

THE STATE OF SOUTH CAROLINA

In the Supreme Court

Published Opinion No. 5371
Heard October 14, 2015 Filed December 9, 2015

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MAR 29 2017

S.C. SUPREME COURT

Appellate Case No. 2016-000320
Circuit Case No. 2012-CP-10-1332

Betty Fisher , as Real Representative for Alice Shaw-Baker, Petitioner,

v.

Bessie Huckabee, Kay Passailague Slade, Sandra Bird, and Peter Kouten and Does 1-100,
Defendants,

Of Whom Bessie Huckabee, Kay Passailague Slade, Sandra Bird, and Peter Kouten are
the Respondents.

RESPONDENT'S MOTION TO STRIKE

PETER A. KOUTEN, ESQUIRE
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(Attorney for Respondent Bessie Huckabee as
Personal Representative for the Estate of Alice Shaw Baker
And for Peter A. Kouten, Respondent)

COME NOW Bessie Huckabee as Personal Representative for the Estate of Alice Shaw-Baker and Peter A. Kouten, Respondents in the above Writ, pursuant to Rule 224, SCACR, and move to strike those portions of the Petitioners Initial Brief which do not adhere to Rule 208, SCACR, and who shall show unto this Honorable Court as follows:

Rule 208 of the South Carolina Rules of Civil Procedure, in furtherance of seeking clear, concise and straightforward briefing of appeals, states that initial briefs shall contain a Table of Contents and Cases, a Statement of Issues on Appeal, a Statement of the Case, an Argument and a Conclusion. Further, the Rule, at Section C clearly states that “The statement shall not contain contested matters...”

On February 25, 2017, the Petitioner filed her Initial Brief. The Petitioner, in keeping with Rule 208, SCACR, included Table of Contents and Cases, a Statement of Issues on Appeal in the form of Questions Presented, a Statement of the Case, an Argument section and a Conclusion. In addition to the outline aforementioned, the Petitioner added on pages two and three of her Initial Brief, “Important Portions of Opinion” and included a six page “Introduction.”

Respondents herein seek to strike those portions of the Petitioner’s Initial Brief which are not in keeping with the court rules. The Petitioner is charged with including “important” and “introductory” information within the confines of the Rules. The Respondents herein seek to strike pages two and three of the Petitioner’s Initial Brief and pages four through nine of Petitioner’s Initial Brief excepting the Standard of Review included on page six, lines 12-16.

Additionally, the Petitioner's Initial Brief contains statements which are contested matters. The Petitioner filed a will contest in 2009 and has yet to have the matter heard. The will left the entire estate to Respondents Bessie Huckabee, Kay Passailague Slade, and Sandra Bird. Alice Shaw-Baker also left substantial non-probate assets for the benefit of the Respondents Bessie Huckabee, Kay Passailague Slade, and Sandra Bird.

In the Petitioner's "Factual History" section which begins at page fourteen of her Initial Brief, the Petitioner states at the third paragraph "Petitioner alleges...." The Petitioner proceeds to list unsubstantiated allegations, indicating initially that they are merely allegations. Beginning at paragraph four on page 14 through page 15 she declines to indicate which statements are allegations and which are fact. The Respondents herein seek to strike from the Initial Brief headed "Factual History," page 14, paragraph three; page 15, paragraph 3; page 15, paragraph four, sentence two; and page 15, paragraph five.

WHEREFORE, Respondents herein pray that this Honorable Court Grant Respondents' Motion to Strike those portions of Petitioner's Initial Brief which do not adhere to Rule 208 of the South Carolina Appellate Court Rules.

Respectfully Submitted,



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March 27, 2017
Charleston, South Carolina

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Defendants,

Of Whom Bessie Huckabee, Kay Passailague Slade, Sandra Bird, and Peter Kouten are
the Respondents.

PROOF OF SERVICE

I certify that I have served the foregoing Respondent Motion to Strike upon
counsel for Petitioner and Respondents by depositing a copy of same in the United States
Mail, postage prepaid, on March 27, 2017, addressed as noted below.

Respectfully Submitted,



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