Anthony Appellants.
Furco,

NOTICE OF APPEAL

LINDA D FURCO, JOSEPH ANTHONY FURCO appeals the Order of the Honorable James R. Barber, III, Circuit Judge, dated March 23, 2012, and the Order dated April 11, 2012. Appellant received written notice of entry of these Orders on March 29, 2012 and April 17, 2012, respectively.


Joseph Anthony Furco
227 Cluster Branch In
Elgin, South Carolina 29045
803-438-5778

This 10 Day of May, 2012

Appellant, Pro Per

RECEIVED

MAY 14 2012

SC Court of Appeals

Other Counsel of Record:

GEORGE W. SPEEDY, ESQUIRE
Post Office Drawer 100
Camden, South Carolina 29021
803-432-6034

Attorney for Respondent

ROBERT J. BUTCHER, ESQUIRE
1042 Broad Street
Camden, South Carolina 29020
803-432-7599

Attorney of Record for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

James R. Barber, III, Circuit Judge

Case No. 2010-CP-28-766

The Estate of Dollie L. Furco, by her
duly appointed Personal Representative,
Doris A. Bedsole,

Respondent,

V.

Linda D. Furco, and Joseph Anthony
Furco,

Appellants.

PROOF OF SERVICE

I, JOSEPH A. FURCO, certify that I have served the Notice of Appeal on , THE ESTATE OF DOLLIE L. FURCO, BY HER DULY APPOINTED PERSONAL REPRESENTATIVE, DORIS A. BEDSOLE, by depositing a copy of it in the United States Mail, postage prepaid, on 11 MAY, 2012 addressed to their attorneys of record GEORGE W. SPEEDY PO BOX DRAWER 100 Camden SC 29021 and JAMES R. BARBER III, TRIAL JUDGE, PO BOX1557, Camden SC 29021-8557, and ROBERT J BUTCHER, 1042 BROAD ST, Camden SC 29020.

Nichelle LeFountain
Notary Public for
South Carolina
My Commission Expires 28 April 2016

This 11th Day of May, 2012

Joseph Anthony Furco
Joseph Anthony Furco
227 Cluster Branch Ln
Elgin, South Carolina 29045
803-438-5778

Appellant, Pro Per

RECEIVED
MAY 14 2012
SC Court of Appeals

Other Counsel of Record:

GEORGE W. SPEEDY, ESQUIRE
Post Office Drawer 100
Camden, South Carolina 29021
803-432-6034

Attorney for Respondent

ROBERT J. BUTCHER, ESQUIRE
1042 Broad Street
Camden, South Carolina 29020
803-432-7599

Attorney of Record for Appellant

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW
IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2010-CP-28-0766

Estate of Dolly L. Oakley Furco, et al

Linda D. Furco, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Non-suit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____

FILED FOR RECORD
2012 APR 11 PM 9:27
KERSHAW COUNTY, S.C.

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Rule 59(e) Motion denied without oral argument.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

James R. Deelt

Judge Code 2110

Date

4/11/12

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

George W. Speedy

Robert J. Butcher

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

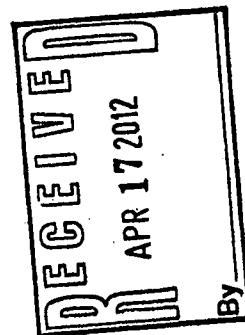
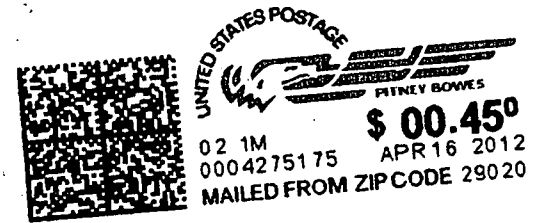
Court Reporter

Clerk of Court

ATTEST True, Correct & Certified
Copy of Original on File in this
Court

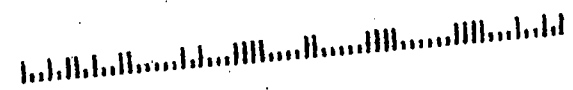
Joyce McDaniel
Clerk of Court Kershaw County

Joyce McDonald
Clerk of Court, Kershaw County
P.O. Box 1557
Camden, SC 29021-8557



Mr. Robert J. Butcher
Attorney at Law
The Camden Law Firm, PA
PO Box 610
Camden, SC 29020

29021061010



STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

The Estate of Dolly L. Oakley Furco, by her duly appointed Personal Representative, Doris A. Bedsole, Plaintiff,

v. Linda D. Furco and Joseph Anthony Furco, II, Defendants,

Linda D. Furco, Joseph Anthony Furco, II, and Alba Furco, Third-Party Plaintiffs,

v. Doris A. Bedsole and The Estate of Dolly L. Oakley Furco, Third-Party Defendants.

IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Case No.: 2010-CP-28-0766

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

FILED FOR RECORD 2012 APR 13 AM 11:48 JOYCE McDONALD CLERK OF COURT KERSHAW COUNTY, S.C.

Defendants/Third-Party Plaintiffs' Attorneys: Robert J. Butcher, Bar No. 74722 Deborah J. Butcher, Bar No. 74029 Address: Post Office Box 610, Camden, South Carolina 29021 Telephone: 803.432.7599 Facsimile: 803.432.7466 E-mail: rjbutcher@camdensc-law.com (RJB) / dbutcher@camdensc-law.com (DJB)

Plaintiff/Third-Party Defendants' Attorney: George W. Speedy Address: Post Office Drawer 100 Camden, South Carolina 29021 Telephone: 803.432.6034 Facsimile: 803.425.1497

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information Nature of Motion: Motion to Reconsider Pursuant to Rules 52(b) and/or 59(e) Estimated Time Needed: 0 minutes Court Reporter Needed: YES/NO

SECTION II: Motion/Order Type Written motion attached Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. Signature of Attorney for Plaintiff/Defendants/Third-Party Plaintiffs Date submitted

SECTION III: Motion Fee PAID - AMOUNT: \$25.00 EXEMPT: Rule to Show Cause in Child or Spousal Support Domestic Abuse or Abuse and Neglect Indigent Status State Agency v. Indigent Party Sexually Violent Predator Act Post-Conviction Relief Motion for Stay in Bankruptcy Motion for Publication Motion for Execution (Rule 69, SCRCP) Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: Other:

JUDGE'S SECTION Motion Fee to be paid upon filing of the attached order. Other: JUDGE CODE Date: Judge Signature:

CLERK'S VERIFICATION Collected by: Date Filed: MOTION FEE COLLECTED: \$ CONTESTED - AMOUNT DUE: \$

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

The Estate of Dolly L. Oakley Furco, by her
duly appointed Personal Representative, Doris
A. Bedsole,

Plaintiff,

v.

Linda D. Furco and Joseph Anthony Furco, II,

Defendants,

Linda D. Furco, Joseph Anthony Furco, II,
and Alba Furco,

Third-Party Plaintiffs,

v.

Doris A. Bedsole and The Estate of Dolly L.
Oakley Furco,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Case No.: 2010-CP-28-0766

**NOTICE OF MOTION
AND MOTION TO RECONSIDER
PURSUANT TO RULES 52(b) AND/OR
59(e)**

FILED FOR RECORD
2012 APR 13 AM 11:48
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

TO: PLAINTIFF THE ESTATE OF DOLLY L. OAKLEY FURCO, BY HER DULY
APPOINTED PERSONAL REPRESENTATIVE, DORIS A. BEDSOLE AND ITS
ATTORNEY:

NOTICE

YOU WILL PLEASE TAKE NOTICE that Defendants, Linda D. Furco and Joseph
Anthony Furco, II, by and through their counsel, Robert J. Butcher, will ask the Court to
reconsider the Court's order issued March 27, 2012 pursuant to Rules 52(b) and/or 59(e) at the
Kershaw County Courthouse, 1121 Broad Street, Camden, South Carolina, Room 313 on the
tenth day after service hereof, or as soon thereafter as counsel may be heard, for an order altering
or amending the judgment of the court. This motion is based upon the pleadings, evidence, and
testimony on the record, the laws and applicable statutes, including Rules 52(b) and/or 59(e), and
is made on the following grounds:

MOTION

endants, Linda D. Furco and Joseph Anthony Furco, II file this Motion to Reconsider the Court's order issued March 27, 2012 pursuant to Rules 52(b) and/or 59(e) for the following reasons:

- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred \$100,175.00 from the account of Dolly L. Oakley Furco to Linda Furco on April 1, 2010 and April 2, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred land from Dolly L. Oakley Furco to Linda Furco on March 24, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred \$1,600.00 from the account of Dolly L. Oakley Furco to Linda Furco on April 5, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred \$1,400.00 from the account of Dolly L. Oakley Furco to Linda Furco on April 7, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred \$4,000.00 from the account of Dolly L. Oakley Furco to Linda Furco on April 9, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that funds were improperly transferred from the account of Dolly L. Oakley Furco to Alba Furco on April 20, May 10, and June 1, 2010.
- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that Joseph Anthony Furco used the debit card on the account of Dolly L. Oakley Furco on January 25, January 26, January 27, February 17, February 19, February 22, February

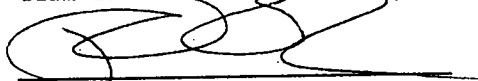
23, and February 24, 2010 for \$5,362.40 for purposes other than in the administration of her finances or else with her permission.

- Plaintiff Estate of Dolly L. Oakley Furco has failed to demonstrate that Joseph Anthony Furco used the credit card on the account of Dolly L. Oakley Furco on October 18, 2009, February 1, February 15, March 4, March 18, March 31, April 1, April 3, April 12, April 13, April 14, and April 15, 2010 for purposes other than in the administration of her finances or else with her permission.
- The credibility determination of Defendant's testimony by the Court regarding each and every item listed above was in error.
- That the Court's determination that the transfers listed above were a breach of fiduciary duty.
- That the Court's dismissal of all of Defendants' crossclaims were dismissed with prejudice.

Defendants ask the Court to reconsider the above issues and/or order a new trial.

Respectfully submitted,

THE CAMDEN LAW FIRM, PA



Robert J. Butcher
Attorney for Defendant
1029 Broad Street
Camden, South Carolina 29020
Post Office Box 610
Camden, South Carolina 29021
Telephone: 803.432.7599
rbutcher@camdensc-law.com
S.C. Bar No.: 74722

April 9, 2012
Camden, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

The Estate of Dolly L. Oakley Furco, by her duly
appointed Personal Representative, Doris A.
Bedsole,

Plaintiff,

v.

Linda D. Furco and Joseph Anthony Furco, II,

Defendants,

Linda D. Furco, Joseph Anthony Furco, II, and
Alba Furco,

Third-Party Plaintiffs,

v.

Doris A. Bedsole and The Estate of Dolly L.
Oakley Furco,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Case No.: 2010-CP-28-0766

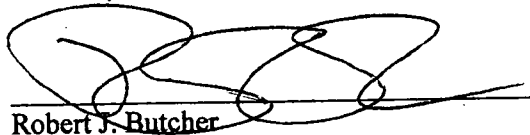
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2012 APR 13 AM 11:48
JOYCE HEDDING
CLERK OF COURT
KERSHAW COUNTY, S.C.

PERSONALLY APPEARED before me Robert J. Butcher who, being duly sworn, deposes and says that he is not a party to these proceedings and has no interest therein; that on the 9th day of April, 2012, he served, via U.S. mail, a copy of the Defendants/Third-Party Plaintiffs' **Notice of Motion and Motion to Reconsider Pursuant to Rules 52(b) and/or 59(e)** in the above case by causing the same to be deposited in an authorized United States mailbox; that the envelopes containing said document were properly addressed, securely wrapped and sealed, and bore the proper postage; and the said envelopes were addressed to the following addresses:

The Honorable James R. Barber, III
Judge of the Fifth Judicial Circuit
Post Office Box 2766
Columbia, South Carolina 29202

George W. Speedy, Esquire
Post Office Drawer 100
Camden, South Carolina 29021



Robert J. Butcher

SWORN to and subscribed before me this
9th day of April, 2012.

NOTARY PUBLIC FOR SOUTH CAROLINA
My commission expires 03/08/2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)
)
THE ESTATE OF DOLLY L.)
OAKLEY FURCO, BY HER DULY)
APPOINTED PERSONAL)
REPRESENTATIVE, DORIS A.)
BEDSOLE,)

PLAINTIFF,)

VS.)

LINDA D. FURCO AND)
JOSEPH ANTHONY FURCO, II,)

DEFENDANTS.)

AND)

LINDA D. FURCO, JOSEPH)
ANTHONY FURCO, II AND)
ALBA FURCO,)

THIRD-PARTY PLAINTIFFS,)

VS.)

DORIS A. BEDSOLE AND THE)
ESTATE OF DOLLY L. OAKLEY)
FURCO,)

THIRD-PARTY DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

ORDER

2010-CP-28-766

FILED FOR RECORD
2012 MAR 27 PM 4:20
JOYCE HODDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

DATE OF HEARING:
TRIAL JUDGE:
PLAINTIFF'S ATTORNEY:
DEFENDANT'S ATTORNEY:
COURT REPORTER:

January 12, 2012
James R. Barber, III
George W. Speedy and Trey Cook
Robert J. Butcher

THIS MATTER came to be heard before the Court of Common Pleas for the Fifth
Judicial Circuit, in the Kershaw County Courthouse, Camden, South Carolina on the 12th day of

ATTEST True, Correct & Certified
Copy of Original on File in this
Court

Joyce Hoddonald
Clerk of Court Kershaw County

January, 2012. Present at the time of trial was the Plaintiff, Doris A. Bedsole who was representing the Estate of Dolly L. Oakely Furco in the complaint and was defending herself in an action entitled cross-claim along with her attorney, George W. Speedy of the Kershaw County Bar as well as Trey Cook of the Lancaster County Bar. Also present at the trial was the Defendant, Joseph Anthony Furco, II and Alba Furco along with their attorney, Robert J. Butcher of the Kershaw County Bar. The Defendant, Linda D. Furco did not appear.

Prior to the striking of the jury, the parties agreed to have the matter heard by a Judge alone; therefore, the request for a jury trial was withdrawn and the testimony commenced.

The initial action filed by Doris A. Bedsole as the Personal Representative of the Estate of Dolly L. Oakley Furco alleged that she was appointed as the Personal Representative on the 10th day of June, 2010 and the deceased Dolly L. Furco died as a citizen and resident of Kershaw County and the Estate is being probated in Kershaw County, South Carolina. She also alleged that on the 29th day of December, 2009, the deceased, Dolly L. Oakley Furco executed a Durable Power of Attorney appointing the Defendant, Joseph Anthony Furco, II as her true and lawful Power of Attorney for purposes therein set out. The Plaintiff in her complaint complained that after being appointed Personal Representative she determined that the Defendant, Joseph Anthony Furco, II executed a deed using his Power of Attorney deeding property to Linda Furco on the 24th day of March, 2010 transferring to her by deed property owned by Dolly L. Oakley Furco described as follows:

All that piece, parcel or lot of land, lying, and being situate West of the community of Lugoff, County of Kershaw, State of South Carolina, containing .079 acres, more or less, and more particularly shown as Lot 13 on that plat entitled "Sandwood Lake Subdivision" by Daniel Riddick & Associates, Inc. dated June 5, 1992 and recorded in the Office of the ROD for Kershaw County in Plat Book 41 at Page 51, being bounded as follows: Northwest by Lot 14 of Sandwood Lake Subdivision, Southeast by Woodland Lake Drive; Southwest by Lot 12 Sandwood Lake Subdivision, Northwest by property now or formally of Sandwood Lake.

That the Defendant, Joseph Anthony Furco, II, using his Power of Attorney transferred the title to a double-wide mobile home located thereon. She also claimed that he transferred funds amounting to \$100,175.00 using his Power of Attorney to his daughter, Linda Furco, wrote other checks to his daughter totaling \$7,000.00 using his Power of Attorney and wrote checks to his wife, Alba Furco using his Power of Attorney. She also claimed that using his authority as a Power of Attorney he used a check/debit card belonging to Dolly L. Oakley Furco charging a total to \$5,362.40 to that account and used a credit card belonging to Dolly L. Oakley Furco with his Power of Attorney to run up approximately \$14,540.84 in credit card charges. The total claimed by the Plaintiff is itemized in the itemization attached hereto and incorporated herein by referenced as if quoted verbatim and shown as "Exhibit A"

Among the Plaintiff's causes of actions are Exploitation of a Vulnerable Adult; Conversion; Breach of a Fiduciary Duty; Constructive and/or Resulting Trust and Accounting. This Court finds that the proof presented by the Plaintiff in the trial of this matter would fall under the Third Cause of Action involving the Power of Attorney and Fiduciary Duty.

With respect to the Defendant's Cross-Claims, the Court categorizes them as Counter-Claims. At the beginning of the trial, the Defendant, Alba Furco, was dismissed as a party. No evidence was presented during the course of the trial to support the Defendant, Linda Furco and Joseph Anthony Furco, II and therefore, their Counter-Claims were dismissed. Testifying at the time of the trial were the Plaintiff, Doris A. Bedsole and the Defendant, Joseph Anthony Furco, II.

Based upon the testimony presented, the Court makes the following findings of fact:

FINDINGS OF FACT

1. That the Plaintiff, Doris A. Bedsole, is the duly appointed personal representative of the estate of Dolly L. Furco having been appointed by the Probate County of Kershaw County on the 10th day of June, 2010.
2. That the Plaintiff/deceased, Dolly L. Furco, died as a citizen and resident of Kershaw County, South Carolina on the 3rd day of June, 2010 in Kershaw County, South Carolina.
3. That the Plaintiff, Doris A. Bedsole, is the daughter of Dolly L. Oakley Furco; The Defendant, Joseph Anthony Furco, II is the son of Dolly L. Oakley Furco, deceased and the Defendant, Linda D. Furco is the daughter of Joseph Anthony Furco, II and the granddaughter of Dolly L. Oakley Furco, deceased.
4. That the Defendant, Joseph Anthony Furco, II was appointed the Power of Attorney for Dolly L. Oakley Furco by Durable Power of Attorney executed on the 29th day of December, 2009 and filed in the Office of the Clerk of Court for Kershaw County on the 30th day of December, 2009.
5. That thereafter, the Defendant, Joseph Anthony Furco, using his Power of Attorney, deeded to his daughter, Linda Furco, the following real estate:

All That piece, parcel or lot of land, lying and being situate West of the community of Lugoff, County of Kershaw, State of South Carolina, containing .079 acres, more or less, and more particularly shown as Lot 13 on the plat entitled "Sandwood Lake Subdivision" by Daniel Riddick & Associates, Inc. dated June 5, 1992 and recorded in the Office of the ROD for Kershaw County in Plat Book 41 at Page 51, being bounded as follows: Northwest by Lot 14 of Sandwood Lake Subdivision, Southeast by Woodland Lake Drivel Southwest by Lot 12 Sandwood Lake Subdivision, Northwest by property now or formally or Sandwood Lake.

6. That the deed was signed by the Defendant, Joseph Anthony Furco as Power of Attorney on the 24th day of March, 2010 and the deed was filed in the Office of the Clerk of Court for Kershaw County on the 24th day of March, 2010.
7. That thereafter, the Defendant Joseph Anthony Furco transferred to the Defendant, Linda D. Furco the title to the double-wide mobile home located thereon.
8. That on or about the 1st day of April, 2010, the Defendant, Joseph Anthony Furco transferred from the account of Dolly L. Oakley Furco, deceased the sum of \$50,000.00 to his daughter, Linda Furco by way of check number 3043 using his Power of Attorney.
9. That on or about the 2nd day of April, 2010, the Defendant, Joseph Anthony Furco transferred to his daughter, Linda Furco transferred from the checking account of Dolly L Oakley Furco, deceased the sum of \$50,175.00 by way of check number 3042 using his Power of Attorney. *
10. That on or about the 5th day of April, 2010, the Defendant, Joseph Anthony Furco transferred to his daughter, Linda Furco from the checking account of Dolly L. Oakley Furco, deceased by way of check number 3044 the sum of \$1,600.00 using his Power of Attorney.
11. That on or about the 7th day of April, 2010, the Defendant, Joseph Anthony Furco transferred to his daughter, Linda Furco the sum of \$1,400.00 from the checking account of Dolly L. Oakley Furco, deceased by way of check number 3046 using his Power of Attorney.

*That only the April 2, 2012 check showed the Power of Attorney but it was obvious from the testimony that the Defendant signed both the April 1, 2010 check and the April 2, 2010 check as Power of Attorney.

12. That on or about the 9th day of April, 2010, the Defendant, Joseph Anthony Furco transferred to his daughter, Linda Furco the sum of \$4,000.00 from the checking account of Dolly L. Oakley Furco by way of check number 3045 using his Power of Attorney.
13. That on or about the 20th day of April, 2010, the Defendant, Joseph Anthony Furco transferred the sum of \$200.00 to his wife, Alba Furco by way of check number 3047 from the checking account of Dolly L. Oakley Furco, deceased using his Power of Attorney.
14. That on or about the 10th day of May, 2010, the Defendant, Joseph Anthony Furco transferred the sum of \$400.00 to his wife, Alba Furco by way of check number 3048 from the checking account of Dolly L. Oakley Furco, deceased using his Power of Attorney.
15. That on or about the 1st day of June, 2010, the Defendant, Joseph Anthony Furco transferred the sum of \$1,700.00 to his wife, Alba Furco by way of check number 3049 from the checking account of Dolly L. Oakley Furco, deceased using his Power of Attorney.
16. That on the following dates and times, using his Power of Attorney and using his fiduciary relationship the Defendant, Joseph Anthony Furco used the debit card on the account of Dolly L. Oakley Furco as follows:

a.	01/25/10	Sportsman's Guide	\$1,010.90
b.	01/25/10	Real Gun & Pawn	\$1,100.00

c.	01/26/11	Tractor Supply	\$748.99
d.	01/27/11	DPMS Panther Arms	\$29.85
e.	02/17/10	DPMS Panther Arms	\$139.95
f.	02/19/10	Cheaper Than Dirt.com	\$189.95
g.	02/19/10	Sportsman's Guide	\$383.92
h.	02/19/10	Best Deal Pawn	\$927.98
i.	02/22/10	Weston Sport, LLC	\$273.60
j.	02/23/10	Cheaper Than Dirt.com	\$197.72
k.	02/24/10	Sportsman's Guide	<u>\$359.54</u>
			\$5,362.40

17. That also, during the exercise of his fiduciary duty of his Power of Attorney, the Defendant, Joseph Anthony Furco made the following credit card charges on the credit card of Dolly L. Oakley Furco, deceased to his own benefit as follows:

a.	10/18/09	Best Buy (TV)	\$875.22
b.	02/01/10	Washer & Dryer	\$2,204.51
c.	02/15/10	Nelson & Assoc.	\$1,672.59
d.	03/04/10	Lark Portable Building	\$605.00
e.	03/18/10	Best Deal Pawn	\$1,348.20
f.	03/31/10	Best Deal Pawn	\$790.73
g.	04/01/10	R. William Auto Sales	\$4,000.00
h.	04/03/10	Lowes	\$711.65
i.	04/12/10	Sportman's Guide	\$243.51
j.	04/13/10	Cheaper Than Dirt.com	\$1,120.52
k.	04/14/10	Nelson & Assoc.	\$855.84
l.	04/14/10	Sportsman's Guide	\$44.97
m.	04/15/10	Nelson & Assoc.	<u>\$68.10</u>
			\$14,540.84

18. That the house and double-wide transfer amounted to a value of approximately \$72,600.00; the checks to Linda Furco totaled \$107,175.00; the checks to Alba Furco were in the sum of \$2,300.00; the check debit card charges totaled \$5,362.40 and the credit card charges totaled \$14,540.84 for a total of \$201,978.24.

19. That the Defendant, Joseph Anthony Furco's explanation for these expenditures and transfers were not credible.

20. That this transfer by the Defendant, Joseph Anthony Furco was a breach of his fiduciary duty as the Power of Attorney inasmuch as it was either for his own benefit, for the benefit of his wife or the benefit of his daughter contrary to his obligations as Power of Attorney.
21. The Defendants offered no proof supporting their Cross-Claims (Counter-Claims) and therefore, they are dismissed.
22. That this Court finds that the Plaintiff has proven by a preponderance of the evidence that The Estate of Dolly L. Oakley Furco is entitled to a judgment against the Defendant, Joseph Anthony Furco in the sum of \$201,978.24.
23. That the Plaintiff has proved by a preponderance of the evidence that The Estate of Dolly L. Oakley Furco is entitled to a judgment against the Defendant, Linda Furco in the amount of \$179,775.00, the amount she received by way of the real estate transfer and/or checks through the use by the Defendant, Joseph Anthony Furco by way of his Power of Attorney.
24. That any recovery by the Plaintiff against the Defendant, Linda Furco may be offset by the Defendant, Joseph Anthony Furco against this judgment.
25. That the Defendant, Linda Furco is hereby directed to deed back to the Estate of Dolly L. Oakley Furco the real estate transferred to her by the Defendant, Joseph Anthony Furco by way of his Power of Attorney such deed being located at volumes 2649, page 160 in the Office of the Clerk of Court for Kershaw County, as well as the title to the double wide located on that property.

CONCLUSIONS OF LAW

That the appointment of an individual as Power of Attorney brings with it special rights and obligations. and “absent intentions to the contrary, an agent must further the principal’s interest. He may not use his authority in a manner hostile to the principal for the benefit of himself or third parties. 2A C.J.S Agency, Section 151, Page 773. It is incumbent upon the agent to act with the upmost good faith and loyalty. 3 C.J.S Agency, Section 271, Page 31. Effectively absent express intention, an agent may not utilize his position for his or a third party’s personal benefit in a substantially gratuitous transfer. See Fender, Privette vs. Fender 329 S. C. 2d 430, 285 S. C. 260, also See Estate of Rolater 542 P. (2d) 219 (Oklahoma. App. 1975); Thompson vs. Thompson 190 GA 264, 9 S. E. 2d (2d) 80 (1940); “A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interest of the one imposing the confidence. “Armstrong vs. Collins S. E. 2d 2005 S. C. 283 (2005); Island Car Wash, Inc. vs. Norris 292 S. C. 595, 599, 358 S. E. 2d 150, 152 (Ct. App. 1987).”

That on the 29th day of December, 2009, the Plaintiff, Dolly L. Oakley Furco, because of her age, health and lack of business knowledge, relied upon the knowledge of the Defendant, Joseph Anthony Furco and relied upon his personal integrity and their relationship as mother and son to impose special trust and confidence in him regarding her care, welfare and the administration of her assets.

That the Defendant, Joseph Anthony Furco breached that duty by deeding the property and transferring title as above stated to his daughter, Linda Furco; by transferring monies from the checking account of Dolly L. Oakley Furco to his daughter,

Linda Furco and his wife, Alba Furco; in charging against the checking account of Dolly L. Furco by debit card; and charging on the credit card of Dolly L. Oakley Furco.

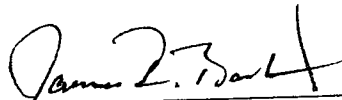
Based on the findings of fact and applicable law,

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That the Cross-Claims and Counter-Claims of the Defendants are hereby dismissed.
2. That the Plaintiff, Doris A. Bedsole, as personal representative of the Estate of Dolly L. Oakley Furco is hereby granted judgment against the Defendant, Joseph Anthony Furco in the sum of \$201,978.24.
3. That the Plaintiff, Doris A. Bedsole, as personal representative of the Estate of Dolly L. Oakley Furco is hereby granted judgment in the amount of \$179,775.00 against the Defendant, Linda Furco.
4. That any recovery from the Defendant Linda Furco may be offset by the Defendant, Joseph Anthony Furco.
5. That any judgment recovered from the Defendant, Joseph Anthony Furco may be offset by the Defendant, Linda Furco.
6. That the Defendant, Linda Furco is hereby directed to deed the real estate transferred to her by Power of Attorney and located at Deed Book volume 2649, Page 160 within ten (10) days of this Order.
7. The Defendant, Linda Furco is hereby required to convey to the Estate of Dolly L. Oakley Furco through her personal representative, Doris A. Bedsole the title to the double-wide located on the property and represented by Deed Book volume 2649, Page 160 within ten (10) days of this Order.

IT IS SO ORDERED!

DATE: 3/23/12



PRESIDING JUDGE
FIFTH JUDICIAL CIRCUIT