

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

Allen Spearman,  
Plaintiff,

Case No. 2014-CP-24-00888

-v-

FINAL ORDER

The Estate of Pearl McClam,  
Defendant.

RECEIVED  
SEP 12 2016  
SC Court of Appeals

2015 FEB 19 PM 4: 53

FILED COMMON PLEAS  
8th JUDICIAL CIRCUIT  
GREENWOOD, SC

This Matter Came Before the Court for a trial in the above-captioned case. This trial was heard before the undersigned by Order of the Circuit Court referring this matter for adjudication by the undersigned.

Prior to the presentation of the evidence in this case, the Plaintiff moved this Court to substitute the Estate of Pearl McClam as defendant in this case. The original defendant is deceased and the Estate of Pearl McClam is the original defendant's successor in interest in the above-referenced case. The plaintiff's motion was thus granted.

CGC  
#1

Additionally, prior to the presentation of the evidence in this case, the Plaintiff moved to have the second cause of action in this case—to remove the defendant as trustee—struck as moot. As Michelle Powers is now serving as the trustee, the Plaintiff's motion was granted and the <sup>second CGC</sup> first cause of action was struck.

With regard to the plaintiff's remaining causes of action, I find that the plaintiff has not proven his case by a preponderance of the evidence. The evidence available to the undersigned amply demonstrates that Nellie Spearman (the plaintiff's mother) died testate, leaving a valid last will and testament naming William W. Spearman (the

defendant's father) as the sole distribute. William Spearman survived his wife and was thus entitled to receive the subject property thereunder. The undersigned can ascertain no defects or flaws in the transfer of property from Nellie Spearman's estate to William Spearman.

Prior to his own death, William Spearman executed a valid last will and testament, which left the plaintiff certain personal effects and a life estate in the subject real property. The will bequeaths the residue of William Spearman's estate to a trust established for the benefit of the plaintiff. The will goes on to name the original

defendant as the trustee of the said trust. While William Spearman did experience significant health problems in the months previous to his death, the will which was subsequently admitted to probate was executed long before any illness. In this way, I do

not find convincing any allegations that William Spearman was not competent to execute the said will. Further, the will was not contested as part of the administration of his estate.

Finally, an exacting accounting of the liquid assets of the trust have been provided and no significant discrepancies can be identified. Moreover, there is no evidence indicating that any of the personal property which the plaintiff states have been misappropriated were in fact misappropriated. For these reasons, I find that the plaintiff is not entitled to relief under his first cause of action.

Lastly, as the plaintiff has not successfully proven his surviving substantive cause of action, I do not believe that he is entitled under his third cause of action for fees and costs.

This action is **THEREFORE DISMISSED AND CONCLUDED.**

**It Is So Ordered.**

#3

Curtis B. Clark

Hon. Curtis Clark  
Special Referee  
Eighth Judicial Circuit

This 16<sup>th</sup> day of February 2015  
At Greenwood, South Carolina