

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE PROBATE COURT
CASE NO. 2015ES2100778 (Florence)
CASE NO. 2016ES0700302 (Beaufort)

IN THE MATTER OF ESTATE OF)
DAVID W. HARWELL:)

DEBORAH B. HARWELL,)
)
Petitioner,)

v.)

ROBERT BRYAN HARWELL,)
individually and as Personal)
Representative of the Estate of David W.)
Harwell, and SOUTH CAROLINA)
DEPARTMENT OF HEALTH AND)
ENVIRONMENTAL CONTROL)
DIVISION OF VITAL RECORDS,)

Respondents,)

v.)

LAW OFFICE OF DEIRDRE W.)
EDMONDS, PA; and DEIRDRE W.)
EDMONDS, individually,)

Third-Party Defendants.)

FILED
2016 JUN 10 AM 11:34
PROBATE COURT
BEAUFORT COUNTY, SC

ORDER OF REMOVAL TO
FLORENCE COUNTY CIRCUIT
COURT

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SC Court of Appeals

Numerous actions involving two or more of the above named parties have been filed in the Estate of David W. Harwell. The decedent was a resident of Florence County at the time of his death and his estate was originally being probated in the Florence County Probate Court. The Petitioner filed Motions for Recusal on the first three actions she filed in this estate. As a result of those Motions an order was issued on March 21, 2016 transferring the entire administration of

the Estate of David W. Harwell, and all litigation in the Estate, to the Beaufort County Probate Court.

During the course of the pending actions the Respondents, Robert Bryan Harwell individually and as Personal Representative of the Estate of David W. Harwell filed a Motion to Remove several pending actions to the Circuit Court, on the grounds that the movants have a right to a trial by jury in the actions, which, based on the pleadings, involve an amount in controversy of more than \$5,000.00. *See S. C. Code Ann. § 62-1-302(d)(5)*. Third-Party Defendants, Deirdre Edmonds and the Law Office of Deirdre W. Edmonds opposed the removal on the grounds that the third-party claims asserted against them are tort claims and therefore not within the subject matter jurisdiction of this Court. The Petitioner joined in this objection, both by the Petitioner herself on her pro se claim, and by and through her attorney of record, on the claims in which the Petitioner is represented by counsel. This argument is preserved and may be raised in the Circuit Court along with any other objections or defenses to the third-party claims.

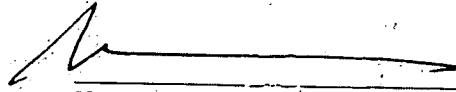
S. C. Code §62-1-302(d) provides that certain actions filed in the probate court, including those in which a party has a right to a jury trial and involve an amount in controversy of more than \$5,000.00, "on motion of a party or by the court on its own motion, made not later than ten days following the date on which all responsive pleading must be filed, must be removed to the circuit court" In addition, §62-1-302(f) provides that if an action described in subsection (d) is removed to the circuit court, "the probate court may, in its discretion, remove any other related matter or matters which are before the probate court to the circuit court if the probate court finds that the removal of such other related matter or matters would be in the best interest of the estate or in the interest of judicial economy."

After a review the estate file, I find that all pending formal proceedings involve common questions of law or fact. I further find that for purposes of judicial economy and to avoid the possibility of inconsistent rulings by separate forums on similar questions, the motions of Respondents, Robert Bryan Harwell individually and as Personal Representative of the Estate of David W. Harwell, to remove these actions to the Circuit Court should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all pending formal proceedings in this estate are hereby removed to the Florence County Circuit Court. This Court will retain jurisdiction over the routine administration of the estate. Therefore, I further

order that all attorneys of record in any pending formal proceeding be served with copies of all administrative documents subsequently filed in this estate.

AND IT IS SO ORDERED.



Kenneth E. Fulp, Jr., Special Probate Court
Judge for Florence County
(Probate Judge for Beaufort County)

Beaufort, South Carolina

June 10, 2016

BEAUFORT COUNTY PROBATE COURT

JUDGE
KENNETH E. FULP, JR.



ASSOCIATE JUDGE
HEATHER R. GALVIN

COUNTY COURTHOUSE
102 RIBAUT ROAD, BEAUFORT, SC 29902

MEMORANDUM

VIA: E-MAIL AND U.S. MAIL

TO: All Persons Show on Enclosed Mailing List

FROM: Kenneth E. Fulp, Jr., Probate Judge *K*

SUBJECT: Estate of David W. Harwell
Probate Court Case Nos. 2015ES2100778 (Florence County) &
2016ES0700302 (Beaufort County)

DATE: June 10, 2016

Enclosed is a copy of the Order of Removal to Florence Circuit Court, entered today:

This Court's Certificate of Return to Circuit Court for Case on Removal will be sent to the Clerk of the Circuit Court for Florence County as soon as we receive the executed Civil Action Coversheet (which must be transmitted with the Return) from Ms. Ervin. I understand from her email of this morning that she is mailing an amended Civil Action Coversheet today.

Thank you for your attention this matter.

Enclosures

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MAILING LIST
ESTATE OF DAVID W. HARWELL
PROBATE COURT CASE NOS.
2015ES2100778 (FLORENCE COUNTY)
2016ES0700302 (BEAUFORT COUNTY)
JUNE 7, 2016

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