

The Supreme Court of South Carolina

Sowell Gray Stepp & Laffitte

05/24/2012

RECEIPT #64333

Case No: 2010-170566
Case Short Title: Eldridge, Watson v. Eldridge, Frances
Event:
Fee Type: Motion Fee
Amount: \$25.00
Payment Type: Check
Reference No: 5226
Check/Money Order Date: 05/23/2012
Comments: Watson Eldridge v. Frances Eldridge - Petition for Rehearing

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Watson William Eldridge IV
and Thomas Hadley Eldridge,
as Trustees for the Watson
William Eldridge, III
Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge,
Individually and Frances Ulmer
Eldridge as Trustee for the
Frances Ulmer Revocable
Trust, Respondents.

Appeal from Beaufort County
Marvin H. Dukes III, Master-in-Equity

Opinion No. 27123
Heard January 11, 2012 – Filed May 9, 2012

REVERSED AND REMANDED

Kelly McPherson Jolley, of Hilton Head Island, and Robert L.
Widener, of McNair Law Firm, of Columbia, for Appellants.

J. Ashley Twombly, of Beaufort, for Respondents.

CHIEF JUSTICE TOAL: This case involves a breach of fiduciary duty by a nonparty trustee and whether title to a home located on Hilton Head Island should be transferred to a revocable trust. The circuit court ultimately found that Appellants failed to timely assert their claim to the home. We disagree.

FACTS/ PROCEDURAL BACKGROUND

William Watson Eldridge III (Father) created two trusts for the ultimate benefit of his sons, William Watson Eldridge IV (Bill) and Thomas Hadley Eldridge (Tom) (collectively, Sons). In 1973, Father formed a revocable trust (R-trust), for which he was the trustee. At the time, the R-trust served primarily for the benefit of Father and his wife (Mother), the principal devolving to Bill and Tom upon their deaths. When Mother died in 1992, Father amended the R-trust to name Bill and Tom as co-successor trustees.

In 1999, Father formed an irrevocable Qualified Personal Residence Trust (QPRT), for which he was trustee, and placed in it a Florida condominium (Florida condo) that he owned. The purpose of creating this trust was to avoid estate taxes upon Father's death since, at the time, his estate was subject to the federal estate tax. Under the terms of the QPRT, Father could sell the Florida condo, but use of the proceeds was limited to the purchase of a replacement home to be placed in the trust, or the purchase of a separate annuity for the benefit of the trust. The trust document named Sons as co-successor trustees of the QPRT. The terms of the QPRT also provided that if Father died within eight years after its formation, the trust assets were to automatically transfer to the R-trust, of which Sons were beneficiaries. If Father was still living eight years after the formation of the QPRT, the trust assets were to be distributed equally among Sons.

Father married Frances Eldridge (Wife) in 2001. Prior to their marriage, Father and Wife entered into a pre-marital agreement to memorialize their intention "to marry for mutual joy," but to keep their estates separate. Wife owned a home in Washington, D.C. and Father

owned the Florida condo. Desiring a "snowbird" home closer to Washington, D.C., they settled on Hilton Head, South Carolina as an ideal middle ground. Acting as trustee of the QPRT trust, Father sold the Florida condo in March 2002 and used the sales proceeds to buy the Hilton Head home. Instead of titling the Hilton Head home in the name of the QPRT trust, as required under the terms of the trust, he titled it in the name of the R-Trust. It is stipulated that this was a breach of Father's fiduciary duty.¹ On April 16, 2003, Father transferred the Hilton Head home from the R-trust to himself and Wife, individually, as joint tenants with the right of survivorship.² The parties dispute

¹ Prior to selling the Florida condo, Father sent a letter to his attorney reminding him that the purpose of setting up the QPRT in 1999 was to minimize estate taxes, and because recent amendments to the federal estate tax law exempted his estate from the tax, he felt the QPRT trust "superfluous." He informed his attorney that he did not want to put the new residence in the QPRT and asked for his advice on ways to "cancel, or nullify the effects of my 'irrevocable QPER Trust,[]' or render it inoperable by reason of superseding Federal Tax law." His attorney responded by letter dated December 10, 2001, informing him that his options were to either put the proceeds from the sale of the Florida condo into a qualified annuity, or to "buy out" the QPRT by paying Sons \$78,686.00 with his own cash. Nevertheless, after receiving this letter, Father purchased the Hilton Head home with the Florida condo proceeds and titled it in the name of the R-trust. The parties dispute whether the distribution of *inter vivos* gifts to Sons over a period of years was an attempted "buy out" of the QPRT.

² A series of letters in the record reflect that a major source of conflict during the early years of Father and Wife's relationship was Wife's insistence that Father title the Hilton Head home in both their names, with right of survivorship. Multiple letters written by Father clearly show his intention that the Hilton Head home ultimately vest with Sons. The couple broke up twice over this issue. The April 16, 2003 transfer was apparently the product of a change of heart by Father. As this case is an adjudication of a breach of trust, the question of Father's intention is not before this Court.

whether Sons knew about this transfer prior to Father's death. Father died on August 6, 2006, and under the right of survivorship, Wife's sole interest in the Hilton Head home became fully vested. Subsequently, she transferred title in the home to herself as trustee of the Frances Ulmer Eldridge Revocable Trust, of which Wife's children are the beneficiaries at her death.

Had Father not breached his fiduciary duty and placed the Hilton Head home in the QPRT trust, this asset would have automatically transferred to the R-Trust upon his August 6, 2006 death. On September 28, 2007, Bill and Tom, as trustees of the R-trust, filed suit against Wife and her trust, claiming that the Hilton Head home was held in either a constructive or a resulting trust for the benefit of the R-trust, and requesting the court to transfer the Hilton Head home to the R-Trust. After a bench trial, the master-in-equity (master) issued judgment in favor of Wife. In doing so, the master made the following findings of fact and conclusions of law:

1. Sons knew of Father's breach of fiduciary duty well before Father died.
2. Before Father's death, Sons had standing to remedy Father's breach of trust under the R-trust and/or the QPRT trust, and they failed to timely assert their right to do so.
3. After death, Father's estate was solvent and Sons could have asserted a claim for money damages against Father's estate, rather than Wife's trust, to remedy the breach of trust.
4. As a matter of law, Sons failed to present evidence necessary to establish a constructive trust.
5. A resulting trust arose in favor of the R-trust, but any relief was barred by the affirmative defense of laches.

Therefore, the master entered judgment in favor of Wife and her trust, and subsequently denied Sons' motion for reconsideration. This case is now before the Court pursuant to Rule 204(b), SCACR.

ISSUES

- I. Whether Sons' failure to pursue a legal remedy against Father or Father's estate precludes any action for constructive or resulting trust.
- II. Whether laches bars Sons' action for a resulting trust.

STANDARD OF REVIEW

In an action at law tried by a master, an appellate court will affirm the master's factual findings if there is any evidence in the record which reasonably supports them. *Estate of Tenney v. S.C. Dep't of Health & Env'tl. Control*, 393 S.C. 100, 105, 712 S.E.2d 395, 397 (2011) (citation omitted). In an action at equity, tried by a judge alone, an appellate court may find facts in accordance with its own view of the preponderance of the evidence. *Inlet Harbour v. S.C. Dep't of Parks, Rec. & Tourism*, 377 S.C. 86, 91, 659 S.E.2d 151, 154 (2008). However, the appellate court is not required to disregard the findings of the trial judge who saw and heard the witnesses and was in a better position to judge their credibility. *Pinckney v. Warren*, 344 S.C. 382, 387, 544 S.E.2d 620, 623 (2001). Moreover, the appellant is not relieved of his burden of convincing the appellate court the trial judge committed error in his findings. *Id.* at 387–88, 544 S.E.2d at 623. "Determination of laches rests within the sound discretion of the trial court." *Gibbs v. Kimbrell*, 311 S.C. 261, 269, 428 S.E.2d 725, 730 (Ct. App. 1993).

ANALYSIS

I. Adequate Remedy at Law

Sons request equitable relief in contending that a constructive or resulting trust has arisen over the Hilton Head home. *See Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 248, 489 S.E.2d 472, 475 (1997) ("Equity devised the theory of resulting trust"); *see also Lollis v.*

Lollis, 291 S.C. 525, 530, 354 S.E.2d 559, 561 (1987) ("An action to declare a constructive trust is in equity"). Generally, equitable relief is only available where there is no adequate remedy at law. *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). The master found that Sons were not entitled to the equitable relief of a resulting or constructive trust because Sons had an adequate remedy at law to cure Father's breach, both before and after Father's death, but failed to timely assert their right to claim damages.³ We disagree that Sons had an adequate remedy at law.

The master first ruled that Sons, in their status as contingent beneficiaries or co-successor trustees of either the R-Trust or the QPRT, had standing to sue their Father during his lifetime for damages caused by Father's breach of trust but failed to make a timely claim. We note that any claims made against Father during his lifetime must have been brought on behalf of the QPRT, which by its terms was governed by Florida law. The conclusions reached by the master required a number of assumptions about Florida's law of beneficiary and successor standing and Florida's applicable statute of limitations. As a statute of limitations argument is an affirmative defense, it was Wife's burden to argue the applicable Florida law that might have barred Sons' claim. However, Wife's Answer to Sons Complaint generally avers that "[t]he relief sought in Plaintiffs' Complaint is barred by the Statutes of Limitations." In the absence of Wife meeting her burden, the conclusion that Sons failed to make a timely claim during Father's lifetime was error.

Once Father died, and the house vested fully with Wife, Sons' only legal remedy was to bring action on behalf of the R-Trust against Father's estate. Sons contended at trial they did not sue the estate because the estate did not have enough money to cover the damages. The value of Father's probate estate at the time of death was \$54,050. The master disagreed with this contention, holding that under section

³ Sons argue generally in their Rule 59(e), SCRCF, Motion for Reconsideration, that this was error.

62-7-505 of the South Carolina Code, "a property of a trust that was revocable at the time of the settlor's death is subject to claims of the settlor's creditors . . . to the extent the settlor's probate estate is inadequate to satisfy those claims" S.C. Code Ann. § 62-7-505 (Supp. 2011). Therefore, for purposes of determining the estate's solvency, the master found that the value of the R-trust could be included, adding \$407,897 to the amount of reachable assets. Because Sons brought this action as trustees of the R-trust, the action envisioned by the master—the R-trust suing the estate, but valuing the estate with the assets of the R-trust—would technically result in the R-trust suing itself for damages.

In *Chisolm v. Pryor*, 207 S.C. 54, 60, 35 S.E.2d 21, 24 (1945), this Court elaborated on the adequacy of a legal remedy:

In order to justify a court of equity in refusing to take jurisdiction, the remedy at law must be adequate, and must attain the full end and justice of the case. It is not enough that there is some remedy at law, but that remedy must be as practical, efficient, and prompt as the remedy in equity.

207 S.C. 54, 60, 35 S.E.2d 21, 24 (1945). Because an action for damages against Father's estate would require funds from the R-trust to supplement damages sought by the R-trust itself, we find that the legal remedy would not have been practical. Therefore, this matter should be decided on equitable principles.

II. Resulting Trust and Laches

The master denied Sons' claim that they were entitled to the Hilton Head home through a constructive trust, but found a resulting trust arose in favor of the R-trust when Father used the proceeds of the QPRT to buy the Hilton Head home.⁴ The master denied Sons' prayer

⁴ On appeal, Sons dispute the master's finding with regard to the constructive trust, contending that this Court should apply the "trust pursuit rule" to find that the constructive trust that arose when Father

for title to the Hilton Head home, however, finding their claim barred by the equitable defense of laches. Neither party disputes the master's finding with regard to the resulting trust and, as such, it is the law of the case. *See, e.g., Richland Cnty. v. Palmetto Cablevision*, 261 S.C. 222, 199 S.E.2d 168 (1973) (stating an unchallenged ruling, right or wrong, is the law of the case). Therefore, the remaining issue before the Court is whether or not the master erred in finding that Sons' claim to the Hilton Head home is barred by laches.

The equitable defense of laches follows the equitable maxim: "Equity aids the vigilant, not those who slumber on their rights." *Hemingway v. Mention*, 228 S.C. 211, 89 S.E.2d 369 (1955). Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Hallums v. Hallums*, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). "Under the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." *Chambers of S.C., Inc. v. County Council for Lee Cty.*, 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993). Thus, the predicate for laches is an unreasonable and unexplained delay.

There is certainly evidence in the record to support the master's finding that Sons knew of Father's breach of fiduciary duty during his

took the home out of the QPRT followed the property into the hands of Wife. South Carolina courts have not addressed the trust pursuit rule in the context of innocent third parties. In light of the fact that the master found a resulting trust arose, providing Sons the same remedy, we find it unnecessary to venture into the uncharted territory of the trust pursuit rule. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (appellate court need not address remaining issues when disposition of prior issue is dispositive).

lifetime. In fact, Tom admitted at trial that he received a letter dated August 4, 2005, stating:

My relationship with Frances has been so glorious for my happiness and longevity that I have put the Hilton Head house in our joint names, but still carry it at "cost" on my asset list. Which means that if I die first, she gets the house, but if she dies first, I get it back! Don't make any bets either wway [sic]—we're both 84!

Tom testified that when he confronted Father about the letter, Father got upset with him and stated "he didn't care what anybody said." Seeking to avoid an argument, Tom testified that he "dropped the whole thing and never said anything more about it." Tom further testified that Father told him that he was not going to tell Bill because "Bill would be very upset." This testimony is corroborated by a copy of the August 4, 2005 letter where Tom's name is checked off, but Bill's name is not. Still, the master found that Bill knew Father moved the house out of the QPRT based both on Bill's testimony that he spoke with Father's attorneys about putting the Hilton Head home back in the QPRT and on a billing statement from Father's attorneys showing that a "Bill" called to inquire about adding the Hilton Head home to the QPRT. Bill testified that this line item on the statement referred to Father, who also went by Bill. However, several line items down on this billing statement, there is a description of a call from "Bill, Sr." regarding the estate plan. We uphold the master's finding that Bill knew of Father's breach as early as August 2004, and Tom knew of Father's breach as early as August 2005.

"In general, one with a remainder interest in a trust is not guilty of laches if he sues promptly after his interest vests in possession, even though there was a long delay before his interest became possessory." *Bonney v. Granger*, 292 S.C. 308, 320, 356 S.E.2d 138, 145 (Ct. App. 1987) (citations omitted). Thus, under our jurisprudence Sons were not obligated to sue until after their interest as beneficiaries of the R-trust vested. When Father died in 2006, the QPRT property vested in the R-Trust, and within a year Sons brought action to recover the property.

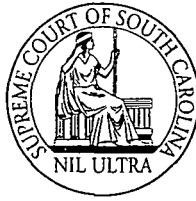
To find this delay was unreasonable would be to stretch the laches doctrine beyond its ordinary bounds. Therefore, the master erred in holding that laches applied to bar Sons' claim for a resulting trust over the Hilton Head home.

CONCLUSION

We hold that Sons did not have an adequate legal remedy to cure Father's breach of trust, and therefore, disposition of this matter on equitable principles is necessary. It is the law of the case that a resulting trust arose over the Hilton Head home for the benefit of the R-Trust. As Sons filed a claim against Wife and her trust just over a year after Father's death, we hold that laches cannot apply to bar Sons' claim. Accordingly, we reverse and remand with direction that Respondents execute all documents necessary to re-transfer the Hilton Head home to the R-Trust.

REVERSED AND REMANDED.

PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 21, 2011

Kelly McPherson Jolley, Esquire
McNair Law Firm, PA
P.O. Drawer 3
Hilton Head Island, SC 29938-0003

Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

J. Ashley Twombly, Esquire
Twenge & Twombly, LLC
311 Carteret St.
Beaufort, SC 29902

Re: Eldridge, Watson v. Eldridge, Frances

Dear Counsel:

The record in the above case has been reviewed and the time allotment for oral argument for this case is as follows:

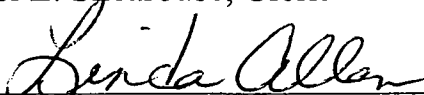
Appellant	10 minutes
Respondent	10 minutes
Appellant in Reply	5 minutes

This case is scheduled for hearing Wednesday, January 11, 2011 at 10:00 a.m.

Very truly yours,

Daniel E. Shearouse, Clerk

By



Administrative Assistant

DES/lda

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH:: 843.982.0100 + FX:: 843.982.0103

WEB:: TWLAWFIRM.COM

S.C. SUPREME COURT
NOV 21 2011
RECEIVED

J. ASHLEY TWOMBLEY
KARL D. TWENGE

LICENSED IN SC + GA

November 16, 2011

Via U. S. Mail

The Honorable Daniel E. Shearhouse
Clerk of Court
The South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

RE: Watson William Eldridge, IV et al. v. Frances Ulmer Eldridge

Dear Mr. Shearhouse:

Pursuant to your letter dated November 10, 2011 regarding scheduling conflicts during the January 2012 term of South Carolina Supreme Court, please be advised that I have no conflict on the days the Court will meet in January 2012. In addition, I am not aware of any change that needs to be made to the record regarding counsel who may be appearing before the Court. If you have any other questions please let me know.

With kind personal regards, I remain,

Cordially,



J. Ashley Twombley

cc: Robert L. Widener, Esquire
Kelly M. Jolley, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch (via e-mail)
Mr. Gary Ulmer(via e-mail)

MCNAIR
ATTORNEYS

November 15, 2011

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800
F (803) 753-3278

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: January 2012 Preliminary List

Dear Mr. Shearouse:

I am in receipt of the January Preliminary List for hearing of which I am counsel of record in the following two cases:

Weston, Monica v. Kims Dollar Store
Eldridge, Watson v. Eldridge, Frances

I have been noticed by the South Carolina Court of Appeals that *Estate of Caroline Gill v. Clemson University*, in which I am counsel of record, is on their January Preliminary List.

I respectfully request that the cases not be scheduled on the same day.

With kind regards, I am

Respectfully yours,



Robert L. Widener

RLW/as

RECEIVED

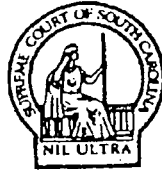
NOV 17 2011

S.C. SUPREME COURT

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Robert L. Widener, Esquire
From: Daniel E. Shearouse
Date: November 10, 2011
RE: January Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the January 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of January 10, 11, 24, 25 and 26. Please notify this office in writing prior to November 18, 2011 as to any scheduling conflicts for the January term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Eldridge, Watson v. Eldridge, Frances



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Kelly McPherson Jolley, Esquire
From: Daniel E. Shearouse
Date: November 10, 2011
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Eldridge, Watson v. Eldridge, Frances



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: J. Ashley Twombly, Esquire
From: Daniel E. Shearouse
Date: November 10, 2011
RE: January Preliminary List

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Eldridge, Watson v. Eldridge, Frances

The Supreme Court of South Carolina

Watson William Eldridge IV
and Thomas Hadley Eldridge,
as Trustees for the Watson
William Eldridge III Revocable
Trust,

Appellants,

v.

Frances Ulmer Eldridge,
Individually and Frances Ulmer
Eldridge as Trustee for the
Frances Ulmer Revocable
Trust,

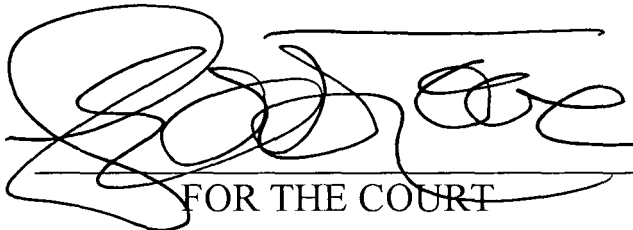
Respondents.

The Honorable Marvin H. Dukes
Beaufort County
Trial Court Case No. 2007-CP-07-02684

ORDER

Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules,
this appeal is hereby certified for review by the South Carolina Supreme
Court. Upon receipt of this order, the Court of Appeals is hereby directed to
forward the case file, all records and briefs and any exhibits on file to this
Court.

IT IS SO ORDERED.


C.J.
FOR THE COURT

Columbia, South Carolina

October 4, 2011

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire
J. Ashley Twombly, Esquire
The Honorable Tanya Gee



The South Carolina Court of Appeals

TANYA A. GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 20, 2011

J. Ashley Twombly, Esquire
Twenge & Twombly, LLC
1001 E. Paris Avenue
Port Royal, SC 29935

Re: Eldridge, Watson v. Eldridge, Frances
Case Tracking #: 2010170566

Dear Ms. Twombly:

The following Order has been endorsed on your Motion for Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

May 20, 2011 .”

Please be advised the Respondents’ Final Brief has been received and is accepted as filed. All parties are advised that the Record on Appeal and final briefs will be submitted for the Court’s consideration.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/ec

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH: 843.982.0100 + FX: 843.982.0103

WEB: TWLAWFIRM.COM

**J. ASHLEY TWOMBLEY
KARL D. TWENGE**

SC LICENSED IN SC + GA

May 10, 2011

Via U.S. Mail

The Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
MAY 12 2011
SC Court of Appeals

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust v. Frances Ulmer Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the Frances Ulmer Eldridge Revocable Trust
Case No: 07-CP-07-02684
Case Tracking No: 2010170566

Dear Ms. Gee:

Please find enclosed an original and sixteen (16) copies of Respondents' Final Brief and the original Certificate of Service regarding the referenced matter. Please return the filed stamped extra copies of each to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving the same upon Appellant's attorney, Robert L. Widener, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain,

Cordially,



J. Ashley Twombley

cc: Robert L. Widener, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch
Mr. Gary Ulmer

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

MOTION FOR EXTENSION

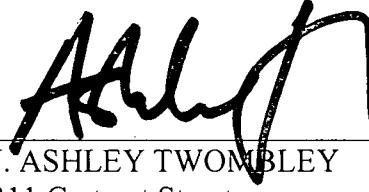
Respondents' Final Brief is currently due May 9, 2011. Due to the inability of the copier service to copy and bind Respondents' Final Brief timely, the undersigned respectfully requests a one (1) day extension to file and serve Respondents' Final Brief. This extension would make the Final Brief due on May 10, 2011. Appellants' attorney consents to the extension.

RECEIVED
MAY 11 2011
SC Court of Appeals

Respectfully submitted,

TWENGE + TWOMBLEY, LLC

BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, SC 29902
Telephone: (843) 982-0100
Facsimile: (843) 982-0103
www.twlawfirm.com
Attorney for Respondents

Beaufort, South Carolina

May 9, 2011

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: V. Claire Olla
(Clerk) (Deputy Clerk)

5/20/11 **FILED**

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, , Respondents.

CERTIFICATE OF SERVICE

The undersigned, J. Ashley Twombly attorneys for Respondents, does hereby certify that service of Respondents' Motion for Extension in the above-captioned matter was made upon all counsel of record by placing copies in the Unites States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 9th day of May 2011, addressed to the following:

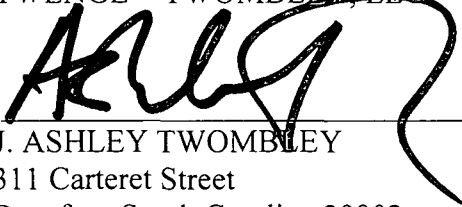
RECEIVED
MAY 11 2011
SC Court of Appeals

Robert L. Widener, Esquire
McNair Law Firm, P.A.
P.O. Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-2378
rwidener@mcnair.net
Attorney for Appellants

Kelly McPherson Jolley, Esquire
McNair Law Firm, P.A.
P.O. Drawer 3
Hilton Head, SC 29936
Telephone: (843) 785-2171
Facsimile: (843) 686-5991
kjolley@mcnair.net
Attorney for Appellants

TWENGE + TWOMBLEY, LLC

BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, South Carolina 29902
Telephone: (843) 982-0100
Facsimile: (843) 982-0103
Twombley@twlawfirm.com
Attorneys for the Respondents
www.twlawfirm.com

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH: 843.982.0100 + FX: 843.982.0103

WEB: TWLAWFIRM.COM

J. ASHLEY TWOMBLEY
KARL D. TWENGE

** LICENSED IN SC + GA

May 9, 2011

Via U.S. Mail

The Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust v. Frances Ulmer, Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the Frances Ulmer Eldridge Revocable Trust
Case No: 07-CP-07-02684
Case Tracking No: 2010170566

Dear Ms. Gee:

Please find enclosed an original and one (1) copy of Respondent's Motion for Extension and Certificate of Service regarding the referenced matter. I would appreciate it if you would file the original and return a clocked copy of each to me in the enclosed self-addressed, stamped envelope. Enclosed is my firm's check in the amount of \$25.00, which represents the filing fee. Appellant's attorney consents to Respondent's request.

By copy of this letter, I am serving the same upon Appellant's attorney, Robert L. Widener, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain,

Cordially,



J. Ashley Twombley

cc: Robert L. Widener, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch
Mr. Gary Ulmer

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MAY 11 2011
SC Court of Appeals

MCNAIR
ATTORNEYS

May 5, 2011

Robert L. Widener

RECEIVED
MAY 05 2011
widener@mcnair.net
T (803) 799-9800
F (803) 753-3278

Via Courier

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

SC Court of Appeals

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
Case Tracking No. 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and sixteen copies each of the Final
Brief of Appellants, Final Reply Brief of Appellants and the Record on Appeal.
Also enclosed are the original Certificates of Service for both briefs. Please
return the file stamped extra copies of each to me via our courier. By copy of
this letter, we are serving counsel for the Respondents with copies of the briefs.

With highest regards, I am

Respectfully yours,

McNAIR LAW FIRM, P.A.



Robert L. Widener

RLW/as
Enclosure

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

MCNAIR
ATTORNEYS

April 19, 2011

Robert L. Widener

rwidener@mcnair.net
T (803) 799-9800
F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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APR 22 2011
SC Court of Appeals

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
Case Tracking No. 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and one copy of the Certificate of Service for the Record on Appeal with regard to the above captioned case. Please return the file stamped copy to me in the return envelope provided. It is our understanding that final briefs will be due on May 9, 2011. If this date is incorrect, please advise.

With highest regards, I am

Respectfully yours,

McNAIR LAW FIRM, P.A.



Robert L. Widener

RLW/as
Enclosure

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 7, 2011

Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

Re: Eldridge, Watson v. Eldridge, Frances
Case #2010170566

Dear Counsel:

All parties are advised that the originals of all records on appeal and final briefs filed with the appellate courts are scanned. Therefore, in accordance with the May 1, 2008 Amendments to the South Carolina Appellate Court Rules, DO NOT staple, spiral bind, velobind, or otherwise permanently bind the ORIGINALS of these documents. The original brief(s) and record on appeal should still have front and back covers in compliance with Rule 267(e) of the South Carolina Appellate Court Rules, but should not be bound. You may secure the originals with paper clips, binder clips, rubber bands, by placing them in large envelopes, or by any other similar means that will keep the pages together without binding or hole-punching. All COPIES of the record on appeal and final briefs should be bound as specified in the South Carolina Appellate Court Rules.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt

cc: Kelly McPherson Jolley, Esquire
J. Ashley Twombly, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the Initial Reply Brief of Appellants by depositing a copy in the United States Mail, postage prepaid, on March 21, 2011 addressed to the attorneys of record, as follows:

J. Ashley Twombly, Esq.
Twenge & Twombly, LLC
311 Carteret Street
Beaufort, SC 29902

RECEIVED

MAR 23 2011

SC Court of Appeals

RECEIVED

MAR 23 2011

SC Court of Appeals

Ann Shuler

Ann Shuler

MCNAIR
ATTORNEYS

March 21, 2011

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800

F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
CASE TRACKING NO.: 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and two copies of the Initial Reply
Brief of Appellants and the original and two copies of the Certificate of Service
with regard to the above referenced case. Please file the brief and return the file
stamped extra copies to me in the return envelope provided. By copy of this
letter, we are serving opposing counsel with a copy of same.

Thank you for your assistance in this matter.

Respectfully yours,



Robert L. Widener

RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

RECEIVED

MAR 23 2011

SC Court of Appeals

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

The South Carolina Court of Appeals

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III
Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually
and Frances Ulmer Eldridge as Trustee
for the Frances Ulmer Revocable Trust, Respondents.

The Honorable Marvin H. Dukes
Beaufort County
Trial Court Case No. 2007-CP-07-02684

ORDER

For good cause having been shown, the time for serving and filing the Appellants' Initial Reply Brief in the above entitled matter is hereby extended until March 21, 2011.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire
J. Ashley Twombly, Esquire

FILED

3/18/11

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,


v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

MOTION FOR EXTENSION

The Appellants' Initial Reply Brief is currently due March 10, 2011. Due to conflicts in undersigned counsel's schedule, Appellants respectfully request a ten (10) day extension to file and serve the reply. This extension would make the reply due on March 21, 2011.

Respectfully Submitted,



Robert L. Widener
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, SC 29211
(803) 799-9800

RECEIVED

MAR 14 2011

SC Court of Appeals

3-11-11
3-21-11

Kelly McPherson Jolley, Esq.
McNAIR LAW FIRM, P.A.
Post Office Drawer 3
Hilton Head Island, SC 29936
(843) 785-2171

March 10, 2010

Attorneys for Appellants

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the Motion for Extension by depositing a copy in the United States Mail, postage prepaid, on March 10, 2011 addressed to the attorneys of record, as follows:

J. Ashley Twombly, Esq.
Twenge & Twombly, LLC
311 Carteret Street
Beaufort, SC 29902

RECEIVED

MAR 14 2011

SC Court of Appeals


Ann Shuler

MCNAIR
ATTORNEYS

March 10, 2011

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800

F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
CASE TRACKING NO.: 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and seven copies of the Appellant's Motion for Extension and the original and two copies of the Certificate of Service with regard to the above referenced case. Please file the motion and return the clocked copies to me in the return envelope provided. We have enclosed our check in the amount of \$25.00 to cover the filing fee. By copy of this letter, we are serving opposing counsel with a copy of the motion.

Thank you for your assistance in this matter.

Respectfully yours,



Robert L. Widener

RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

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MAR 14 2011

SC Court of Appeals

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

The South Carolina Court of Appeals

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III
Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually
and Frances Ulmer Eldridge as Trustee
for the Frances Ulmer Revocable Trust, Respondents.

The Honorable Marvin H. Dukes
Beaufort County
Trial Court Case No. 2007-CP-07-02684

ORDER

For good cause having been shown, the time for serving and filing Appellant's Initial Reply Brief in the above entitled matter is hereby extended until March 11, 2011.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For the Court

BY *V. Claire Allen, Deputy*
CLERK

Columbia, South Carolina

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire
J. Ashley Twombly, Esquire

3/10/11
FILED
TH

MCNAIR
ATTORNEYS

February 28, 2011

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800
F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
Case Tracking No. 2010170566

Dear Ms. Gee:

The Appellants' Initial Reply Brief is currently due February 28, 2011. Due to conflicts in the schedule of counsel, Appellants respectfully request a ten (10) day extension, until March 10, 2011, to file and serve its Initial Reply Brief. This is our first extension request for the reply brief. We have enclosed our check in the amount of \$25.00 to cover the fee for this request.

By copy of this letter we are advising counsel of record of this request.

Respectfully yours,

McNAIR LAW FIRM, P.A.



Robert L. Widener

RLW/as
Enclosure

cc: J. Ashley Twombly, Esq.

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

217947 25
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MAR 02 2011

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

RECEIVED
FEB 22 2011
SC Court of Appeals

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, , Respondents.

**RESPONDENTS' DESIGNATION OF MATTER
TO BE INCLUDED ON APPEAL**

Respondents propose the following material be included in the Record on Appeal:

1. Plaintiff's Complaint
2. Answer
3. Stipulations of Fact
4. Defendants' Post-Trial Memorandum
5. Order of Judgment in Favor of Defendants, dated and filed May 24, 2009 (Order)
6. Plaintiffs' Motion to Reconsider ("59(e)" Motion)
7. Order Denying Plaintiffs' Motion to Reconsider ("59(e)" Order)
8. Trial Transcript
9. Joint Trial Exhibits: 2, 3, 10, 19, 21, 22, 23, 25, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46 and 47

I certify that this designation contains no matter irrelevant to this appeal.

TWENGE + TWOMBLEY, LLC

BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, South Carolina 29902
843-982-0100
843-982-0103 fax
Twombley@twlawfirm.com
Attorneys for the Respondents
www.twlawfirm.com

Beaufort, South Carolina

February 17, 2011

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

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FEB 22 2011

SC Court of Appeals

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, , Respondents.

CERTIFICATE OF MAILING

The undersigned, J. Ashley Twombly attorneys for Respondents, does hereby certify that service of Respondents' Designation of Matter to Be Included On Appeal in the above-captioned matter was made upon all counsel of record by placing copies in the Unites States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 17th day of February 2011, addressed to the following:

Robert L. Widener, Esquire
McNair Law Firm, P.A.
P.O. Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-2378
rwidener@mcnair.net
Attorney for Appellants

TWENGE + TWOMBLEY, LLC

BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, South Carolina 29902
843-982-0100
843-982-0103 fax
Twombley@twlawfirm.com
Attorneys for the Respondents
www.twlawfirm.com

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH:: 843.982.0100 + FX:: 843.982.0103

WEB:: TWLAWFIRM.COM

J. ASHLEY TWOMBLEY
KARL D. TWENGE

SC LICENSED IN SC + GA

February 17, 2011

Via U.S. Mail

The Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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FEB 22 2011
SC Court of Appeals

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust v. Frances Ulmer Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the Frances Ulmer Eldridge Revocable Trust
Case No: 07-CP-07-02684
Case Tracking No: 2010170566

Dear Ms. Gee:

Please find enclosed an original and one (1) copy of Respondent's Initial Brief and Certificate of Service and Respondent's Designation of Matter to be Included on Appeal and Certificate of Service regarding the referenced matter. I would appreciate it if you would file the originals and return a clocked copy of each to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving the same upon Appellant's attorney, Robert L. Widener, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain,

Cordially,



J. Ashley Twombley

cc: Robert L. Widener, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch
Mr. Gary Ulmer



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 28, 2011

J. Ashley Twombly, Esquire
Twenge & Twombly, LLC
1001 E. Paris Avenue
Port Royal, SC 29935

Re: Eldridge, Watson v. Eldridge, Frances
Case Tracking #: 2010170566

Dear Ms. Twombly:

The following Order has been endorsed on your Motion for Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

January 28, 2011.”

Please be advised the Respondent’s Initial Brief and Designation of Matter must be served and filed on or before February 17, 2011.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/ec

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

RECEIVED

JAN 21 2011

SC Court of Appeals

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, , Respondents.

MOTION FOR EXTENSION

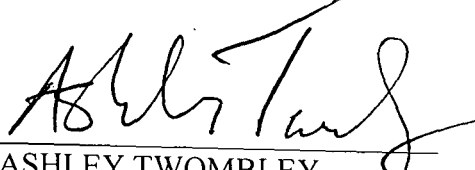
Respondents' Initial Brief and Designation of Matter is currently due January 18, 2011. Due to conflicts in undersigned counsel's schedule, Respondents respectfully request a thirty (30) day extension to file and serve the brief and designation. This extension would make the brief and designation due on February 17, 2011. Appellants' attorney consents to the extension.

1-18-11
2-17-11
JHE

Respectfully submitted,

TWENGE + TWOMBLEY, LLC

BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, SC 29902
Telephone: (843) 982-0100
Facsimile: (843) 982-0103
www.twlawfirm.com
Attorney for Respondent

Beaufort, South Carolina

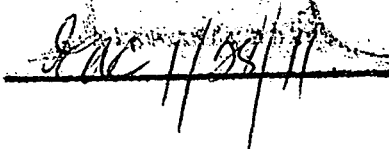
January 18, 2011

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: 

(Clerk) (Deputy Clerk)

FILED



SAC 1/28/11

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.


Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, , Respondents.

CERTIFICATE OF SERVICE

The undersigned, Andrea Smith, employee of Twenge + Twombly, LLC, attorneys for Respondents, does hereby certify that service of Respondents' Motion for Extension in the above-captioned matter was made upon all counsel of record by placing copies in the Unites States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 18th day of January 2011, addressed to the following:

Robert L. Widener, Esquire
McNair Law Firm, P.A.
P.O. Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-2378
rwidener@mcnair.net
Attorney for Appellants

Kelly McPherson Jolley, Esquire
McNair Law Firm, P.A.
P.O. Drawer 3
Hilton Head, SC 29936
Telephone: (843) 785-2171
Facsimile: (843) 686-5991
kjolley@mcnair.net
Attorney for Appellants

BY: 
Andrea Smith, Paralegal
TWENGE + TWOMBLEY, LLC

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH: 843.982.0100 + FX: 843.982.0103
WEB: TWLAWFIRM.COM

J. ASHLEY TWOMBLEY
KARL D. TWENGE
*: LICENSED IN SC + GA

January 18, 2011

Via U.S. Mail

The Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust v. Frances Ulmer Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the Frances Ulmer Eldridge Revocable Trust
Case No: 07-CP-07-02684
Case Tracking No: 2010170566

Dear Ms. Gee:

Please find enclosed an original and seven (7) copies of Respondent's Motion for Extension and Certificate of Service regarding the referenced matter. I would appreciate it if you would file the motion and return a clocked copy to me in the enclosed self-addressed, stamped envelope. Enclosed is my firm's check in the amount of \$25.00, which represents the filing fee.

By copy of this letter, I am serving the same upon Appellant's attorney, Robert L. Widener, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain,

Cordially,



J. Ashley Twombley

RECEIVED

JAN 21 2011

SC Court of Appeals

1248 25

cc: Robert L. Widener, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch
Mr. Gary Ulmer

MCNAIR
ATTORNEYS

December 7, 2010

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800
F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-02684
Case Tracking No.: 2010170566

Dear Ms. Gee:

Appellants consent to the Respondent's Motion for Extension to file and
serve the Initial Brief and Designation of Matter in the above referenced case.

Respectfully yours,



Robert L. Widener

RLW/as

cc: J. Ashley Twombly, Esq.

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

RECEIVED
DEC 09 2010
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 13, 2010

J. Ashley Twombly, Esquire
Twenge & Twombly, LLC
1001 E. Paris Avenue
Port Royal, SC 29935

Re: Eldridge, Watson v. Eldridge, Frances
2010170566

Dear Ms. Twombly:

The following Order has been endorsed on your Motion for Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.
For the Court

By s/ Tanya A. Gee
Clerk

December 13, 2010.”

Please be advised your Respondent’s Initial Brief and Designation of Matter must be served and filed no later than January 18, 2011.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/lf

cc: Kelly McPherson Jolley, Esquire
Robert L. Widener, Esquire

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

RECEIVED
DEC 06 2010
SC Court of Appeals

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

MOTION FOR EXTENSION


Respondents' Initial Brief and Designation of Matter is currently due December 17, 2010. Due to conflicts in undersigned counsel's schedule, Respondents respectfully request a thirty (30) day extension to file and serve the brief and designation. This extension would make the brief and designation due on January 17, 2011.

Respectfully submitted,

12/17/10 1st motion
1/17/11

TWENGE + TWOMBLEY, LLC

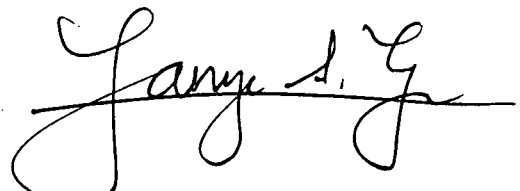
BY:



J. ASHLEY TWOMBLEY
311 Carteret Street
Beaufort, SC 29902
Telephone: (843) 982-0100
Facsimile: (843) 982-0103
www.twlawfirm.com
Attorney for Respondent

Beaufort, South Carolina

December 2, 2010

Granted.
John Cannon Fee, C.T.
By 

FILED
~~12/13/10~~

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
IN the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 2007-CP-07-2684

RECEIVED
DEC 06 2010
SC Court of Appeals

Watson William Eldrige IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

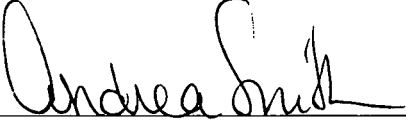
Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

The undersigned, Andrea Smith, employee of Twenge + Twombly, LLC, attorneys for Respondents, does hereby certify that service of Respondents' Motion for Extension in the above-captioned matter was made upon all counsel of record by placing copies in the Unites States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 2nd day of December 2010, addressed to the following:

Robert L. Widener, Esquire
McNair Law Firm, P.A.
P.O. Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-2378
rwidener@mcnair.net
Attorney for Appellants

Kelly McPherson Jolley, Esquire
McNair Law Firm, P.A.
P.O. Drawer 3
Hilton Head, SC 29936
Telephone: (843) 785-2171
Facsimile: (843) 686-5991
kjolley@mcnair.net
Attorney for Appellants

BY: 
Andrea Smith, Paralegal
TWENGE + TWOMBLEY, LLC

TWENGE + TWOMBLEY LAW FIRM LLC

311 CARTERET STREET
BEAUFORT, SOUTH CAROLINA 29902
PH: 843.982.0100 + FX: 843.982.0103

WEB: TWLAWFIRM.COM

J. ASHLEY TWOMBLEY
KARL D. TWENGE

SC LICENSED IN SC + GA

December 2, 2010

Via U.S. Mail

The Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Watson William Eldridge, IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust v. Frances Ulmer Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the Frances Ulmer Eldridge Revocable Trust
Case No: 07-CP-07-02684
Case Tracking No: 2010170566

Dear Ms. Gee:


Please find enclosed an original and seven (7) copies of Respondent's Motion for Extension and Certificate of Service regarding the referenced matter. I would appreciate it if you would file the motion and return a clocked copy to me in the enclosed self-addressed, stamped envelope. Enclosed is my firm's check in the amount of \$25.00, which represents the filing fee.

By copy of this letter, I am serving the same upon Appellant's attorney, Robert L. Widener, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest personal regards, I remain,

Cordially,



J. Ashley Twombley

RECEIVED

DEC 06 2010

SC Court of Appeals

cc: Robert L. Widener, Esquire
Ms. Frances Ulmer Eldridge
Ms. Tana Hitch
Mr. Gary Ulmer

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

RECEIVED
NOV 19 2010
SC Court of Appeals

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

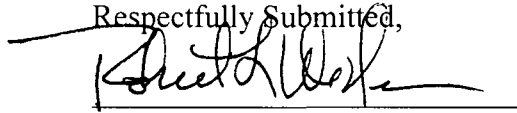
APPELLANTS' DESIGNATION OF
MATTER TO BE INCLUDED ON APPEAL

Appellants propose the following material be included in the Record on Appeal:

1. Complaint
2. Answer
3. Stipulations of Fact
4. Plaintiff's Post-Trial Brief
5. Order of Judgment in Favor of Defendants, dated and filed May 24, 2009
6. Plaintiffs' Motion to Reconsider ("59(e)" Motion)
7. Order Denying Plaintiffs' Motion to Reconsider ("59(e)" Order)
8. Trial Transcript
9. Joint Trial Exhibits: 2, 3, 4, 5, 7,8, 11, 12, 14, 15 19, 20, 22, 23, 24, 25, 26, 27, 29, 31, 36

I certify that this designation contains no matter irrelevant to this appeal.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert L. Widener", is written over a horizontal line.

Robert L. Widener
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

ATTORNEY FOR APPELLANTS

November 17, 2010

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

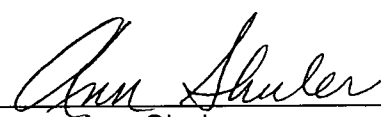
Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the Initial Brief of Appellants and Appellants' Designation of Matter to be Included on Appeal by depositing copies in the United States Mail, postage prepaid, on November 12, 2010 addressed to the attorneys of record, as follows:

J. Ashley Twombly, Esq.
Twenge & Twombly, LLC
311 Carteret Street
Beaufort, SC 29902

RECEIVED
NOV 19 2010
SC Court of Appeals



Ann Shuler

MCNAIR
ATTORNEYS

November 17, 2010

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800

F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

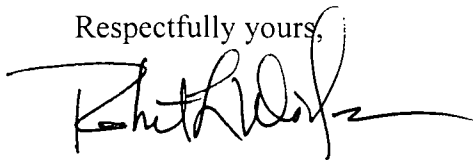
Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
CASE TRACKING NO.: 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and two copies of the Initial Brief of Appellants and Appellants' Designation of Matter to be Included on Appeal, along with the original and two copies of the Certificate of Service with regard to the above referenced case. Please file the Brief and Designation and return the clocked extra copies to me in the return envelope provided. By copy of this letter, we are serving opposing counsel with copies of same.

Thank you for your assistance in this matter.

Respectfully yours,



Robert L. Widener

RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

RECEIVED

NOV 19 2010

SC Court of Appeals

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 8, 2010

Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

Re: Eldridge, Watson v. Eldridge, Frances
2010170566

Dear Mr. Widener:

The following Order has been endorsed on your Motion for Extension in the above entitled case on appeal.

"Granted.

John Cannon Few C.J.
For the Court

By s/ V. Claire Allen
Deputy Clerk

November 08, 2010."

Please be advised Appellant's Initial Brief and Designation of Matter must be served and filed no later than November 17, 2010.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Kelly McPherson Jolley, Esquire
J. Ashley Twombly, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

RECEIVED

OCT 18 2010

SC Court of Appeals

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

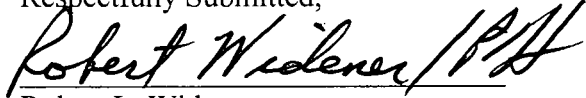
v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

MOTION FOR EXTENSION

The Appellants' Initial Brief and Designation of Matter is currently due October 18, 2010. Due to conflicts in undersigned counsel's schedule, Appellants respectfully request a thirty (30) day extension to file and serve the brief and designation. This extension would make the brief and designation due on November 17, 2010.

Respectfully Submitted,



Robert L. Widener
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, SC 29211
(803) 799-9800

10/18/10 2nd motion
11/17/10

Kelly McPherson Jolley, Esq.
McNAIR LAW FIRM, P.A.
Post Office Drawer 3
Hilton Head Island, SC 29936
(843) 785-2171

October 14, 2010

Attorneys for Appellants

Columbia, South Carolina

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT

By: V. Claire Allen
(~~Clerk~~) (Deputy Clerk)

~~FILED
11/8/10~~

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,


v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the Appellants' Motion for Extension by depositing copies in the United States Mail, postage prepaid, on October 14, 2010 addressed to the attorneys of record, as follows:

J. Ashley Twombly, Esq.
Twenge & Twombly, LLC
311 Carteret Street
Beaufort, SC 29902


Ann Shuler

MCNAIR
ATTORNEYS

October 14, 2010

Robert L. Widener

rwidener@mcnair.net

T (803) 799-9800
F (803) 753-3278

RECEIVED

OCT 18 2010

SC Court of Appeals

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

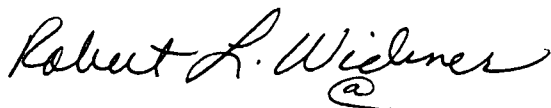
Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684
CASE TRACKING NO.: 2010170566

Dear Ms. Gee:

Enclosed for filing, please find the original and seven copies of the Appellant's Motion for Extension and the original and two copies of the Certificate of Service with regard to the above referenced case. Please file the motion and return the clocked copies to me in the return envelope provided. We have enclosed our check in the amount of \$25.00 to cover the filing fee. By copy of this letter, we are serving opposing counsel with a copy of the motion.

Thank you for your assistance in this matter.

Respectfully yours,



Robert L. Widener

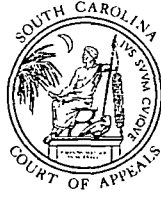
RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Kelly M. Jolley, Esq.

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 22, 2010

Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

Re: Eldridge, Watson v. Eldridge, Frances
2010170566

Dear Counsel:

The following Order has been endorsed on your Request for 30 day Extension in the above entitled case on appeal.

“Granted.

John Cannon Few C.J.
For the Court

By s/ Tanya A. Gee
Clerk

September 22, 2010.”

Please be advised Appellant’s Initial Brief and Designation of Matter must be served and filed no later than October 18, 2010.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Kelly McPherson Jolley, Esquire
J. Ashley Twombly, Esquire

MCNAIR
ATTORNEYS

September 14, 2010

Robert L. Widener

rwidener@mcnair.net
T (803) 799-9800
F (803) 753-3278

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
SEP 16 2010
SC Court of Appeals

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684

Dear Ms. Gee:

The Appellants' Initial Brief and Designation of Matter is currently due
September 17, 2010. Due to conflicts in the schedule of counsel, Appellants
respectfully request a thirty (30) day extension, until October 18, 2010, to file
and serve its Initial Brief and Designation of Matter. This is our first extension
request for this brief. We have enclosed our check in the amount of \$25.00 to
cover the fee for this request.

By copy of this letter we are advising counsel of record of this request.

Respectfully yours,

McNAIR LAW FIRM, P.A.

Robert L. Widener

RLW/as
Enclosure

cc: J. Ashley Twombly, Esq.

GRANTED
JOHN CANNON FEW, C.J.
FOR THE COURT
By:
(Clerk) (Deputy Clerk)

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

FILED
9/22/10

9/17/10 1st motion
10/18/10



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 1, 2010

Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

Re: Eldridge, Watson v. Eldridge, Frances
Case Tracking #: 2010170566

Dear Mr. Widener:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the

notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

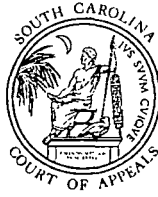
NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,
Tanya A. Gee
CLERK

 JAG/khh

cc: Kelly McPherson Jolley, Esquire
J. Ashley Twombly, Esquire



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 1, 2010

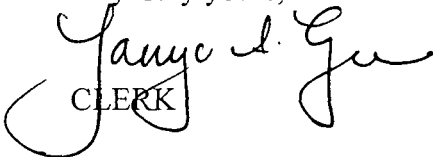
Robert L. Widener, Esquire
McNair Law Firm, PA
P O Box 11390
Columbia, SC 29211

Re: Eldridge, Watson v. Eldridge, Frances
Case Tracking #: 2010170566

Dear Mr. Widener:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

CLERK

TAG/khh

cc: Kelly McPherson Jolley, Esquire
J. Ashley Twombly, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
AUG 30 2010
SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

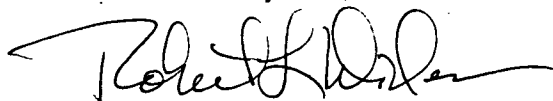
Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

NOTICE OF APPEAL

YOU WILL PLEASE TAKE NOTICE that Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees for the Watson William Eldridge III Revocable Trust hereby appeal from the Orders of the Honorable Marvin H. Dukes, III signed on the 24th day of May, 2010 and filed on the 24th day of May, 2010; and signed on the 19th day of July, 2010 and filed on the 19th day of July, 2010. The Appellant received written notice of the entry of the July 19th, 2010 order on July 19th, 2010.



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ATTORNEYS FOR RESPONDENTS

August 18, 2010
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
AUG 30 2010
SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Case No. 07-CP-07-2684

Watson William Eldridge IV and
Thomas Hadley Eldridge, as Trustees for the
Watson William Eldridge III Revocable Trust, Appellants,

v.

Frances Ulmer Eldridge, Individually and
Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the
NOTICE OF APPEAL by depositing copies in the United States Mail, postage prepaid, on
August 18, 2010 addressed to the attorneys of record, as follows:

J. Ashley Twombly, Esq.
Twenge & Twombly, LLC
1001 E. Paris Avenue
Port Royal, SC 29935



Ann Shuler

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August 30, 2010

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Via Courier

Honorable Tanya A. Gee
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
AUG 30 2010
SC Court of Appeals

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684

Dear Ms. Gee:

Enclosed for filing, please find the original and two copies of the Notice of Appeal with regard to the above referenced case. Also enclosed is the original and two copies of the Certificate of Service for service of the Notice of Appeal on opposing counsel on August 18, 2010. We have enclosed our check in the amount of \$100.00 for the filing fee. Please return the file stamped copies to me via our courier.

Appellant has the transcript of the hearing for the May 24, 2010 Order. There was not transcript of the July 19, 2010 hearing. By our calculations, the Appellant's Initial Brief and Designation of Matter will be due on September 17, 2010. Please let us know if this date is incorrect.

Respectfully yours,



Robert L. Widener

RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Elizabeth M. Smith, Beaufort County Clerk of Court

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RECEIVED
AUG 30 2010
SC Court of Appeals

Elizabeth M. Smith
Clerk of Court
County of Beaufort
Post Office Drawer 1128
Beaufort, SC 29901

Re: Watson William Eldridge IV and Thomas Hadley Eldridge, as Trustees
for the Watson William Eldridge III Revocable Trust v. Frances Ulmer
Eldridge, Individually and Frances Ulmer Eldridge as Trustee for the
Frances Ulmer Eldridge Revocable Trust
Case No. 07-CP-07-2684

Dear Ms. Smith:

Enclosed for filing, please find the original and two copies of the Notice of
Appeal Certificate of Service with regard to the above referenced case. We are
filing this Notice with the Court of Appeals today. Please return the file
stamped copies to me in the return envelope provided.

Respectfully yours,



Robert L. Widener

RLW/as
Enclosures

cc: J. Ashley Twombly, Esq.
Honorable Tanya A. Gee ✓

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)	CIVIL ACTION NO. 07-CP-07-2684
WATSON WILLIAM ELDRIDGE IV, ET AL,)	ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER AND MOTION TO AMEND FINDINGS
Plaintiffs,)	
vs.)	
FRANCES ULMER ELDRIDGE, ET AL,)	
Defendants.)	
)	

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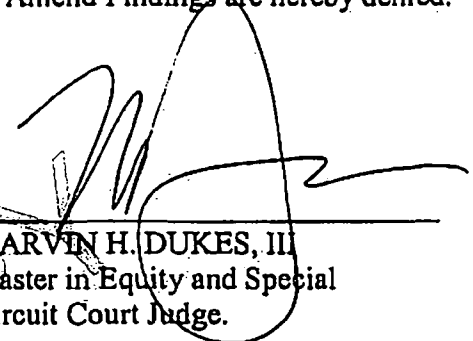
This matter was before the Court on July 14, 2010 for a hearing on Plaintiffs' Motion to Reconsider pursuant to Rule 59(e), SCRPC and Plaintiffs' Motion to Amend Findings pursuant to Rule 52(b), SCRPC. The hearing was conducted telephonically by the agreement of counsel. Present was Kelly Jolley for the Plaintiffs and Ashley Twombly for the Defendants. For the reasons set forth below, Plaintiffs' Motion to Reconsider and Motion to Amend Findings are hereby denied.

Plaintiffs' motion sets forth twenty-six separate reasons why it believes the Court should reconsider its ruling and amend its findings. The Court finds that each of these arguments is without merit. Several hours of live testimony were offered during the trial of this matter during which the Court was able to observe the witnesses and consider their testimony. After doing so, the Court determined that – contrary to the assertions made in their pleadings and the testimony of Watson William Eldridge IV – both Plaintiffs knew about the breach of trust at issue prior to Mr. Eldridge's death. The Court also determined that, as a matter of law, Plaintiffs had standing to remedy the breach of trust under the Revocable Trust and/or the QPRT while Mr. Eldridge

was alive. Plaintiffs failed to timely assert their right to do so. Therefore, even if there were facts to support a constructive trust with respect to Ms. Eldridge – which the Court has specifically determined there was not – Plaintiffs’ claims would still fail due to Defendants’ affirmative defense of laches. Plaintiffs delayed for an unreasonable amount of time to raise an objection to the alleged breach, and Plaintiffs were materially prejudiced by the delay for the reasons set forth in the original order.

Plaintiffs’ Motion to Reconsider and Motion to Amend Findings are hereby denied.

IT IS SO ORDERED!



MARVIN H. DUKES, III
Master in Equity and Special
Circuit Court Judge.

July 19, 2010

Beaufort, South Carolina.

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 JEFFREY ROSENEAL
 BEAUFORT COUNTY COURT

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT)	CIVIL ACTION NO. 07-CP-07-2684
WATSON WILLIAM ELDRIDGE IV, ET AL,)	ORDER FOR JUDGMENT IN FAVOR OF DEFENDANTS
Plaintiffs,)	
vs.)	
FRANCES ULMER ELDRIDGE, ET AL,)	
Defendants,)	
)	

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This matter was before the Court on January 6, 2010 for a bench trial. pending before the Court were the parties cross-motions for summary judgment. Defendants' motion to dismiss for failure to join an indispensable party. These motions were held in abeyance until after trial. During trial, Plaintiffs and Defendants called several witnesses who were cross examined by opposing counsel. Additional evidence was submitted to the Court via Joint Stipulations as well as an agreed upon Exhibit Notebook (both of which are on file with the Court). Following trial the parties submitted post trial memoranda. After hearing the testimony at trial, fully considering the documentary evidence, and taking into account the arguments of counsel, and I find that all of the pending motions are denied, and a judgment in favor of Defendants is hereby GRANTED.

Background

This case involves a breach of fiduciary duty committed by nonparty Watson William Eldridge, III (hereinafter "Mr. Eldridge"). Specifically, on July 13, 1999, Mr. Eldridge formed the Watson William Eldridge, III Irrevocable Qualified Personal Residence Trust agreement

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(QPRT). The QPRT was an irrevocable trust and could not be changed and/or altered pursuant to the terms of the trust and applicable law. In 1999, Mr. Eldridge transferred into the QPRT a condominium located in Jupiter, Florida (hereinafter the "Florida Condo").

On or about March 4, 2002, Mr. Eldridge sold the Florida condo and used part of the proceeds from that sale to purchase a home at 13 Yellow Rail Lane, Hilton Head, South Carolina 29926 (hereinafter the "Hilton Head Home"). Mr. Eldridge did not title the Hilton Head Home in the name of the QPRT but in the name of the Watson William Eldridge, III Revocable Trust (hereinafter "Revocable Trust").

On April 16, 2003, Mr. Eldridge removed the Hilton Head Home from the Revocable Trust and titled it in his individual name and Defendant Frances Ulmer Eldridge's ("Mrs. Eldridge") name as joint tenants with rights of survivorship. It is undisputed that Plaintiff Tom Eldridge discovered that Mr. Eldridge had breached his fiduciary duty to the QPRT when he received an August 4, 2005 letter from Mr. Eldridge.

Mr. Eldridge died on August 6, 2006. In December 2006, Mr. Eldridge's estate was opened with the Beaufort County Probate Court. As of August 20, 2009 Mr. Eldridge's estate held \$761,245.92 in assets. The value of the Revocable Trust is \$407,897.

Plaintiffs filed the within lawsuit on September 28, 2007 naming only Mrs. Eldridge (and her trust) as Defendants. Plaintiffs assert two causes of action against Defendants: constructive trust and resulting trust. Defendants deny the allegations and allege several affirmative defenses.

Equitable Powers and an Adequate Remedy at Law

Plaintiffs request that the Court use its equitable powers to judicially create a "constructive trust" over the Hilton Head Home or find a "resulting trust." Equitable relief is generally available "only where there is no adequate remedy at law." Santee Cooper Resort, Inc.

v. S.C. Pub. Serv. Comm'n, 298 S.C. 179, 185 (1989) citing 27 Am.Jur. 2 d, Equity, § 94 (1966); Strategic Resources Co. v. BCS Life Ins. Co., 367 S.C. 540 (2006) (courts reserve equitable powers for situations when there is no adequate remedy at law); Thompson ex rel. Harvey v. Cisson Const. Co., 659 S.E.2d 171 (S.C. Ct. App. 2008) (the function of equity is to supplement the law, not to displace it). “While equitable relief is generally available where there is no adequate remedy at law, an adequate legal remedy may be provided by statute.” Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm'n, 298 S.C. 179, 185, 379 S.E.2d 119, 123 (1989). A “court’s equitable powers must yield in the face of an unambiguously worded statute.” Id. Where there is an adequate remedy provided by a statute, there is “no reason for the lower courts to resort to equity principles.” Key Corporate Capital, Inc. v. County of Beaufort, 373 S.C. 55, 644 S.E.2d 675 (2007).

Plaintiffs alleged that they discovered Mr. Eldridge’s breach of trust during the probate of Mr. Eldridge’s estate. See Summons and Complaint (dated September 28, 2007) (Trial Exhibit 46, ¶¶ 29 and 22) (“During the probate of [Mr. Eldridge’s] estate, [Plaintiffs] learned that no property was transferred from the QPRT to the Revocable Trust upon [Mr. Eldridge’s] death because the QPRT assets were wrongly transferred out of the QPRT prior to [Mr. Eldridge’s] death.”); (“[Mr. Eldridge] did not inform [Plaintiffs] that he had purchased the Hilton Head property under the name of the Revocable Trust.”). However, Plaintiff Tom Eldridge testified at trial that he found out about the breach of trust when he received Mr. Eldridge’s August 4, 2005 letter. See Trial Transcript p. 71, lines 2-9. Tom Eldridge also testified that he confronted Mr. Eldridge about the breach but ultimately decided to “drop the whole issue” because he didn’t “particularly care for conflict and at that point I was not a trustee and I felt it was none of my

business and I just dropped the whole thing and never said anything more about it.” See Trial Transcript at p. 64, lines 18-22.

The testimony at trial also revealed that Plaintiff Billy Eldridge knew about the breach prior to Mr. Eldridge’s death. Specifically, Billy Eldridge testified that he met and conferred with Mr. Eldridge’s attorneys regarding the fact that the Hilton Head Home was not in the QPRT and that Mr. Eldridge’s attorneys were going to draft documentation to place the Hilton Head Home back in the QPRT. See Trial Transcript at p. 52-53. Billing records and letters from Mr. Eldridge’s attorney also show that Billy Eldridge was aware of the breach. See e.g., Trial Exhibit 23 (showing that Mr. Eldridge’s attorney had not spoken to Mr. Eldridge in between June 11, 2004 and September 11, 2004 but attaching a billing record indicating a conference occurring with Billy Eldridge regarding the Hilton Head Home and the QPRT on August 31, 2004).

Based on the above evidence and the testimony provided by the Plaintiffs at trial, it is a finding of fact of this Court that both Plaintiffs knew about Mr. Eldridge’s breach of trust well before Mr. Eldridge passed away.

Plaintiffs also argue that they could not have taken advantage of legal remedies with respect to Mr. Eldridge’s breach of trust while Mr. Eldridge was alive because they did not become trustees of the Revocable Trust or the QPRT until Mr. Eldridge passed away. However, it is well accepted that “[a] suit against a trustee of a private trust to enjoin or redress a breach of trust or otherwise to enforce the trust may be maintained only by a beneficiary or by a co-trustee, successor trustee, or other person acting on behalf of one or more beneficiaries.” RESTATEMENT 3RD TRUST § 94. Plaintiffs were always beneficiaries of the Revocable Trust and became “successor trustees” under the Revocable Trust on March 24, 1993. See

Revocable Trust (Trial Exhibit 2). Plaintiffs were always successor trustees and beneficiaries of the QPRT Trust. See QPRT Trust at p. 7 (Trial Exhibit 3).

It is a finding of fact and conclusion of law that Plaintiffs had standing to remedy Mr. Eldridge's breach of trust under the Revocable Trust and/or the QPRT while Mr. Eldridge was alive and that they failed to timely assert their right to do so.

Claim Against Mr. Eldridge's Estate

Plaintiffs argued at trial that that they did not file a claim against Mr. Eldridge's estate because the estate was insolvent. However, in determining the solvency of Mr. Eldridge's estate, Plaintiffs fail to consider the value of the Revocable Trust. South Carolina Code § 62-7-505 provides that "the property of a trust that was ~~revocable~~ at the time of the settlor's death is subject to claims of the settlor's creditors . . . to the extent the settlor's probate estate is inadequate to satisfy those claims . . ." S.C. Code § 62-7-505.

Because the current value of Mr. Eldridge's Revocable Trust is \$407,897.00, and because the assets in the Revocable Trust are required to be used to satisfy creditor's claim, it is a finding of fact and conclusion of law that Mr. Eldridge's estate is solvent and that Plaintiffs could have asserted a claim against the estate to remedy Mr. Eldridge's breach of trust. See Bank of Williston vs. Alderman, 106 S.C. 386 (1917) (finding that equitable was appropriate after there was a showing that the wrongdoer was insolvent and inadequate legal remedies).

Constructive Trust

Even if Plaintiffs did not have adequate remedies at law, Plaintiffs have not met their burden in establishing a constructive trust. In order to prove a constructive trust, Plaintiffs must show that "a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as

where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty.” SSI Medi-cal Servs., 301 S.C. 493, 392 S.E. 2d 789 (1990); Lollis v. Lollis, 291 S.C. 525, 354 S.E.2d 559 (1987); Dye v. Gainey, 320 S.C. 65, 463 S.E.2d 97 (Ct.App.1995). “Generally, fraud is an essential element giving rise to a constructive trust, although it need not be actual fraud.” Lollis v. Lollis, 291 S.C. 525, 354 S.E.2d 559 (1987); Whitmire v. Adams, 273 S.C. 453, 257 S.E.2d 160 (1979). In order to establish a constructive trust, the evidence in support of fraud must be at least “clear and convincing.” SSI Medi-cal Servs., 301 S.C. at 500, 392 S.E.2d at 793-94.

There are two transactions at issue in this case, the first of which occurred in March of 2002 (the 2002 transaction) when Mr. Eldridge sold the Florida condo and purchased the Hilton Head Home, and the second in which occurred in 2003 (the 2003 transaction) when Mr. Eldridge transferred the Hilton Head Home into his name individually and Mrs. Eldridge's name individually as joint tenants with rights of survivorship. Plaintiffs concede that Mrs. Eldridge played no role in the 2002 transaction. See Trial Transcript at 43-44. Further, Plaintiffs have not shown that Mr. Eldridge or Mrs. Eldridge breached any duty by completing 2003 transaction. The breach of trust had already occurred in 2002 which resulted in the house being titled in the name of the Revocable Trust. In other words, the 2003 transaction did not result in Mrs. Eldridge acquiring the property through a “breach of trust or the violation of a fiduciary duty.”

Based on the above, it is a finding of fact that Plaintiffs have not shown that Mrs. Eldridge engaged in any inappropriate acts related to the 2002 transaction. Further, Plaintiffs have not shown that Mr. Eldridge engaged in the 2002 transaction so that he could later transfer the property to Mrs. Eldridge. Therefore, Mrs. Eldridge did not receive any benefit from the 2002 transaction. As such, the Court further finds as a matter of law that Plaintiffs have failed to

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present evidence necessary to establish a constructive trust. See McNair v. Rainsford, 330 S.C. 332 (1998) (refusing to establish a constructive trust against an innocent party who was not involved in the wrongdoing).

Resulting Trust

Plaintiffs also allege a resulting trust. The “general rule is that when real estate is conveyed to one person and the consideration is paid by another, it is presumed that the party who pays the purchase money intended a benefit to himself and a resulting trust is raised in his behalf.” Lollis v. Lollis, 291 S.C. 525, 354 S.E.2d 559 (1987) citing Green v. Green, 237 S.C. 424, 117 S.E.2d 583 (1961); see also Caulk v. Caulk, 211 S.C. 57, 43 S.E.2d 600 (1947). However, the presumption may be rebutted and the actual intention of the parties may be shown by evidence or circumstances showing a contrary intention. See Bowen v. Bowen, 353 S.C. 494, 575 S.E.2d 553 (2003).

Plaintiffs argue that because funds from the sale of the QPRT asset were used to purchase the Hilton Head Home, Mr. Eldridge's intention was to benefit the QPRT when he purchased the Hilton Head Home. Defendants argue that the evidence shows that Mr. Eldridge's intention was to title the Hilton Head Home in name of the Revocable Trust.

The Court agrees with the Plaintiffs on this issue and finds that the funds used from the sale of the QPRT asset were used as part of the purchase price for the Hilton Head Home. The Court further finds as a matter of law that a presumption arises in favor of a resulting trust and that if it were not for Defendants affirmative defense of laches (see below) a resulting trust would arise in Plaintiffs' favor.

Laches

Laches is an equitable doctrine defined as neglect for an unreasonable length of time,

under circumstances affording opportunity for diligence, to do what in law should have been done. Hallums v. Hallums, 296 S.C. 195, 198 (1988). “In order to establish laches as a defense, a party must show that the complaining party unreasonably delayed its assertion of a right, resulting in prejudice to the party asserting the defense of laches.” See Historic Charleston Holdings, LLC v. Mallon, 381 S.C. 417, 432 (2009), citing Strickland v. Strickland, 375 S.C. 76, 83 (2007).

Under laches, if a party knows his rights and does not timely assert his rights, and by his delay, causes another party to “incur expenses or otherwise detrimentally change his position,” then equity steps in and refuses to enforce those rights. See Mazloom v. Mazloom, 675 S.E.2d 746 (S.C. Ct. App. 2009); Sloan v. Department of Transp., 365 S.C. 299, 618 S.E.2d 876 (S.C. Ct. App. 2005); Emery v. Smith, 603 S.E.2d 598 (S.C. Ct. App. 2004).

Laches is particularly applicable where the difficulty of doing entire justice arises through the death of one of the parties to the transaction in question, or of one of the witnesses to the transactions. See 30A C.J.S. Equity § 147 (2009); Kern v. Kern, 892 A.2d 1 (Pa. Super. 2005) (“It is well-settled law that the doctrine of laches is applicable peculiarly where the difficulty of doing justice arises through the death of the principal participants in the transactions complained of”); Bobin v. Tauber, 360 N.E.2d 368 (Ill. App. 1976) (“The rule of laches is particularly applicable where the difficulty of doing entire justice arises through the death of one of the parties to the transaction in question.”).

Plaintiff Tom Eldridge concedes that he discovered Mr. Eldridge’s breach of the trust when he received Mr. Eldridge’s August 4, 2005 letter. The Court finds that Billy Eldridge also knew about the breach while Mr. Eldridge was alive. Thereafter, Plaintiffs did not timely assert

their rights during which time Mrs. Eldridge incurred expenses at the Hilton Head Home such as property taxes, HOA dues, various bills, etc. See List of Defendants' Expenses (Trial Exhibit 33). Mr. and Mrs. Eldridge also detrimentally relied on Plaintiffs' silence and failure to act in that they did not make alternative arrangements to their estate plan or make other financial arrangements for Mrs. Eldridge.

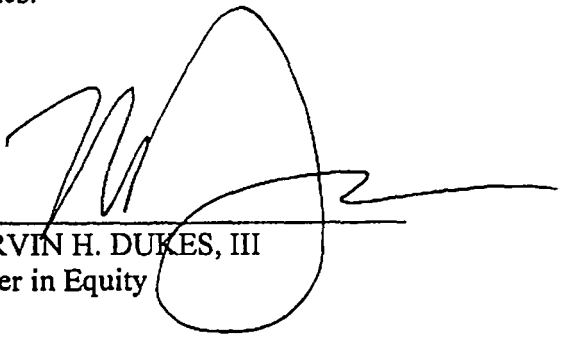
Mr. Eldridge's intent was that Mrs. Eldridge have ownership of the house upon his death. Had the Plaintiffs brought a challenge to Mr. Eldridge's actions prior to his death, his intent (that she have a house) could have been accomplished by modification to his revocable trust.

Laches is also applicable when, during the lapse of time, there is a death of a material witness. See Bogart's Trusts and Trustees, The Law of Trusts and Trustees § 949 (2009) ("Proof of prejudice may be made in any one of several ways. For example, the death of material witnesses or of the original trustee obviously will be a great handicap, as will the loss of important documentary evidence.") (citing cases). In this case, a substantial amount of money was transferred by Mr. Eldridge to the Plaintiffs after Mr. Eldridge breached the trust. See Joint Stipulations. While the parties have competing arguments with respect to why these funds were transferred, what is important is that Defendants are now unable to obtain testimony from Mr. Eldridge on this issue due to his death. This is significant prejudice resulting from Plaintiffs' delay. The beneficiaries of a trust cannot, knowing a mistake, sit quietly by and then profit from their benefactor's mistake to the detriment of others.

Based on the above, it is a finding of fact by a preponderance of the evidence and conclusion of law that Mrs. Eldridge was prejudiced as a result of Plaintiffs' unreasonable delay

in that she incurred "expenses" related to the Hilton Head Home, failed to procure other appropriate changes to Mr. Eldridge's estate plan, and that she is unable to prove – due to the death of Mr. Eldridge – whether or not Plaintiffs' remainder interest in the QPRT was bought out. Therefore, all of Plaintiffs' claims are barred by laches.

IT IS SO ORDERED:


MARVIN H. DUKES, III
Master in Equity

5/27, 2009
Beaufort, South Carolina.

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