

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM CHARLESTON COUNTY PROBATE COURT  
Tamara C. Curry, Associate Probate Judge

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Appellate Case No. 2017-002137  
Probate Court Case No. 2013-ES-10-1054

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**RECEIVED**  
DEC 27 2017  
SC Court of Appeals

IN RE: ESTATE OF PAUL J. STEIN

RICHARD STEIN, SARAH STEIN AND NICOLE STEIN JONES, *Respondents*,

versus

VICTORIA MARTINDALE STEIN, Personal Representative of the Estate of Paul J. Stein,  
*Appellant/Respondent*,

and

MARIAN STEIN-STEINFELD, *Intervenor, Respondent/Appellant*.

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**RESPONDENTS' REPLY IN SUPPORT OF  
MOTION TO DISMISS APPEAL**

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Respondents Richard Stein, Sarah Stein, and Nichole Stein Jones ("Respondents") respectfully submit this reply to Appellant Victoria Martindale Stein's ("Appellant") return to Respondents' Motion to Dismiss Appeal.

Although Appellant concedes the Probate Court has not yet entered a final judgment on all issues and claims in this case, she nevertheless asks this Court to permit her to engage in piecemeal and successive appeals that will extend the duration of this litigation for several years. Conversely, Respondents respectfully submit that state law clearly holds Appellant should not be

permitted to appeal the Probate Court's rulings until all of the issues have been decided by the Probate Court. At that time—and only at that time—should Appellant be permitted to appeal.

As discussed in Respondents' motion, on September 14, 2017, the Probate Court entered judgment in favor of Respondents on their claim seeking a judicial determination that the decedent's e-mails satisfy the requirements of S.C. CODE ANN. § 62-2-512, which permits a testator to refer in his will to an informal document disposing of tangible personal property, and against Appellant involving her counterclaims for constructive trust and unjust enrichment. See Order dated 9.14.17 ("Exhibit A" to Motion to Dismiss Appeal). The Order also ruled that Respondents are entitled to an award of attorneys' fees and costs pursuant to S.C. CODE ANN. § 62-1-111, but left the amount of fees and costs to be decided at a future hearing. Id. pp. 38-39.<sup>1</sup>

After Respondents timely filed a Motion for Award of Attorneys' Fees in accordance with the September 14 Order, the Probate Court noticed a hearing on the motion for December 12, 2017. See Notice of Hearing ("Exhibit B" to Motion to Dismiss Appeal). Before the hearing could be held, Appellant moved the Probate Court for a continuance of the hearing based on the pendency of this appeal. See Motion for Continuance filed 11.30.17 (attached hereto as "Exhibit 2"). In seeking a continuance, Appellant represented to the Probate Court as follows: "On October 18, 2017, [Appellant] filed a Notice of Appeal of the entire Order of the Probate Court, *including the finding that [Respondents] were entitled to an award of attorneys' fees and costs.*" Id. p. 2 (emphasis added). Appellant further argued the Probate Court cannot proceed with the hearing on Respondents' motion because she appealed the ruling that Respondents are entitled to attorneys' fees. Id. p. 3 ("Because the Order on appeal includes the finding that attorneys' fees

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<sup>1</sup> Respondents' Amended Petition specifically requested an award of attorneys' fees and costs pursuant to § 62-1-111. See Amended Petition ¶ 15 & prayer part (b) ("Pursuant to S.C. CODE ANN. § 62-1-111, Petitioners request an award of costs and expenses, including reasonable attorney's fees.") (attached hereto as "Exhibit 1").

are to be charged against [Appellant], ‘all proceedings in pursuance of the order’ shall cease, according to the statute. Therefore, the hearing scheduled on December 12<sup>th</sup> should be continued until such time as the judgment of the appellate court is had.”<sup>2</sup>

On December 8, 2017, the Probate Court accepted Appellant’s position and continued the December 12 hearing over Respondents’ opposition. See Order Granting Continuance (attached hereto as “Exhibit 3”). The Probate Court ruled it cannot go forward with establishing the amount of attorneys’ fees and costs to be awarded to Respondents until this appeal is resolved. As a result, Appellant was successful in delaying the entry of a judgment against her and/or the estate for a specific amount of attorneys’ fees and costs. The Probate Court has not yet determined the amount of attorneys’ fees and costs to be awarded to Respondents.

Appellant now argues this Court should refrain from dismissing her appeal—even though the Probate Court has not yet resolved all claims and issues in the case—because the Probate Court’s Order supposedly “is final as to the merits of this case” and because South Carolina “[c]ase law appears to recognize a difference between an order determining the propriety of an attorneys’ fee award and the court’s determination of the amount of fees and costs.” See Appellant’s Return p. 5. Appellant’s return cites to Carolina Bus. Brokers v. Strickland, 301

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<sup>2</sup> Despite these representations, Appellant also simultaneously told the Probate Court in a footnote to her motion that “[s]hould the court hold the attorneys’ fee hearing, [Appellant] intends to argue that the attorneys’ fees are not appropriate or object to the prior finding being made without argument or evidence of the propriety of the award” and that Appellant “does not intend for the filing of the appeal to waive the overall objection to the fee award decision.” See Motion for Continuance p. 2 n.2. Stated differently, at the same time that Appellant claimed the Probate Court could not proceed with a hearing on Respondents’ motion because she has appealed the Probate Court’s ruling that Respondents are even entitled to an award of attorneys’ fees and costs in the first place, she also maintains the Probate Court has not yet determined that Respondents are entitled to an award of attorneys’ fees and costs. Appellant wants to have her cake and eat it too.

S.C. 434, 392 S.E.2d 469 (Ct. App. 1990) and Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997). Neither of those cases helps Appellant's position.

In Carolina Bus. Brokers, the Master-in-Equity entered an order on September 20, 1987, granting judgment for the plaintiff and which stated that the plaintiff was entitled to "the costs of this action, including attorney's fees in an amount to be determined by this Court." 392 S.E.2d at 472. After conducting a separate hearing involving the amount of fees and costs to be awarded, the Master entered another order on December 2, 1987, and awarded \$17,431.72 in fees and costs to the plaintiff. The defendant argued the Master lacked jurisdiction to award these fees and costs because he had filed a notice of appeal from the Master's September 20 order before the Master had entered his December 2 order. This Court rejected the defendant's argument because "[i]t is clear from the master's order of September that the attorney's fees and costs were to be awarded," the defendant "did not appeal from this portion of the order finding an award was appropriate," and the applicable appellate court rule provided that "[n]othing herein shall deprive the lower court, commission or other tribunal from proceeding with matters not affected by the appeal" after service of a notice of intent to appeal. Id. Because the defendant had not appealed from that portion of the Master's first order which held the plaintiff was entitled to attorneys' fees and costs, the issue of attorneys' fees and costs was not affected by the appeal.

Likewise, in Jackson, the plaintiffs obtained a jury verdict against the defendants under the Regulation of Manufacturers, Distributors, and Dealers Act, S.C. CODE ANN. §§ 56-15-10 to -130 (1991) (Dealers Act). After the verdict, the trial judge gave the plaintiffs five days to gather documentation concerning the amount of attorneys' fees which should be awarded. Five days after the verdict, the plaintiffs filed their motion for attorneys' fees and the trial judge scheduled a hearing to set the fees and costs. Before the hearing was conducted, the defendants appealed

the jury verdict. However, the trial judge nevertheless conducted the hearing while the appeal was pending and awarded a specific amount of attorneys' fees and costs to the plaintiffs.

In Jackson, the defendants argued their appeal divested the trial judge of jurisdiction to determine attorneys' fees, but our state supreme court disagreed. 486 S.E.2d at 761. The court observed that although service of notice of an intent to appeal divests the lower court of jurisdiction over the order appealed, the lower court retains jurisdiction over matters not affected by the appeal. Id. Because the plaintiffs had requested attorneys' fees prior to the defendants' appeal of the jury verdict and the defendants did not appeal the propriety of awarding attorneys' fees pursuant to the Dealers Act, the court held the award of attorneys' fees and costs was not affected by the appeal. Id.

Neither Carolina Bus. Brokers nor Jackson involved the question of whether the trial court's orders were "final judgments" for appellate purposes. Those cases simply dealt with the question of whether the trial courts retained jurisdiction to make awards of attorneys' fees and costs when the matters on appeal did not involve the propriety of awarding attorneys' fees and costs. Those cases have no bearing on Respondents' motion.

As discussed in Respondents' motion, South Carolina law has long held that the partial adjudication of a case is not appealable. A finding as to one or more issues in the case, while leaving open other issues to be resolved, is not a final judgment. "Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory and not final." Ex parte Wilson, 367 S.C. 7, 625 S.E.2d 205, 208 (2005). "An order usually will be deemed interlocutory and not immediately appealable when there is some further act that must be done by the trial court prior to a determination of the parties' rights." Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 7, 630 S.E.2d 464, 468 (2006).

Our courts have repeatedly held that a trial court decree is not immediately appealable when it resolves only some of the issues or claims raised in the pleadings, but leaves open other issues or claims. See, e.g., Culbertson v. Clemens, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996); Bolding v. Bolding, 283 S.C. 501, 323 S.E.2d 535 (Ct. App 1984); Wheatley v. Wheatley, 287 S.C. 446, 339 S.E.2d 149 (Ct. App. 1985); Sexton v. Sexton, 308 S.C. 37, 39-40, 416 S.E.2d 649, 651 (Ct. App. 1992), rev'd other grounds, 310 S.C. 501, 427 S.E.2d 665 (1993).

In addition to this case law, S.C. R. CIV. PRO. 54 also specifically provides as follows:

**(a) Definition; Form.** “Judgment” as used in these rules includes any decree or order which dismisses the action as to any party **or finally determines the rights of any party**. A judgment need not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

**(b) Judgment Upon Multiple Claims or Involving Multiple Parties.** When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, **the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.**

S.C. R. CIV. PRO. 54(b) (emphasis added). This rule states that in the absence of certification, which it is undisputed has not occurred in this case, “any order . . . however designated, which adjudicates fewer than all the claims . . . shall not terminate the action as to any of the claims . . . .” Id.; see also Ashenfelder v. City of Georgetown, 389 S.C. 568, 577, 698 S.E.2d 856, 861 (Ct. App. 2010) (“Absent a certification under Rule 54(b) any order in a . . . multiple[] claim action, even if it appears to adjudicate a separable portion of the controversy, is interlocutory.”). Because the Probate Court decided fewer than all of the claims, the Probate Court is still free to

revise its Order at any time before the entry of a judgment adjudicating all of the claims. Its Order is not yet final.

Appellant's return altogether fails to discuss any of the cases cited by Respondents or Rule 54. Instead, Appellant's return simply offers up a conclusory response that "[t]he cases cited by the Respondents in their motion are distinguishable from the facts of this case." See Appellant's Return p. 5. Appellant offers no explanation to support this bare assertion. Respondents and this Court are left to speculate.

Rather than confronting the South Carolina cases or Rule 54, Appellant resorts to cases from other jurisdictions. The gravamen of Appellant's return is her reliance on the North Carolina Supreme Court's decision in Duncan v. Duncan, 742 S.E.2d 799 (N.C. 2013) and the United States Supreme Court's decision in Budinich v. Becton Dickinson & Co., 486 U.S. 196 (1988). In Duncan, the North Carolina court held that a party's appeal was untimely because the party had not immediately appealed after the trial court had resolved all of the claims between the parties with the exception of attorneys' fees and costs. In that court's view, the trial court's failure to determine the question of attorneys' fees and costs did not negate the finality of its order. The court ruled that "[a]n order that completely decides the merits of an action therefore constitutes a final judgment for purposes of appeal even when the trial court reserves for later determination collateral issues such as attorney's fees and costs." 742 S.E.2d at 801.

The Duncan court adopted the "bright-line rule" announced by the Supreme Court in Budinich, which resolved what constitutes a "final judgment" for federal appeal purposes. The Budinich case involved a Colorado state court action that was removed to the federal court based on diversity of jurisdiction. After the jury rendered a verdict in the plaintiff's favor for considerably less than what he had sought, the petitioner filed new trial motions as well as a

motion for attorneys' fees under a Colorado statute requiring that the judgment "shall include a reasonable attorney fee in favor of the winning party, to be taxed as part of the costs of the action." 486 U.S. at 198. The trial judge denied the new trial motions, but did not issue an order involving the motion for attorneys' fees until several months later. The plaintiff waited to file his notice of appeal until after the trial judge had ruled on his attorneys' fees motion.

The defendant in Budinich argued the plaintiff's appeal was untimely because it was not filed within 30 days after the order denying the new trial motions. The plaintiff argued that Colorado law governed the question and that under Colorado law a claim is not final and appealable until attorneys' fees are fully determined. Id. However, the Supreme Court rejected the plaintiff's argument that state law applied and held the issue was governed by a federal statute (28 U.S.C. § 1291). Id. at 199. In the Court's words, "[t]he question before us, therefore, is whether a decision on the merits is a 'final decision' as a matter of federal law under § 1291 when the recoverability or amount of attorney's fees for the litigation remains to be determined." Id. In resolving this question, the Court rejected a rule for applying § 1291 that varies depending on whether the authorized attorneys' fees are part of the "merits" or "nonmerits" of the case. Id. at 202 ("[W]hat is of importance here is not preservation of conceptual consistency in the status of a particular fee authorization as 'merits' or 'nonmerits,' but rather preservation of operational consistency and predictability in the overall application of § 1291. This requires, we think, a uniform rule that an unresolved issue of attorney's fees for the litigation in question does not prevent judgment on the merits from being final."). Instead, the Supreme Court thought courts and litigants would be best served by announcing a "bright-line rule . . . that a decision on the merits is a 'final decision' for purposes of § 1291 whether or not there remains for adjudication a request for attorney's fees attributable to the case." Id. at 202–03.

Importantly, neither Duncan nor Budinich involved the application of South Carolina law. Respondents are unaware of any case—and Appellant’s return fails to cite any—in which our state courts have adopted the “bright-line rule” announced in Budinich or in which our courts have held that the determination of whether a party is entitled to attorneys’ fees under S.C. CODE ANN. § 62-1-111 is not a “substantive claim,” does not involve the merits, or is merely “collateral” to the merits.<sup>3</sup> Furthermore, other states have reached conclusions contrary to Duncan and Budinich. See Ghadimi v. Soraya, 285 P.3d 969, 970 (Ariz. Ct. App. 2012) (family court’s decree of dissolution of marriage was not final and appealable when it concluded that husband was entitled to attorneys’ fees and costs, but left actual amount to be determined, and family court did not expressly determine in compliance with Arizona’s version of Rule 54 that there was no just reason for delay coupled with an express direction for the entry of judgment); Callahan v. Artysiewicz, 918 A.2d 1170 (Del. 2007) (dismissing as premature wife’s appeal from family court’s decisions “on ancillary matters” when the family court had not yet ruled on husband’s pending motion for attorney’s fees; court said it “has consistently held that an order is not final and appealable until the judge has ruled on an outstanding application for attorney’s fees”); McCombs v. Davidson, 2011 WL 1530377, \*1 & n.2 (Tenn. Ct. App. 2011) (holding that order appealed from was not a final judgment and dismissing appeal because the trial court reserved the issues of costs and attorneys’ fees for further hearing and because the trial court did not expressly certify the order for immediate appeal under Tennessee’s version of Rule 54); Billingsley v. BFM Liquor Mgmt., Inc., 613 N.W.2d 478, 483-84 (Neb. 2000) (dismissing appeal for lack of final judgment where the trial court had not ruled on a request for, *inter alia*, attorney

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<sup>3</sup> Section 62-1-111 provides: “In a formal proceeding, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney’s fees, to any party, to be paid by another party or from the estate that is the subject of the controversy.”

fees); Ft. Frye Teachers Ass'n v. Ft. Frye Local Sch. Dist. Bd. of Educ., 843, 623 N.E.2d 232, 234–35 (Ohio Ct. App. 1993) (holding that the trial court’s failure to determine the amount of attorney fees to be awarded “left a portion of the case undecided,” making the judgment “neither final nor appealable”); Bilder v. Hayes, 1995 WL 28990, \*1 (Ohio Ct. App. 1995) (dismissing appeal from trial court’s order requiring one party to pay attorneys’ fees to another party on the grounds that a judgment which awards attorneys’ fees but leaves the amount of those fees unresolved does not constitute a final, appealable order).

In ProMax Dev. Corp. v. Raile, 998 P.2d 254 (Utah 2000), for example, the Utah Supreme Court specifically declined to follow the “bright-line rule” enunciated in Budinich. The Court explained its decision as follows:

[A] party’s decision to appeal on the underlying merits may often depend upon the size of the attorney fees awarded. [In Meadowbrook, LLC v. Flower, 959 P.2d 115 (Utah 1998), the Court] addressed the appropriate timing for parties’ requests for attorney fees. While not strictly apposite to the instant case, our reasoning there is useful. Explaining our holding, we presented the following model:

[A] party who appeals the judgment on the underlying merits may also wish to appeal the attorney fee award. In jurisdictions that allow a motion for such fees to be brought after the time for filing an appeal on the original judgment has expired, the appellant would have to file a second appeal based upon the attorney fee award. Judicial economy during the appeals process would not be furthered in any way by requiring such piecemeal appeals. Moreover, a party’s decision to appeal on the underlying merits may largely depend upon the size of the attorney fee award.

Applied to the instant case, this reasoning is sound. It will save the resources of the parties and this court if the issue of attorney fees can be determined in the same appeal in which the merits of the underlying judgment are examined. Otherwise, a second appeal must be taken to challenge the amount of attorney fees awarded subsequent to the judgment on the merits and then examined in the light of the judgment on the merits. This would be wasteful.

We therefore hold that, in the interest of judicial economy, a trial court must determine the amount of attorney fees awardable to a party before the judgment

becomes final for the purposes of an appeal under [the Utah Rules of Appellate Procedure]. This holding will serve both litigants and this court well, by “enabl[ing] an appellant to appeal all issues, including an award of attorney fees, in a single notice of appeal.” Meadowbrook, 959 P.2d at 119.

Id. at 258 (citations omitted in part); see also Fuentes v. Zaragoza, 2017 WL 976079, at \*2 (Tex. Ct. App. Mar. 14, 2017) (“Budinich, however, applied federal law in determining finality under a federal statute, whereas finality in this case is governed by state law. Accordingly, we follow the Texas Supreme Court’s holdings that a judgment is not final if it fails to dispose of a claim for attorney’s fees.”); Dullye v. Gume Transp. & Storage, Inc., 2016 WL 3181396, at \*1 (Tex. Ct. App. June 8, 2016) (“However, 28 U.S.C. § 1291 concerns only the appellate jurisdiction of federal courts of appeal and has no application in this case. . . . [I]n Texas courts, unlike federal courts, a judgment is not final if it fails to dispose of a party's claim for attorney's fees.”).

Adopting Appellant’s position would necessarily mean that she will be allowed to immediately appeal from the Probate Court’s Order holding that Respondents are entitled to attorneys’ fees and costs even though no amount of fees and costs have been awarded, in the meantime the Probate Court cannot go forward with any hearing to determine the amount of attorneys’ fees and costs until this appeal is resolved, this case will then be remitted to the Probate Court for a determination of the amount of attorneys’ fees and costs once the appeal is resolved (unless this Court reverses the Probate Court), and Appellant can then appeal the amount of attorneys’ fees and costs once a hearing has been conducted and a specific amount of attorneys’ fees and costs has been awarded. In lieu of having all issues and claims decided in one appeal once the Probate Court awards a specific amount of attorneys’ fees and costs, Appellant instead asks this Court to adopt a policy of piecemeal or successive appeals of discrete issues and claims. Appellant wants the ability to pursue multiple appeals, thus extending the duration of this litigation for years.

Appellant's position is directly contrary to our case law reflecting a strong policy of disfavoring piecemeal appeals. Breland v. Love Chevrolet Olds, Inc., 339 S.C. 89, 94, 529 S.E.2d 11, 13-14 (2000); Flagstar Corp. v. Royal Surplus Lines, 341 S.C. 68, 533 S.E.2d 331, 331 (2000). Piecemeal appeals are disfavored, do not promote judicial economy, and are impermissible. Breland, 339 S.C. at 94, 529 S.E.2d at 13-14. In light of the policy underpinnings of the final judgment rule, exceptions are recognized cautiously. Doe v. Howe, 362 S.C. 212, 607 S.E.2d 354, 356 (Ct. App. 2004).

In conclusion, although the Probate Court ruled that Respondents are entitled to an award of attorneys' fees and costs pursuant to § 62-1-111, the Probate Court further ordered that it will need to determine the specific amount of fees and costs to be awarded following another hearing, which has not yet been held. A final judgment has not been entered under our state law and Appellant's appeal must be dismissed because it is premature. Appellant has failed to cite any case holding that South Carolina has adopted the "bright-line" federal rule involving what constitutes a "final judgment" for purposes of 28 U.S.C. § 1291, thus Duncan and Budinich are not controlling.

Even assuming *arguendo* that Appellant's appeal is not interlocutory with respect to the Probate Court's decision on "the merits of this case," Appellant's appeal would still be interlocutory as to that portion of her appeal challenging the Probate Court's decision that Respondents are entitled to an award of attorneys' fees and costs. Even under the Duncan and Budinich line of cases, Appellant's appeal as to the propriety of attorneys' fees and costs is premature until the Probate Court has ordered a specific amount of fees and costs. See Salvie v. Med. Ctr. Pharmacy of Concord, Inc., 762 S.E.2d 273, 277 (N.C. Ct. App. 2014) (Notwithstanding Duncan, the court dismissed as interlocutory that portion of appeal challenging

the North Carolina Industrial Commission's conclusion that an award of attorneys' fees was appropriate because the Commission had not yet ordered the specific amount to be awarded.); Medlin v. N. Carolina Specialty Hosp., LLC, 756 S.E.2d 812, 821 (N.C. Ct. App. 2014) (dismissing portion of appeal concerning award of attorneys' fees as interlocutory where trial court reserved ruling on amount of award and appellant failed to show that waiting for a final determination on the attorneys' fees issue would affect a substantial right).

For the reasons stated above and in Respondents' motion, Appellant's appeal should be dismissed on the grounds the Probate Court's Order is not immediately appealable. Alternatively, even if the Court should find that Appellant's appeal is not interlocutory with respect to the Probate Court's decision on "the merits of this case," Appellant's appeal is still interlocutory and premature as to that portion of her appeal challenging the Probate Court's decision that Respondents are entitled to an award of attorneys' fees and costs. At a minimum, that portion of Appellants' appeal should be dismissed even if the Court modifies South Carolina law and adopts the rule enunciated in Duncan and Budinich.

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Charleston, South Carolina

December 22, 2017.

STATE OF SOUTH CAROLINA

FILED IN THE PROBATE COURT

COUNTY OF CHARLESTON

Case No.: 2013-ES-10-1054  
2014 OCT -07 AM 10:14

IN RE ESTATE OF:  
PAUL J. STEIN

PROBATE COURT  
CHARLESTON COUNTY

RICHARD STEIN, SARAH STEIN and )  
NICHOLE STEIN JONES, )

Petitioners, )

v. )

AMENDED PETITION

VICTORIA MARTINDALE STEIN, )  
Personal Representative of the Estate of )  
PAUL J. STEIN, )

Respondent, )

MARIAN STEIN- STEINFELD, )  
Intervening Respondent, )

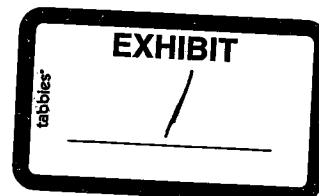
**TO: ALL INTERESTED PARTIES OF THE ABOVE-NAMED ACTION**

The Petitioners, Richard Stein, Sarah Stein and Nichole Stein Jones, hereby petition the Court as follows:

1. That the parties to this action and subject matter are properly before the Probate Court of Charleston County and that this Court has jurisdiction over the parties and subject matter herein.

2. That the Decedent, Paul J. Stein, died on or about July 2, 2013 at the Medical University of South Carolina. At the time of his death, decedent was a resident of Charleston County, South Carolina.

3. That Petitioners, Richard Stein, Sarah Stein and Nichole Stein Jones, are the natural born children of Paul J. Stein, whose estate is being administered in the Charleston County Probate Court, Case No. 2013-ES-10-1054.



4. That by order dated July 16, 2013, the Probate Court for Charleston County previously appointed Respondent Victoria Martindale Stein as the Personal Representative for the Estate of Paul J. Stein and she is currently serving in such capacity.

5. That the Intervening Respondent Marian Stein-Steinfeld is the sister of the Decedent and claims an interest in the property or transactions that are the subject matters of this action.

6. That on February 20, 2013 Decedent, Paul Stein, signed, sent, and transmitted to his sister, Marian Stein-Steinfeld, a personal e-mail stating his intention with regards to the disposition of certain personal property, including artwork and other property, that he possessed and/or owned at the time of his death. The e-mail states in pertinent part as follows:

“So I explained to Sarah that my solicitor suggestion was to catalog the art and itemize the furniture pieces to whom I want to be the recipient. The furniture was an easy task since there are only 4 major pieces. The art on the other hand has been daunting because he also wanted appraised values for each piece. What I did to simplify the issue was to list the art pieces that Tori and I have collected together and listed them, all remaining art, sculptures (wood, stone & bronze) and the contents of the two grey cabinets will belong to the HBvR estate which is to be passed on to my three children. Should a question arise as to whether a certain piece is in fact part of the HBvR estate that you would be the mediator.”

A copy of the email is attached hereto as “Exhibit A” and is incorporated herein by reference.

7. That on March 28, 2013 Decedent, Paul Stein also presented and transmitted a list, via personal e-mail to his daughter, Nichole Stein Jones, which contained an excel spread

sheet entitled, "Art bought by Paul & Tori." The e-mail also included a notation by the Decedent stating:

*"Collection of Art from Hanna Bekker vom Rath (HBvR) are to be divided between Richard, Nichole & Sarah Heirlooms from HvBR such as Frankfurter Cabinet, 3 chairs, and chest are to be given to Richard, Nichole and Sarah All stamp and coin collection to be given to Sarah"*

Copies of the email and spreadsheet are attached hereto as "Exhibit B" and are incorporated herein by reference.

8. That as provided in Article II of Decedent's Last Will and Testament dated November 24, 2008, which was previously filed with the Court, any written statement or lists disposing of certain items of the Decedent's tangible personal property shall be considered determinative with respect to all gifts made therein.

9. That pursuant to South Carolina Probate Code § 62-2-512, the above-referenced emails and spreadsheet show Decedent's specific intent to have the items described in the emails and spreadsheet bequeathed to Petitioners, Richard Stein, Sarah Stein and Nichole Stein Jones.

10. That the emails and spreadsheet constitute a written statement and/or list of tangible personal property referred to in the Decedent's Last Will and Testament as provided by and within the meaning of South Carolina Probate Code § 62-2-512.

11. Upon information and belief, the email, a copy of which is set out as "Exhibit A" and is attached herein, was sent by the Decedent to Respondent Marian Stein-Steinfeld on February 20, 2013, from his personal computer.

12. That the email, a copy of which is set out as "Exhibit B" and is attached herein, was sent to Petitioners, from their father (Decedent) on March 28, 2013, from his personal laptop

computer, while he was hospitalized at the Medical University of South Carolina and where Decedent ultimately remained until the time of his death on July 2, 2013.

13. That Petitioners have presented copies of the above-referenced emails and spreadsheet to Decedent's Personal Representative, Victoria Martindale Stein, and requested that she abide by their father's written statements, and she, as Personal Representative, has refused to do so.

14. Petitioners bring this action pursuant to S.C. CODE ANN. § 15-53-30. An actual and justiciable controversy has arisen and now exists between the Petitioners and the Respondent as to whether the emails and spreadsheet above-referenced constitute a written statement and/or list of tangible personal property referred to in the Decedent's Last Will and Testament as provided by and within the meaning of South Carolina Probate Code § 62-2-512. Petitioners are entitled to a declaratory judgment declaring that the emails and spreadsheet above-referenced constitute a written statement and/or list of tangible personal property referred to and as provided in Article II of the Decedent's Last Will and Testament and under Section 62-2-512 of the South Carolina Probate Code.


15. Pursuant to S.C. CODE ANN. § 62-1-111, Petitioners request an award of costs and expenses, including reasonable attorney's fees.

WHEREFORE, Petitioners, Richard Stein, Sarah Stein and Nichole Stein Jones hereby pray for an Order:


(a) Declaring, considering, and authorizing Decedent's emails and spreadsheet above-referenced to be a written statement or list disposing of items of tangible personal property as provided in Article II of the Decedent's Last Will and Testament and under Section 62-2-512 of the South Carolina Probate Code;

- (b) Awarding them attorneys' fees, costs, and expenses incurred in in this action; and
- (c) Awarding them such other legal and equitable relief as to the Court seems necessary and proper.

CORDRAY LAW FIRM

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Charleston, SC 29413-2857

ROSEN, ROSEN & HAGOOD, LLC

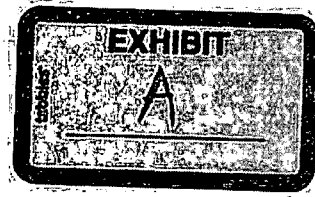
By:   
Richard S. Rosen  
Daniel F. Blanchard, III  
151 Meeting Street, Suite 400  
Post Office Box 893  
Charleston, SC 29402  
(843) 577-6726

ATTORNEY FOR PETITIONERS

Charleston, South Carolina  
October 7, 2014.

Von: Paul Stein paul@abi.comcastbiz.net  
Betreff: Update  
Datum: 20. Februar 2013 23:26  
An: Marian Stein-Steinfeld Marian.Stein-Steinfeld@gmx.net

February 12, 2013



Dear Marian,

Thank you for your kind words of encouragement in your resent email. Word does get around fast with the internet. I am in good spirits although once in a while I feel used and worn out. Thank you for thinking of Tori also; she was delighted with your consideration. This letter will be disjointed because I started and stop the letter several times

Before I go on I can't remember if I thanked you for the catalog so I maybe repeating myself none the less I can't thank you enough. Many thanks for the "Phanomen Expressionismus" catalog; it arrived in a plastic sleeve; somewhere in transit your letter was exposed to water and your written note was not discernible. However the stamps and catalog survived. I will be taking it with me to Largo this weekend and leave it with Barbara to read at her leisure. Sarah has taken some time from work and will accompany me on the drive; I am so delighted with her company.

Last Thursday (Feb. 8<sup>th</sup>) we had our first real rain fall since the beginning of the New Year. Normally by this time of the year we would have had 160 cm of rain. 50 cm of rain fell last Thursday; yesterday, Monday another 50 cm of rain fell to the ground and today it appears that an additional 60 cm is accumulating on the ground. The skies have been gray for the past two days unloading their liquid elixir.

The garden is in ready for spring; forsythia bush is in full bloom with it small yellow leafy peddles; the crabapple tree has opened its blooms; the 20 camellias are all covered in their various hue blossoms and the azaleas have multi-color early bloomers. It's a wonderful sight to see and enjoy the spring time festive colors so early.

2/19/2013

I had originally thought that I would finish this letter in Largo but after we arrived I developed a fever and had to start taking antibiotic to combat a cold over all I felt gloomy. Our visit was a very brief short visit mid-day Friday retuning at 4:30 to take her out to dinner; Saturday was the same; always

keeping a distance with the hope of not introducing my cold to her. About four weeks ago Barbara had a fall while walking home from the dining area one evening. No broken bones or teeth just contusions on her knees, hands and nose. Looking at her during our visit there was no tell-tail signs of her mishap. Her friends jokingly told me she was racing one of the golf carts and tripped.

We stayed at the same Hampton Inn that we stayed at for Barbara's 91<sup>st</sup> birthday. Sunday we departed for Charleston early morning arriving in Charleston before 6 PM. Sarah was a tremendous help by driving both ways solo while I dozed waking up at key moments with directions. In between my dozing we would talk through many topics; one topic of concern was how the remaining pieces from the HBvR estate would convey to them (my children).

So I explained to Sarah that my solicitor suggestion was to catalog the art and itemize the furniture pieces to whom I want to be the recipient. The furniture was an easy task since there are only 4 major pieces. The art on the other hand has been daunting because he also wanted appraised values for each piece. What I did to simplify the issue was to list the art pieces that Tori and I have collected together and listed them, all remaining art, sculptures (wood, stone & bronze) and the contents of the two grey cabinets will belong to the HBvR estate which is to be passed on to my three children. Should a question arise as to whether a certain piece is in fact part of the HBvR estate that you would be the mediator.

Once while Nichole was visiting I downloaded a copy of my photo catalog files which has been sitting in my computer because I lacked the talent to organize it into a finish product.

The CT-scan that was performed last Monday the 11<sup>th</sup> displayed some to no reduction in size of the internal lymph nodes. The periportal and periaortic nodes (these are near the kidneys) have increased in size by as much as .5 cm. I was scheduled to have the T-cell infusion On March 1<sup>st</sup> but it has been changed to March 15<sup>th</sup> (at my request) and today I learned that the date my change to March 22<sup>nd</sup>; I will learn in the morrow a final date. There is a lot of coordination behind the scenes that occur to dovetail the many schedules involved.

Yesterday I had a consultation with a radiation oncologist and today I spent several hours in a prone position while oncologist physics measured me from head to toe, fingertip to fingertip in addition to my thick and thin areas in preparation

for a Total Body Irradiation (TBI):

February 20, 2013

I thought I would wait until I could provide you with a firm date of the T-cell infusion before sending this off to you and it just arrive so I will make it an attachment to this email.

Love,  
Paul  
843.452.6981 US  
011.49.1512.058.7404 Germany

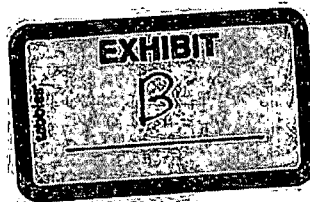
March 2013						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22 PICC line placement	23
24 Hollings infusion 10:30 Admit to ART-5 West	25 Day -4 Fludarabine	26 Day -3 Fludarabine	27 Day -2 Fludarabine	28 Day -1 TBI	29 Day 0 Transplant	30 Day +1 Possible Discharge
31						

From: Paul Stein <paud@abi.comcastbiz.net>  
Subject: Art bought by Paul & Tori/alex  
Date: March 28, 2013 2:43:15 PM CDT  
To: "Nichole Stein (nicholestein@gmail.com)" <nicholestein@gmail.com>



\* Attachment: 18 KB

Art bought\_L1x1x (18 KB)



Behrens, Howard	<i>Roof Top Garden (Mexico)</i> Giclee on paper	2003	30 x 37 1/2 inches
Chihuly, Dale	<i>Ikebana Geysers</i> Intaglio/Lithograph with handwork	106/175 2007	25 x 37 inches
Godard, Michael	<i>Ganster Martini (2 shots &amp; a splash)</i> Giclee on canvas	96/175 2004	28 x 37 1/2 inches
Nechita, Alexandra	<i>Winning Together</i> Lithograph	152/300 1998	24 x 19 inches
Simbari, Nicola	<i>Caribbean Fruit</i> Sergraph	330/2500	31 x 43 inches
Sutzkever, Rina	<i>Untamed Beauty</i> Embellished lithograph on board	168/175	28 x 20 inches
Dr. Seuss	<i>Horton Line Drawing</i> Pigment Print on Somerset Enhanced Satin Paper	2003	15 x 21 inches
	<i>Horton Hears A Who</i> Line Drawing	159/850	9 x 12 inches
	<i>They've Proved They Are Persons</i>	1285/2500	

		1443/2500	9 x 12 inches
		<i>Artist Worrying About His Next Book</i>	
		CP28/155	11 1/4 x 15 1/4 inches
Nakisa, Seika		<i>Romantic Escape</i>	
		Giclee on silver foil	
		44/195	12 x 16 inches
Steynovitz, Zamy		<i>The Wedding II</i>	
		Serigraph	
		1995	
		16/300	6 1/2 x 4 7/8 inches
		<i>Shabbat Bouquet</i>	
		Serigraph	
		1995	
		A/P	4 3/4 x 6 3/8 inches
Walt Disney		Anamation	
		<i>Bambi</i>	
		Serigraph	
			11 3/4 x 8 1/8 inches
		Anamation	
		<i>How to Play Golf</i>	
		Serigraph	
			11 3/4 x 8 inches

Life Insurance on Paul Stein

Jefferson-Pilot	JP5241675	\$ 500,000.00		To the Estate of
State Farm	1973-5678	\$750,000.00	Term	To the Estate of
State Farm	1934-2832	\$ 250,000.00	Universal Life	To the Estate of
State Farm	2283-8363	\$ 280,000.00	Term	Tori
		<u>\$ 1,780,000.00</u>		

			Tori	
			1780	\$ 400,000.00
Jefferson-Pilot	JP5241675	LI/ est of		\$ 125,000.00
State Farm	1973-5678	LI/ est of		\$ 187,000.00
State Farm	1934-2832	LI/ est of		\$ 62,500.00
State Farm	2283-8363	Tori		<u>\$ 280,000.00</u>
				<u>\$ 1,054,500.00</u>

			Richard	Nichole	Sarah
Jefferson-Pilot	JP5241675	LI/ est of	\$ 125,000.00	\$ 125,000.00	\$ 125,000.00
State Farm	1973-5678	LI/ est of	\$ 162,500.00	\$ 162,500.00	\$ 162,500.00
State Farm	1934-2832	LI/ est of	<u>\$ 62,500.00</u>	<u>\$ 62,500.00</u>	<u>\$ 62,500.00</u>
			\$ 350,000.00	\$ 350,000.00	\$ 350,000.00
		cash	\$ 333,333.00	\$ 333,333.00	\$ 333,333.00
			<u>\$ 683,333.00</u>	<u>\$ 683,333.00</u>	<u>\$ 683,333.00</u>

Collection of Art from Hanna Bekker vom Rath (HBvR) are to be divided between Richard, Nichole & Sarah  
 Heirlooms from HBvR such as Frankfurter Cabinet, 3 chairs, and chest are to be given to Richard, Nichole & Sarah  
 All stamp and coin collection to be given to Sarah

Alex  
\$ 100,000.00  
\$ 0  
\$ 100,000.00

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: Estate of Paul J. Stein

IN THE PROBATE COURT

PROOF OF DELIVERY

2014 OCT -7 AM 10:13

CASE NUMBER: 2013-ES-10-01054

PROBATE COURT CHARLESTON COUNTY

On the 7th day of October, 2014, I mailed or delivered the following document, Amended Summons and Amended Petition with Exhibits A and B.

- A copy of which is attached hereto and incorporated herein, or
- The original of which is on file with the court and incorporated herein,


Delivery was accomplished by the following method (check appropriate box):

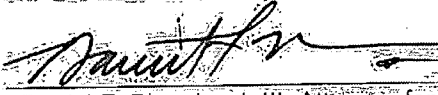
- personal delivery
- ordinary first class mail
- certified mail
- registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
John Massalon, Esquire and Christie Ford Allen, Esquire	Wills, Massalon & Allen, LLC, P.O. Box 859, Charleston, SC 29402
Stephen M. Slotchiver, Esquire	Slotchiver & Slotchiver, LLP, 44 State Street, Charleston, SC 29401
G. Trenholm Walker, Esquire	Pratt-Thomas Walker, P.A., 16 Charlotte Street, Charleston, SC 29403

SWORN to before me this 7th day of October, 2014

  
 Notary Public for South Carolina  
 My Commission Expires: 12/31/2017

Signature:   
 Name: Daniel E. Blanchard, III, Attorney for Petitioners  
 Address: Rosen Rosen & Hagood, LLC  
 151 Meeting Street, Suite 400  
 Charleston, South Carolina 29401  
 Telephone (O): (843) 577-6726  
 (H):  
 E-mail:

Signature:  
 Name:  
 Address:  
 Telephone (O):  
 (H):  
 E-mail:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE PROBATE COURT  
Case No.: 2013-ES-10-1054

IN RE ESTATE OF: )  
PAUL J. STEIN )

RICHARD STEIN, SARAH STEIN )  
and NICHOLE STEIN JONES, )

Petitioners, )

v. )

VICTORIA MARTINDALE STEIN, )  
Personal Representative of the )  
Estate of PAUL J. STEIN, )

Respondent. )

MARIAN STEIN-STEINFELD, )

Intervening Respondent. )

**MOTION FOR CONTINUANCE  
OF DECEMBER 12, 2017 HEARING**

This notice and memorandum seeks a continuance of the hearing scheduled for December 12, 2017. The December 12<sup>th</sup> hearing was scheduled by the court "on the issue of attorneys' fees and costs." In their Petition, Petitioners claimed attorneys' fees against Respondent, and Respondent filed a Motion for Attorneys' Fees against Intervening Respondent after summary judgment was granted against her prior to the trial.

This court's order dated September 14, 2017 held that the Petitioners were entitled to the art and items referenced in the two emails at issue, and summarily concluded that the Petitioners were entitled to an award of attorney fees and costs, to be charged to Respondent. Respondent filed a Motion to Alter or Amend the court's original order, and one of the grounds for said motion was to object to what appeared to be a finding that the Petitioners were entitled to



attorneys' fees when the propriety of an attorney fee award had neither been argued, nor evidence introduced related thereto during the trial. The court denied the Motion to Alter or Amend by Order dated October 4, 2017. While all parties included a demand for attorneys' fees and costs should they prevail on their claims, counterclaims, and crossclaims, no motion related to attorneys' fees against any party had been filed at the time of the trial. The court's order denying the motion to alter or amend did not address Respondent's objection directly (other than by denying the motion), yet directed a hearing be held "on the issue of attorneys' fees and costs with the date, time and location to follow."<sup>1</sup>

On October 18, 2017, Respondent filed a Notice of Appeal of the entire Order of the Probate Court, including the finding that Petitioners were entitled to an award of attorneys' fees and costs. See Exhibit A (Notice of Appeal).<sup>2</sup>

The South Carolina Probate Code contains statutory authority (separate from that of the civil court) and rules which govern appeals exclusively from the Probate Court. S.C. Code Ann. § 62-1-308. Section 62-1-308 begins by stating that "[e]xcept as provided in subsection (1), appeal from the probate court must be to the circuit court [subsection (1) provides a mechanism where an appeal is taken, by consent, to the South Carolina Supreme Court] and are governed by the following rules: . . .

---

<sup>1</sup> Respondent can only conclude, at this time, that the original Order made the finding that fees were appropriate, and has filed an appeal from that finding as well as the main claims. Nonetheless, should the court hold the attorneys' fee hearing, Respondent intends to argue that the attorneys' fees are not appropriate or object to the prior finding being made without argument or evidence of the propriety of the award. In light of this posture, Respondent seeks to clarify that she does not intend for the filing of the appeal to waive the overall objection to the fee award decision.

<sup>2</sup> On November 22, 2017, the Supreme Court denied the Motion to Transfer by consent made pursuant to 62-1-308 (1), and referred the appeal to the Court of Appeals. The appeal has been held in abeyance until such time as the Court of Appeals rules on the Motion to Dismiss the cross-appeal of Marian Stein Steinfeld as untimely.

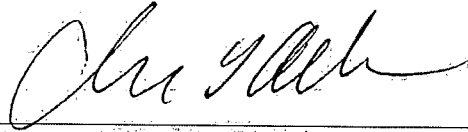
(h) When an appeal according to law is taken from any sentence or decree of the probate court, *all proceedings in pursuance of the order*, sentence, or decree appealed from *shall cease* until the judgment of the circuit court, court of appeals or Supreme Court is had. If the appellant, in writing, waives his appeal before the entry of the judgment, proceedings may be had in the probate court as if no appeal had been taken.

(emphasis added). Because the Order on appeal includes the finding that attorneys' fees are to be charged against Respondent, "all proceedings in pursuance of the order" shall cease, according to the statute. Therefore, the hearing scheduled on December 12<sup>th</sup> should be continued until such time as the judgment of the appellate court is had.

This above-cited Probate Code provision has not been interpreted by any court, and it does differ from the SCRAP Rule that addresses lower court proceedings when a civil case is on appeal. See SCRAP, Rule 205. Rule 205 provides that the lower court retains jurisdiction over "matters not affected by the appeal." While not in the probate context, in Carolina Bus. Brokers v. Strickland, 301 S.C. 434, 438-39, 392 S.E.2d 469, 472 (Ct. App. 1990), the court indicated that because the appellant did not appeal the finding in the order that attorneys' fees were appropriate, the lower court maintained jurisdiction to decide the amount of fees. See also Jackson v. Speed, 326 S.C. 289486 S.E.2d 750 (S.C. 1970) (Appellants did not appeal the propriety of awarding attorney's fees, and therefore the award of attorney's fees and costs was not affected by the appeal.) Here, Respondent is appealing the finding that the Petitioners are entitled to attorneys' fees, and therefore even under SCRAP 205 and case law interpreting it in the civil context, the court is divested of jurisdiction to continue with proceedings related to attorneys' fees.

Respondent respectfully requests that any future proceedings in the probate court in pursuance of the Order on appeal, including as to attorneys' fees, be continued until such time as

the case is remitted from the appellate court.<sup>3</sup> The undersigned has consulted with opposing counsel regarding this motion, and the parties were not able to reach an agreement on this issue.



---

Christy Ford Allen, SC Bar No. 0015649  
John A. Massalon, SC Bar No. 0010279  
WILLS MASSALON & ALLEN LLC  
Post Office Box 859  
Charleston, South Carolina 29402  
(843) 727-1144

ATTORNEYS FOR VICTORIA MARTINDALE STEIN,  
AS PERSONAL REPRESENTATIVE OF THE  
ESTATE OF PAUL J. STEIN

CHARLESTON, SC

November 30, 2017

---

<sup>3</sup> Respondent is cognizant that she has a motion for attorneys' fees pending as to the claims of Intervening Respondent Marian Stein Steinfeld. The procedural posture there, however, is different in that the court granted summary judgment on all claims by Intervening Respondent prior to the trial. The Order granting summary judgment was not final until after the trial when the court denied the Intervening Respondent's motion to alter or amend. Thereafter, Respondent filed a Motion for Attorneys' Fees which is pending. Until such time as the cross-appeal filed by Marian Stein Steinfeld is dismissed or decided, the undersigned agrees that said motion on fees against Stein-Steinfeld should be continued as well.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 1, 2017, a copy of the attached pleading/discovery has been served upon the following via:

X	United States Postal Service
X	E-Mail

Jack D. Cordray, Esquire  
Cordray Law Firm  
Post Office Drawer 22857  
Charleston, SC 29413

Richard S. Rosen  
Daniel F. Blanchard, III  
Rosen, Rosen & Hagood, LLC  
Post Office Box 893  
Charleston, SC 29402

ATTORNEYS FOR PETITIONERS

G. Trenholm Walker, Esquire  
Pratt-Thomas Walker, PA  
16 Charlotte Street  
Post Office Drawer 22247  
Charleston, SC 29403-2247

ATTORNEYS FOR INTERVENING RESPONDENT

  
WILLS MASSALON & ALLEN LLC

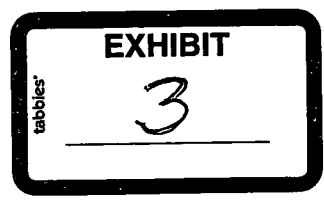
STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 IN RE: ESTATE OF )  
 PAUL J. STEIN )  
 )  
 RICHARD STEIN, SARAH STEIN, )  
 and NICHOLE STEIN JONES, )  
 )  
 Petitioners, )  
 )  
 -v- )  
 )  
 VICTORIA MARTINDALE STEIN, )  
 Personal Representative of the Estate of )  
 PAUL J. STEIN, )  
 )  
 Respondent, )  
 )  
 -v- )  
 )  
 MARIAN STEIN-STEINFELD, )  
 )  
 Intervening Respondent. )

IN THE PROBATE COURT  
 CASE NO. 2013-ES-10-1054

**ORDER ON RESPONDENT'S  
 MOTION FOR CONTINUANCE OF  
 DECEMBER 12, 2017 HEARING**

**THIS MATTER** comes before the Court on the Respondent's Motion for Continuance of December 12, 2017 hearing. In their Motion the Respondent asks the court to continue the case based on S.C. Code Ann. § 62-1-308. Within S.C. Code Ann. § 62-1-308 it states:

(h) When an appeal according to law is taken from any sentence or decree of the probate court, all proceedings in pursuance of the order, sentence, or decree appealed from shall cease until the judgment of the circuit court, court of appeals or Supreme Court is had. If the appellant, in writing, waives his appeal before the entry of the judgment, proceedings may be had in the probate court as if no appeal had been taken. S.C. Code Ann. § 62-1-308



The code section prevents this from being able to hold a hearing on this current matter while there is an appeal pending.

Based upon the foregoing, it is hereby

**ORDERED, ADJUGED, AND DECREED** the hearing set for December 12, 2017 shall be continued to a later date so that the matters on appeal may be resolved; it is further

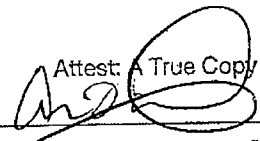
**ORDERED, ADJUGED, AND DECREED** that this Order shall be subject to such further Orders of this Court as may become necessary.

AND IT IS SO ORDERED this 8<sup>th</sup> day of December, 2017.



---

**TAMARA C. CURRY**  
**ASSOCIATE JUDGE OF PROBATE**



Attest: A True Copy  
Clerk Probate Court

Charleston County, South Carolina

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM CHARLESTON COUNTY PROBATE COURT  
Tamara C. Curry, Associate Probate Judge

---

Appellate Case No. 2017-002137  
Probate Court Case No. 2013-ES-10-1054

---

**RECEIVED**  
DEC 27 2017  
SC Court of Appeals

IN RE: ESTATE OF PAUL J. STEIN

RICHARD STEIN, SARAH STEIN AND NICOLE STEIN JONES, *Respondents*,

versus

VICTORIA MARTINDALE STEIN, Personal Representative of the Estate of Paul J. Stein,  
*Appellant/Respondent*,

and

MARIAN STEIN-STEINFELD, *Intervenor, Respondent/Appellant*.

---

**PROOF OF SERVICE**

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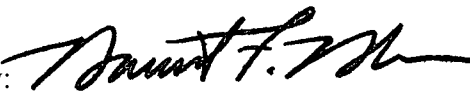
I certify that I have served a copy of the Respondents' Reply in Support of Motion to Dismiss Appeal on the Appellant by mailing copies to her attorneys of record on December 22, 2017 via first-class mail, postage prepaid, and addressed as follows:

Christie Ford Allen, Esquire  
John A. Massalon, Esquire  
Wills, Massalon & Allen, LLC  
97 Broad Street  
P.O. Box 859  
Charleston, SC 29402

Stephen M. Slotchiver, Esquire  
Slotchiver & Slotchiver, LLP  
44 State Street  
Charleston, SC 29401

G. Trenholm Walker, Esquire  
Walker Gressette Freeman Linton, LLC  
PO Box 22167  
Charleston, SC 29403

ROSEN, ROSEN & HAGOOD, LLC

By: 

Daniel F. Blanchard, III (SC Bar 65342)  
151 Meeting Street, Suite 400  
Post Office Box 893  
Charleston, SC 29402  
(843) 577-6726

ATTORNEYS FOR RESPONDENTS

December 22, 2017.

# ROSEN | HAGOOD

Daniel F Blanchard, III  
dblanchard@rrhlawfirm.com  
843-266-8123

December 22, 2017

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RECEIVED  
DEC 27 2017  
SC Court of Appeals

Re: Richard Stein v. Victoria Martindale Stein  
Appellate Case No. 2017-002137

Daer Ms. Kitchings:

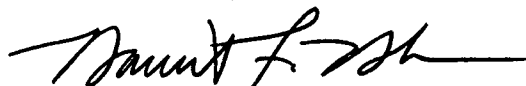
Enclosed for filing in the above-referenced case are:

- [1] The original and six copies of the Respondents' Reply in Support of Motion to Dismiss Appeal, and
- [2] The original and six copies of the Proof of Service.

We would greatly appreciate your filing these and returning the date-stamped copies in the self-addressed return envelope enclosed herewith. Thank you for your assistance with this matter.

With best regards, I am

Sincerely,



Daniel F. Blanchard, III

DFB/db  
Encls.

Cc: John A. Massalon, Esquire (w/ enclosures as stated)  
Christie Ford Allen, Esquire (w/ enclosures as stated)  
Jack Cordray, Esquire (w/ enclosures as stated)  
Stephen M. Slotchiver, Esquire (w/ enclosures as stated)  
G. Trenholm Walker, Esquire (w/ enclosures as stated)

9427.000 DFB

**ROSEN | HAGOOD**

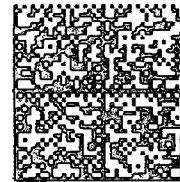
151 Meeting Street, Suite 400  
Charleston, South Carolina 29401

**RECEIVED**

DEC 27 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211



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12/22/2017

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