

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2017-000882

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SC Court of Appeals

In Re: Eleanor McCarthy Lenahan Trust under agreement Dated July 12, 2001.

Kathleen Suzanne Heslin and Maureen Teresa Mosley, in their capacities as
Cotrustees of the Eleanor McCarthy Lenahan Trust under agreement
dated July 12, 2001.....Appellants,

v.

Mary Kathleen Lenahan, individually and in her capacity as Trustee of the
Art. X(35) MKL Trust Share UAD 071201, Jean Marie Qualliu, Joan Eleanor
DeMaio, and Christine Ann Lenahan Respondents,

Of Whom Mary Kathleen Lenahan and Jean Marie Qualliu are Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2015-CP-07-001980

IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
Dated July 12, 2001)

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSELY, in)
their capacities as Co-trustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

MARY KATHLEEN LENAHAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAN,)

Respondents.)

SUPPLEMENTAL ORDER

THIS ORDER SHALL serve as supplement to and clarification of this Court's Order, filed February 3, 2017, granting Respondents', Mary Kathleen Lenahan, individually and in her capacity as Trustee of the Art. X(35) MKL Trust Share UAD 011201, and Jean Marie Qualliu, Motion for Partial Summary Judgment.

Respondents by written motion had moved for an order dismissing Petitioners' second cause of action and a determination by the Court that Respondents' submission of complaints regarding one of Petitioners' counsel with the South Carolina Office of Disciplinary Counsel (the "ODC") did not and could not violate a trust agreement's no contest restriction justifying Petitioners' removal of Respondents as trust beneficiaries and did not breach a private agreement between

Petitioners and Respondents. The hearing on the Respondents' Motion for Partial Summary Judgment, along with Respondents' Motion to Amend the Answer and Petitioners' Motion to Amend the Complaint, was held on February 2, 2017. Present at the hearing were Sean Michael Bolchoz, Esquire, attorney for Petitioners, and Kelly M. Jolley, Esquire, attorney for Respondents. On February 3, 2017, this Court issued a Form 4 order granting Respondents' Motion for Partial Summary Judgment, Respondents' Motion to Amend the Answer, and Petitioners' Motion to Amend the Complaint (the "Order"). On February 10, 2017, Petitioners filed a Motion for Reconsideration, Alteration and/or Amendment. For the reasons stated herein, Petitioners' motion is granted in part.

Petitioners argue that the Order is in error and unclear for several reasons. Petitioners' arguments and this Court's response to each are set forth below:

1. The Order is in error and/or unclear in that it identifies no specific basis or grounds for the grant of partial summary judgment to Respondents Mary Jean Lenahan and Jean Marie Qualliu ("Respondents"), sets forth no reasoning for the ruling, and points to no evidentiary material as support for the ruling.

Respondents' motion for partial summary judgment did not end the case and this Court's Form 4 order was not issued in error. Nonetheless, for the sake of clarity, this Court grants Petitioners' motion in part and provides the following grounds for the Court's earlier grant of partial summary judgment to Respondents. In their Petition, Petitioners' complain that Respondents violated a no contest restriction contained in the Fourth Amendment and Restatement of Trust Agreement of Eleanor McCarthy Lenahan, dated February 22, 2012 (the "Trust Agreement"), as well as a private agreement between the parties, defined as the Agreement and Release in the Petition, by filing letters of complaint with the ODC. Respondents argue that these letters were solely regarding Petitioners' counsel Douglas Delaney and that they should be granted summary judgment on Petitioners' first cause of action for a

declaratory judgment insofar as that claim is based on the allegation that Respondents' actions, including their communications with the ODC, constituted and constitute a violation of Article XI of the Trust Agreement. Respondents also argued that they should be granted summary judgment on all of Petitioners' second cause of action for a breach of contract, which contends that the "proceedings" initiated by Respondents in the ODC constituted and constitute a violation of the Agreement and Release.

This Court finds as a matter of law that Respondents' letters of complaint to the ODC did not constitute a contest of the Trust Agreement and did not breach the Agreement and Release between the parties. The ODC's jurisdiction is strictly limited to complaints involving attorneys and judges and the ODC has no jurisdiction over trust contests or anyone other than judges or lawyers, and it has no authority to alter the administration or handling of a trust. Complaints to the ODC, regardless what any individual may fear, are privileged and, due to the limited jurisdiction of the ODC, cannot harm a person who is neither an attorney nor a judge. Additionally, Lawyer Disciplinary Enforcement Rule 13 included in Rule 413, South Carolina Appellate Rules, provides that all communications from a complainant to the Commission of Lawyer Conduct and Office of Disciplinary Counsel are absolutely privileged and grants complainants with immunity from a civil suit related to such communications. As stated in Rule 13:

Communications to the Commission, Commission counsel, disciplinary counsel, or their staffs relating to misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings and testimony given in the proceedings shall be absolutely privileged, and no civil lawsuit predicated thereon may be instituted against any complainant or witness.

SCACR Rule 413.

Furthermore, it is well settled in South Carolina that public policy is against enforcing no contest clauses, especially where – as in this instance – probable cause exists for the contest based on justice and morality. Individuals have a right to complain to the ODC about the harm they believe they have received due to the actions of counsel. Trustees should not be able to retaliate against beneficiaries who file confidential claims against the legal counsel of trustees and should not be able to use those privileged letters to the ODC as grounds for refusing to make trust distributions to the beneficiaries or for charging all legal fees to the complaining beneficiaries. Therefore, insofar as the no contest provision in the Trust Agreement would disinherit Respondents based on their initiating a complaint with the ODC, that no contest provision is void as against public policy.

Lawyer Disciplinary Enforcement Rule 13 included in Rule 413 also bars Petitioners' claim that the Respondents' letters to the ODC breached the Agreement and Release. In addition, the Agreement and Release does not contain any provision prohibiting Respondents from filing grievances against Petitioners' counsel. Even if such a provision were included in the Agreement and Release, that provision would be void as against public policy and unenforceable. As a result, this Court finds as a matter of law that Respondents' initiation of the ODC "proceedings" and complaint letters to the ODC cannot serve as the basis for any liability. Accordingly, this Court grants Respondents partial summary judgment on Petitioners' declaratory judgment action and determines that Respondents' initiation of a proceeding with the ODC and letters of complaint with the ODC did not violate the no contest restriction in the Trust Agreement. Additionally, this Court grants Respondents summary judgment on Petitioners' second cause of action and finds that Respondents did not breach the Agreement and Release by sending letters of complaint to the ODC.

2. The Order is in error and/or unclear in that it appears to disregard and conflict with this Court's prior order, dated April 18, 2016, denying the Respondents' motion to dismiss, which motion was based on the same legal grounds as the Respondents' motion for partial summary judgment.

This Court's April 18, 2016, Form 4 Order denying Respondents' motion to dismiss the Petition, also based on Lawyer Disciplinary Enforcement Rule 13 included in Rule 413, did not establish the law of the case nor does it preclude this Court from granting Respondents' motion for summary judgment for the reasons set forth above. Accordingly, Respondents' motion for reconsideration on this ground is denied.

3. The Order is in error and/or unclear in that, by ruling that "Defendants' Motion for Partial Summary Judgment is hereby granted," it appears to grant all relief requested by the Respondents in their motion for partial summary judgment, which relief includes a request for "an Order dismissing Petitioner's second cause of action" for breach of contract, even though the Order grants the Petitioners' motion to amend their original petition, which amended petition also includes a cause of action for breach of contract.

South Carolina Rule of Civil Procedure 15(a) requires that leave to amend a complaint "be freely given if justice so requires..." and South Carolina Courts interpret this rule liberally. "Leave to amend pleadings pursuant to Rule 15 SCRPC, shall be liberally and freely given when justice so requires and does not prejudice any other party." *Crestwood Golf Club, Inc. v. Potter*, 328 S.C. 201, 493 S.E.2d 826 (1997); *Pruitt v. Bowers*, 330 S.C. 483, 499 S.E.2d 250 (S.C. App. 1998). "This rule strongly favors amendments and the Court is encouraged to freely grant leave to amend." *Jarrell v. Seaboard Sys. R.R.*, 294 S.C. 183, 363 S.E.2d 398 (S.C. App. 1987).

Respondents did not argue against the amendment by the Petitioners, other than alleging that the Court should not allow Petitioners to add a claim for defamation based solely on Respondents' communications with the ODC. This Court found that no prejudice would inure against the Respondents and determined that justice required the Court to allow Petitioners'

proposed amendment. Accordingly, this Court granted Petitioners' Motion to Amend. The grant of Petitioners' Motion to Amend in no way reverses this Court's grant of partial summary judgment to the Respondents, which still applies to the causes of action set forth in Petitioners' Amended Petition and any other future pleadings in this matter. Therefore, Petitioners' motion for reconsideration on this ground is denied.

4. The Order is in error and/or unclear in that it appears to grant the requested relief of dismissal of the entire breach of contract cause of action, notwithstanding that, in their motion for partial summary judgment, Respondents also indicate they are only seeking summary judgment as to the issue of whether the Office of Disciplinary Counsel (ODC) complaints can "breach a private agreement between [the parties]."

Respondents stated in their motion for Partial Summary Judgment that the "motion seeks the complete dismissal of Petitioners' second cause of action and a determination by the Court that Respondents' initiation of a proceeding with the ODC did not violate the no contest restriction of the Trust Agreement." Motion for Partial Summary Judgment p. 2. Additionally, both in their motion and at the hearing on the motion, Respondents argued that the entire second cause of action for breach of contract was based on Petitioners' contention that the "proceedings" Respondents initiated at the ODC by submitting their complaint letters constituted a violation of the Agreement and Release. Respondents' argument and request for relief encompassed all of Petitioners' second cause of action for breach of contract and this Court's Order granted Respondents summary judgment on Petitioner's entire breach of contract action as requested by Respondents. Accordingly, Petitioners' motion for reconsideration on this ground is denied.

5. The Order is unclear in that it grants the Petitioners' motion to amend their original pleadings to include a claim for defamation against the Respondents based solely upon the ODC proceedings, while apparently ruling at the same time that the ODC proceedings, or materials from the ODC proceedings, cannot serve as the basis for any part of Petitioners' other two causes of action.

As set forth above, this Court follows precedent in allowing the liberal amendment of pleadings. However, in granting Petitioners leave to amend their petition, this Court was not ruling and has not ruled on the validity or appropriateness of the causes of action proposed by Petitioners in their Amended Petition. Therefore, Petitioners' motion for reconsideration on this ground is denied.

Accordingly, Petitioners' Motion for Reconsideration, Alteration and/or Amendment is GRANTED IN PART and DENIED IN PART as set forth above.

IT IS SO ORDERED.

Carmen T. Mullen
Circuit Judge for the Fourteenth Circuit

March ____, 2017
Beaufort, South Carolina



Beaufort Common Pleas

Case Caption: Kathleen Suzanne Heslin , plaintiff, et al VS Mary Kathleen Lenahan ,
defendant, et al
Case Number: 2015CP0701980
Type: Order/Other

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2017-03-14 10:00:37 page 8 of 8

ELECTRONICALLY FILED - 2017 Mar 14 10:23 AM - BEAUFORT - COMMON PLEAS - CASE#2015CP0701980

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP- 07-01980

Kathleen Suzanne Heslin, et al

Mary Kathleen Lenahan, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Paige Chamberlain Ornduff

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants' Motion for Partial Summary Judgment is hereby granted. Additionally, Plaintiffs' Motion to Amend Petition is hereby granted. Further, Defendants' Motion to Amend Answer is hereby granted.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Beaufort Common Pleas

Case Caption: Kathleen Suzanne Heslin , plaintiff, et al VS Mary Kathleen Lenahan ,
defendant, et al
Case Number: 2015CP0701980
Type: Order/Form 4

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2017-02-03 12:00:49 page 4 of 4

ELECTRONICALLY FILED - 2017 Feb 03 12:21 PM - BEAUFORT - COMMON PLEAS - CASE#2015CP0701980

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN RE: ELEANOR MCCARTHY
LENAHAN TRUST under agreement
dated July 12, 2001

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in
their capacities as Cotrustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

Petitioners,

v.

MARY KATHLEEN LENAHAN,
individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
071201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMATIO, and CHRISTINE
ANN LENAHAN,

Respondents.

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980

ORDER

THIS MATTER comes before this Court by way of Petitioners' Motion to Compel, dated May 10, 2016 (the "Motion"), wherein the Petitioners asserted that Respondents Mary Lenahan and Jean Qualliu have failed to fully and completely answer certain Interrogatories and Requests for Production:

A HEARING on the Motion was held before this Court on June 13, 2016; present at the hearing were Sean Bolchoz and Doug Delaney, counsel for the Petitioners; and Kelly Jolley and Michael Cerrati, counsel for Respondents Mary Lenahan and Qualliu; and

AFTER REVIEWING the Motion, the Petitioners' discovery requests and the Respondents' answers to same, and after hearing and considering the arguments of counsel, I find and conclude as follows:

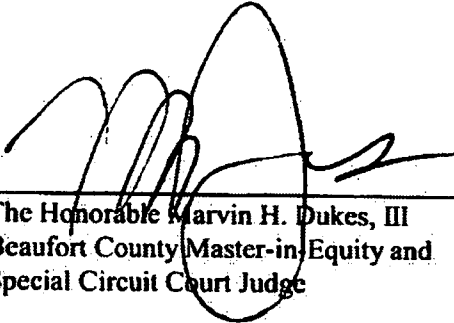
1. Petitioners' Interrogatories Numbers 10 and 11 both requested information concerning communications between Respondents Mary Lenahan and Qualliu to the S.C. Office of Disciplinary Counsel ("ODC"); the Respondents objected on the grounds of "attorney-client privilege, the work product doctrine, or any other applicable privilege." During the hearing, the Respondents clarified this statement and asserted that the privilege being referred to here is in Rule 413, SCACR, Lawyer Disciplinary Enforcement, Rule 13 which, they claim, holds that communications to the ODC shall be absolutely privileged.
2. The Petitioners argued against such reading of Rule 13, contending that because the Circuit Court has already previously denied the Respondents' motion to dismiss the within action – which motion was itself based upon the alleged immunity of Respondents Mary Lenahan and Qualliu from the Petitioners' action under Rule 13 – the communications associated with this action (including those relating to the ODC proceeding) are not subject to immunity, or otherwise privileged. For various reasons, I disagree with the Petitioners' position in this regard.
3. First, the Circuit Court's previous Order is a "Form 4" order and contains no findings of fact or conclusions of law, and there is nothing in the Form 4 order reflecting that the Court has adopted or otherwise endorsed the Petitioners' position.¹ Second, after the hearing on the Motion, this Court contacted Lee Coggiola at the ODC for guidance on this issue. This Court was informed that the ODC interprets Lawyer Disciplinary Enforcement Rule 12 to mean that even the *existence* of a pending case is confidential and privileged, which would also obviously include the filings and complaints in that case. The ODC proceeding at issue here is still pending and active; therefore, under Rule 12, filings, complaints, communications or any other documents relating to the ODC proceeding at issue in this case are privileged, and thus shielded from disclosure by Respondents Mary Lenahan and Qualliu. The Petitioners' Motion with regard to Interrogatories 10 and 11 is therefore denied. For

¹See the (revised) Order dated April 18, 2016 and signed by The Honorable Carmen Mullen ("April 18 Order").

the same reasons, this Court also denies the Petitioners' Motion with regard to Request to Produce Numbers 3, 7 and 8.

4. In light of this Court's holding as to the applicability of Rule 12, as set forth hereinabove, the Petitioners are also prohibited from examining, questioning or deposing the Respondents concerning any filings, complaints, communications or any other documents related to the pending ODC matter, including but not limited to those documents already in the Petitioners' possession, and the Petitioners are further prohibited from examining, questioning or deposing the Respondents concerning any verbal communications relating to the pending ODC matter, whether at deposition, trial, or otherwise.²
5. The Petitioners also moved to compel the Respondents to provide full and complete responses to Interrogatories Number 15, 16, 17 and 18, and argue that the factual basis for such defenses are found nowhere in the Respondents' Answer. I agree with the Petitioners, grant the Petitioners' Motion with regard to Interrogatories Number 15, 16, 17 and 18 and direct the Respondents to provide the complete factual bases for the specific defenses addressed in the said Interrogatories. The Respondents shall have fifteen (15) days from the date of this Order within which to supplement their Interrogatory responses.

IT IS SO ORDERED.


The Honorable Marvin H. Dukes, III
Beaufort County Master-in-Equity and
Special Circuit Court Judge

Beaufort, South Carolina
7/13, 2016

²Once the ODC proceeding is no longer pending or active, then filings, complaint or other documents related to the such ODC matter will no longer be shielded from disclosure and/or discovery.

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

AMENDED FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-07-01980

Kathleen Suzanne Heslin

Mary Kathleen Lenahan

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Leigh Ellen Gray

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: This matter came before the Court upon Defendant's Motion to Dismiss, heard by the Court on January 13, 2016. At that hearing, the Court denied the Motion to Dismiss and indicated that limited discovery could proceed.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2142

Judge Code

4-18-16
Date

22 day of April, 2016

22 day of Apr, 2016

Mr. H. H. H.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Mullen, Carmen T. Secretary (Jamie Thompson)

From: Laura F. Obi <admin@bolchozlaw.com>
Sent: Tuesday, March 29, 2016 10:20 AM
To: Mullen, Carmen T. Secretary (Jamie Thompson)
Cc: Sean Michael Bolchoz
Subject: FW: Kathleen Suzanne Heslin and Maureen Theresa Mosley, et al. v. Mary Kathleen Lenahan, et al. - Case No. 2015-CP-07-1980
Attachments: Form 4 - motion to dismiss.PDF

Dear Jamie:

Per your request, I am re-sending the below email regarding a correction that should be made to the Form 4 filed on February 11, 2016 in the above-captioned case (see attached). Please advise as to this status at your earliest convenience. Many thanks for your assistance.

Sincerely,

Laura F. Obi



BOLCHOZ
LAW FIRM, PA

admin@bolchozlaw.com

Post Office Box 828 | 6 Buckingham Plantation Drive, Suite B
Bluffton, South Carolina 29910

Tel 843-836-3033 | Fax 843-836-3035

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or the work product doctrine. If you have received this electronic message in error, please reply to the sender and destroy this message.

From: Laura F. Obi [mailto:admin@bolchozlaw.com]
Sent: Tuesday, March 1, 2016 10:50 AM
To: 'cmullensc@sccourts.org' <cmullensc@sccourts.org>
Cc: Sean Michael Bolchoz (sbolchoz@bolchozlaw.com) <sbolchoz@bolchozlaw.com>
Subject: Kathleen Suzanne Heslin and Maureen Theresa Mosley, et al. v. Mary Kathleen Lenahan, et al. - Case No. 2015-CP-07-1980

Jamie,

As a follow-up to our telephone conversation of this morning, please see an attached copy of the Form 4 order we were discussing. The motion to dismiss in this case was filed by the respondents; therefore, the order needs to be corrected to reflect respondents' motion to dismiss.

Thank you for your assistance and please keep me advised with regard to correction of the order.

Sincerely,

Laura F. Obi



BOLCHOZ
LAW FIRM, PA

admin@bolchozlaw.com

Post Office Box 828 | 6 Buckingham Plantation Drive, Suite B
Bluffton, South Carolina 29910

Tel 843-836-3033 | Fax 843-836-3035

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STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2015 CP-07-01980

Kathleen Suzanne Heslin, et al

Mary Kathleen Lenahan, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Paige Chamberlain Ornduff

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion to Stay Litigation is hereby denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2142
Judge Code

11/9/16
Date

For Clerk of Court Office Use Only

This judgment was entered on the 14 day of Nov, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 18 day of Nov, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

[Signature]
CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)
)

IN THE PROBATE COURT
CASE NO. 2015-GC-07-00043

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)
)

ORDER FOR REMOVAL

Petitioners,)
)
)

v.)
)
)

MARY KATHLEEN LENAHAAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAAN,)
)

Respondents.)
)
)

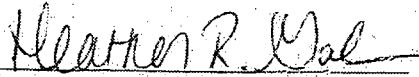
THIS MATTER came before the Court pursuant to the Motion for Removal, by the
Petitioners herein, of the within action from this Court to the Court of Common Pleas for Beaufort
County, South Carolina; and

UPON REVIEW of the pleadings filed in this action, the Court has determined that removal
is appropriate under S.C. Code Ann. §§62-1-302 and 62-1-303;

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that Probate Court Case
Number 2015-GC-07-00043, is hereby removed to the Circuit Court for the Fourteenth Judicial
Circuit of South Carolina, which shall proceed upon the matter *de novo*, pursuant to Section 62-1-
302.

FILED
2015 AUG 17 PM 3:13
BEAUFORT COUNTY, SC

IT IS SO ORDERED.



The Honorable Heather R. Galvin
Beaufort County Probate Court

Beaufort, South Carolina
August 17th, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

MARY KATHLEEN LENAHA,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHA,)

Respondents.)

IN THE PROBATE COURT
CASE NO. 2015 SCNT 0043

**PETITION FOR DECLARATORY
JUDGMENT AND OTHER RELIEF**

The Petitioners herein, Kathleen Suzanne Heslin and Maureen Theresa Mosley, as cotrustees of the Eleanor McCarthy Lenahan Trust under agreement dated July 12, 2001 (the "Trust"), complaining of the Respondents Mary Kathleen Lenahan and Jean Marie Qualliu, would show the following unto this Honorable Court:

JURISDICTION AND VENUE

1. The Petitioners are citizens and residents of Beaufort County, South Carolina and, at all times pertinent hereto, were and are cotrustees of the Trust.
2. Respondent Mary Kathleen Lenahan ("Mary Lenahan"), is upon information and belief, a citizen and resident of the State of Georgia, a qualified beneficiary of the

Trust, and the current Trustee of the Art. X(35) MKL Trust Share UAD 071201 ("MKL Trust").

3. Respondent Jean Marie Qualliu ("Qualliu") is, upon information and belief, a citizen and resident of the State of New Jersey, and a qualified beneficiary of the Trust.
4. Respondent Joan Eleanor DeMaio is, upon information and belief, a citizen and resident of the State of New Jersey, and a qualified beneficiary of the Trust.
5. Respondent Christine Ann Lenahan is, upon information and belief, a citizen and resident of Beaufort County, South Carolina, and a qualified beneficiary of the Trust.
6. This is an action for, among other relief, declaratory judgment and relief relating to the Trust, pursuant to the S.C. Uniform Declaratory Judgments Act, S.C. Code Ann. §15-53-10, *et seq.*
7. The parties, subject matter and all things herein alleged are within the jurisdiction of this Court and venue of this action is proper.

GENERAL AVERMENTS

8. Each and every allegation contained in paragraphs 1 through 7 above is realleged as if fully repeated herein verbatim.
9. On or about August 8, 2012, the Settlor of the Trust, Eleanor McCarthy Lenahan, passed away.
10. Upon the passing of the Settlor, the Petitioners subsequently began serving as cotrustees of the Trust, and have served in such capacity since that time.
11. Under the terms of the Fourth Amendment and Restatement of Trust Agreement of Eleanor McCarthy Lenahan, dated February 22, 2012 (the "Trust Agreement"), upon the death of the Settlor, the cotrustees are to divide the Trust assets into shares for the beneficiaries of the Trust.
12. Subsection 1 of Article XI of the Trust, sets forth, in pertinent, part as follows:

No Contest Restriction. The Settlor has, intentionally and with full knowledge, either failed to provide for more beneficiaries and/or provided for such beneficiaries in a more limited manner than other

beneficiaries in this Trust Agreement.

(I) Impact on Beneficiary of Action Taken by Beneficiary. If any beneficiary under this Trust Agreement, singly or in conjunction with any other person or persons, directly or indirectly,

- (i) contests in any court the validity of this Trust Agreement or, in any manner, seeks to impair or invalidate any of its provisions; . . .
- (iv) objects in any manner to any action taken or proposed to be taken in good faith by the Trustee;
- (v) objects to any construction or interpretation of this Trust Agreement, or any provision of it, that is adopted or is proposed in good faith by the acting Trustee; . . .
- (xi) participates, conspires, or assists with another in any of the previous actions in a manner adverse to this Trust Agreement, then and in that event that person's right to take any interest given to him or her by or under this Trust Agreement shall be determined as it would have been determined if the person had predeceased the execution of this instrument without surviving issue.

- 13. Subsection 3 of Article XI sets forth that the cotrustees are authorized to defend any violations of Subsection 1, and deduct the costs of such defense from the share, if any, of the challenging beneficiary(ies).
- 14. Shortly after the Settlor's death, Respondent Mary Lenahan began to object to actions taken by the Petitioners in their administration and operation of the Trust, and contested provisions of the Trust Agreement and the Petitioners' authority under same.
- 15. In 2014, Respondent Qualliu began to object to actions taken by the Petitioners in their administration and operation of the Trust, and contested provisions of the Trust Agreement and the Petitioners' authority under same and, further, joined with and

assisted Respondent Mary Lenahan in her objections.

16. The actions of Respondents Mary Lenahan and Qualliu, as set forth hereinabove, constituted and constitute violations of Article XI of the Trust and, accordingly, the Respondents' respective beneficiary interests in the Trust are and were, at all times pertinent hereto, subject to revocation as a result of their actions.
17. Rather than enforce the provisions of Article XI against Respondents Mary Lenahan and Qualliu due to their actions, the Petitioners, in the interests of family harmony and to honor the memory of the Settlor, decided instead to try and assuage the objections of Respondents Mary Lenahan and Qualliu.
18. In order to, in part, address the objections of Respondents Mary Lenahan and Qualliu and facilitate the closing of the Trust, the Petitioners elected to create the MKL Trust, one of the purposes of which was to place a real property asset, owned by the Trust, into a separate Trust for which Respondent Mary Lenahan would serve as Trustee.
19. The Petitioners created the MKL Trust not just for the benefit of the Trust as a whole, but in order to avoid any further dispute with Respondent Mary Lenahan and, in turn, avoid the necessity of enforcing the cotrustees' remedies under Article XI of the Trust.
20. In late 2014, the Petitioners prepared an agreement ("Agreement") relating to the creation of the MKL Trust and resolution of all remaining matters and stated concerns from Respondents Mary Lenahan and Qualliu, as well as the disposition of Trust assets among the remaining beneficiaries.
21. The Petitioners drafted the Agreement in the form of a petition in the event the Petitioners elected to later file the same in the probate court.
22. The Agreement confirmed the Petitioners' understanding with Respondent Mary Lenahan that the MKL Trust would be created and Respondent Mary Lenahan would become the sole Trustee and beneficiary of the MKL Trust, and that she would have no further interest in the Trust or Trust assets.
23. The Agreement further provided, among other things, that all of the beneficiaries had satisfied themselves with the accounting of the Trust, with the Petitioners' plans for

administration of the Trust assets and disposition of same, and that all parties to the Agreement had had the opportunity to secure the advice of counsel prior to entering into the Agreement.

24. Respondents Mary Lenahan and Qualliu were represented by counsel prior to and at the time of their entering into and execution of the Agreement.
25. All of the beneficiaries, including Respondents Mary Lenahan and Qualliu, executed the Agreement.
26. As part of the Agreement, the parties executed a release, consent indemnification and hold harmless agreement ("Release").
27. Paragraph 1 of the Release reflects that the Respondents agreed to indemnify and hold harmless the Petitioners, as well as their privies, for any actions taken on behalf of the Trust, including but not limited to creation of the MKL Trust and preparation of the Agreement.
28. Paragraph 4 of the Release reflects that, in the event the cotrustees are made a party to any action, claim, suit or proceeding, the parties, including Respondents Mary Lenahan and Qualliu, are obligated to fully and entirely indemnify and hold harmless the cotrustees from any and all costs and attorney's fees incurred by the cotrustees and the Trust in defense against the action, claim, suit or proceeding.
29. On or about March 23, 2015, Respondent Qualliu sent a letter to the Office of Disciplinary Counsel ("ODC") objecting to the Agreement and Release she had previously executed, and accusing the Petitioners and their counsel of, among other things, breach of fiduciary duty, and seeking some form of relief from the ODC.
30. On or about April 9, 2015, Respondent Mary Lenahan sent a letter to the ODC objecting to the Agreement and Release she had previously executed, and accusing the Petitioners and their counsel of, among other things, breach of fiduciary duty, and seeking some form of relief from the ODC.
31. The Petitioners are informed and believe that the actions of Respondents Mary Lenahan and Qualliu set forth hereinabove constitute and constituted a violation of Article XI of the Trust.

32. The Petitioners are informed and believe that the "proceeding" initiated in the ODC constitutes and constituted a violation of the Agreement and Release.

FOR A FIRST CAUSE OF ACTION AGAINST
RESPONDENTS MARY LENAHAH AND QUALLIU

(Declaratory Judgment)

33. Each and every allegation contained in paragraphs 1 through 32 above is realleged as if fully repeated herein verbatim.
34. Pursuant to S.C. Code Ann. Section 15-53-30, the Petitioners are interested parties under the Trust in their capacities as cotrustees.
35. The Petitioners are informed and believe that a real and justiciable controversy exists, in that the actions of Respondents Mary Lenahan and Qualliu, as set forth more fully hereinabove, constituted and constitute a direct violation of the Trust, including but not limited to Article XI of the Trust, for which this Court is able to provide remedy and relief.
36. The Petitioners are informed and believe that this Court should declare as follows:
- a. That the Petitioners, as cotrustees of the Trust, have the power and authority to administer the Trust and its assets;
 - b. That the Petitioners, as cotrustees of the Trust, had the power and authority to create the MKL Trust in their administration of the Trust;
 - c. That the Petitioners, as cotrustees of the Trust, had the power and authority to create the Agreement and Release at issue;
 - d. That the actions of Respondents Mary Lenahan and Qualliu, as set forth more fully hereinabove, constituted and constitute a violation of Article XI of the Trust;
 - e. That as a result of the violation by Respondents Mary Lenahan and Qualliu of Article XI, the Trust and its assets should be administered pursuant to Article XI, with Respondents Mary Lenahan and Qualliu of Article XI being dispossessed of any interest in the Trust or its assets, including but not

limited to the MKL Trust and its assets, and that the Petitioners are entitled to determine and interpret the Trust Agreement as it would be determined if Respondents Mary Lenahan and Qualliu had predeceased the execution of the Trust Agreement without surviving issue;

- f. That Respondent Mary Lenahan is no longer Trustee or a beneficiary of the MKL Trust;
- g. That Petitioners are the cotrustees of the MKL Trust; and
- h. That Petitioners, as cotrustees of the Trust, are authorized to bring the within action and deduct the costs of same from the share of Respondents Mary Lenahan and Qualliu, if any remains.

**FOR A SECOND CAUSE OF ACTION AGAINST
RESPONDENTS MARY LENAHAH AND QUALLIU**

(Breach of Contract)

- 37. Each and every allegation contained in paragraphs 1 through 36 above is realleged as if fully repeated herein verbatim.
- 38. The Agreement prepared by the Petitioners and executed by Respondents Mary Lenahan and Qualliu was and is an enforceable contract.
- 39. Respondents Mary Lenahan and Qualliu are in breach of the Agreement in the following particulars:
 - a. By initiating a proceeding in the ODC against the cotrustees and/or their representative;
 - b. By asserting claims in the ODC against the cotrustees and/or their representative;
 - c. By violating the express terms of the Release; and
 - d. By violating the covenant of good faith and fair dealing inherent in all contracts.
- 40. As a direct result of the breach by Respondents Mary Lenahan and Qualliu, the cotrustees and the Trust have incurred damages, including, but not limited to,

attorney's fees and costs associated with the within action.

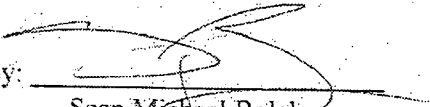
41. Pursuant to the terms of the Agreement, the Petitioners are entitled to be indemnified and held harmless against all such fees and costs by Respondents Mary Lenahan and Qualliu.

WHEREFORE, the Petitioners, having brought their Petition against the Respondents, would request that this Court issue its Order as follows:

- A. As to the First Cause of Action: Declaring that: the Petitioners, as cotrustees of the Trust, have the power and authority to administer the Trust and its assets; that the Petitioners had the power and authority to create the MKL Trust in their administration of the Trust; that the Petitioners had the power and authority to create the Agreement and Release at issue; that the actions of Respondents Mary Lenahan and Qualliu, as set forth more fully hereinabove, constitute and constituted a violation of Article XI of the Trust; that as a result of the violation of Article XI by Respondents Mary Lenahan and Qualliu, the Trust and its assets should be administered pursuant to Article XI, with Respondents Mary Lenahan and Qualliu of Article XI being dispossessed of any interest in the Trust or its assets, including but not limited to the MKL Trust and its assets, and that the Petitioners are entitled to determine and interpret the Trust Agreement as it would be determined if Respondents Mary Lenahan and Qualliu had predeceased the execution of the Trust Agreement without surviving issue; that Respondent Mary Lenahan is no longer Trustee or a beneficiary of the MKL Trust; that Petitioners are the cotrustees of the MKL Trust; and that the Petitioners are authorized to bring the within action and deduct the costs of same from the share of Respondents Mary Lenahan and Qualliu, if any remains;
- B. As to the Second Cause of Action: Granting the Petitioners' judgment against Respondents Mary Lenahan and Qualliu for all of their actual, incidental and consequential damages, including but not limited to extraordinary Cotrustee fees and their attorney's fees and costs in the within action; and

C. As to all Causes of Action: Awarding the Petitioners any such other and further relief as this Court deems just and proper.

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By: 

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Bluffton, South Carolina

August 14, 2015

\\Seanbolchoz-pc\H to M Clients\Heslin, Kathleen - BL026\petition - dec relief - 3.wpd

STATE OF SOUTH CAROLINA
FOURTEEN JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
CASE NUMBER 2015-CP-07-01980

IN RE:

ELEANOR MCCARTHY LENAHAAN TRUST UNDER
AGREEMENT DATED JULY 12, 2001; KATHLEEN
SUZANNE HESLIN AND MAUREEN THERESA
MOSLEY, ET AL

PLAINTIFFS

VERSUS

FEBRUARY 2, 2017
TRANSCRIPT OF HEARING
BEAUFORT, SOUTH CAROLINA

MARY KATHLEEN LENAHAAN, ET AL

DEFENDANTS

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

APPEARANCES

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1 BEGINNING 1:00 P.M.

2 BY THE COURT:

3 THE COURT: All right. Well, it looks like you all
4 are up first anyway. Am I correct, on the roster, for
5 1:00 o'clock? Yes?

6 MS. JOLLEY: Yes, your Honor.

7 THE COURT: All right. And there is outstanding in
8 this case you have a motion for partial summary judgment
9 and a motion to amend the answer. Is that correct?

10 MS. JOLLEY: And it is a motion to amend the
11 complaint, too.

12 THE COURT: Oh. I'm sorry. A motion to amend the
13 complaint.

14 MS. JOLLEY: Yes, your Honor.

15 THE COURT: And do you have a motion to amend the
16 answer as well?

17 MS. JOLLEY: I do. You were right about that.

18 THE COURT: Okay.

19 MS. JOLLEY: There is also the --

20 THE COURT: Okay. Just want to make sure I was on
21 -- and let me ask you, did we continue this one time,
22 possibly, this motion, ever?

23 MS. JOLLEY: We didn't. It was filed, your Honor,
24 before the motion to stay, and I believe you had read it
25 before the motion to stay, but Mr. Bolchoz hadn't had

1 his ten days to respond, so we didn't do it then.

2 THE COURT: Okay. Just want to make sure. I just
3 remember that I've read it before.

4 MS. JOLLEY: Yeah.

5 THE COURT: So, you know, it was groundhog day and
6 all, so I just wanted to make sure I wasn't crazy. So,
7 anyway, okay. All right. So do you want to start? Is
8 it your motion we need to start with first, the motion
9 for partial summary judgment?

10 MS. JOLLEY: Yes, your Honor.

11 THE COURT: Whenever you're ready.

12 MS. JOLLEY: All right. Thank you. I represent
13 the defendants in this case, Jean Qaulliu and Mary
14 Kathleen Lenahan. They are the defendants. You may
15 remember, your Honor, that this case is about the
16 trustees of a trust in which the beneficiaries are
17 several siblings. I represent two of the siblings. Mr.
18 Bolchoz represents two of the siblings. Those siblings
19 are the trustees of the trust, and they have brought an
20 action against my clients, basically because my clients
21 filed a letter to the ODC complaining about the
22 trustees' counsel, Mr. Delaney. Previously, there was a
23 private agreement between the parties. Let me hand it
24 up.

25 THE COURT: Okay.

1 MS. JOLLEY: This will be an exhibit. First
2 exhibit. That resolved some issues between these
3 parties a few years ago. There is also, of course, the
4 trust agreement, and this is our second exhibit. And
5 so, those two agreements, your Honor, are kind of the
6 basis.

7 We have here a partial motion for summary judgment.
8 What we're specifically arguing is that my clients'
9 initiation of proceedings with the ODC against Mr.
10 Delaney could not violate two things: (1) that private
11 agreement that was Exhibit 1 up there, and (2) the no-
12 contest provision in the trust, which was Exhibit 2. So
13 that's what we're arguing.

14 There were two causes of actions in the complaint.

15 THE COURT: Okay.

16 MS. JOLLEY: The first one is a declaratory
17 judgment about the trust specifically. There are some
18 other allegations about breach of the trust agreement.
19 We are not arguing those here.

20 THE COURT: Okay.

21 MS. JOLLEY: We're specifically on the issue of the
22 ODC complaint. For the breach of contract, the only
23 thing they've alleged in the complaint is that they
24 breached the contract by filing this ODC complaint, so.

25 And I'm going to tell you, it's going to get a

1 little confusing, cause after we do this, we're going to
2 talk about amending the complaint and everything,
3 anyway, but.

4 THE COURT: Okay. Let me ask you this. Have you
5 alleged, Mr. Bolchoz, that the filing of the ODC against
6 Delaney violates the no-contact -- or no-contest
7 provision -- I'm sorry -- of the trust?

8 MR. BOLCHOZ: We have not alleged that, actually.

9 THE COURT: Okay.

10 MR. BOLCHOZ: The problem -- the problem with the
11 filings, and I have them here, actually, in what's been
12 the allegation all along in this case is not that her
13 clients made the allegations against my client, my
14 clients' former counsel, actually, my co-counsel, Doug
15 Delaney, that was never what this case was about. The
16 whole case was about, when we pled it, is about the
17 allegations that her clients made about my clients in
18 those filings with the ODC. The allegations of breach
19 of trust, breach of fiduciary duty, breach of fraud,
20 that's what our case is about. It doesn't have anything
21 to do with -- and I'll call them Mary and Jean, because
22 I cannot pronounce Jean's last name. But the two
23 sisters, Mary and Jean, the respondents, it doesn't have
24 anything to do with their allegations against the other
25 attorney, even though they were represented by counsel

1 at the time, it doesn't have anything about their
2 allegations. Whatever that case is going on with ODC is
3 going to play out the way it plays out.

4 Our case is about the allegations made against my
5 clients, the co-trustees, in direct violation of the no-
6 contest provision of the trust, which makes it
7 explicitly clear that any -- not just any contest --
8 it's not just the trust contest or something filed in
9 court -- any objections made to actions taken by the
10 trustees or any objections made to interpretations of
11 the trust advanced by the trustees subject them to the
12 no-contest provision and divestment. That's what our
13 case is about. And so, I appreciate the opportunity to
14 clarify that, because it is not about the allegations
15 against Doug Delaney, which, presumably, they're
16 entitled to make.

17 THE COURT: So does the ODC complaint say somehow
18 that your clients colluded or did something improper
19 with Delaney? Is that correct? Is that what it is?

20 MR. BOLCHOZ: Oh, yes, your Honor, it says a great
21 -- it says that and much, much more. In fact, I've got
22 excerpts of it. I mean, I don't want to cut into her
23 time, but I've got excerpts of those that I was going to
24 actually read to the Court.

25 THE COURT: My next question is, is that ODC

1 doesn't have any jurisdiction over non-lawyers or non-
2 judges. So any complaint they would have as to the
3 actions of the co-trustees is not actionable or cannot
4 result in anything. Does that make sense? At the ODC
5 level. So, again, how is that frustrating or -- I mean,
6 I've read, obviously, what the trust said. I read that
7 it said in any way. But again, I don't see how that
8 frustrated or was in violation of the no-contest
9 provision.

10 MR. BOLCHOZ: Well, I understood, your Honor. Two
11 things in response to that. First of all, again, I'm
12 going by a strict reading of the trust itself, which,
13 you know, I mean, again, I would point out that the
14 reason -- we believe the reason that was in there. Now,
15 this was a trust drafted by Michael Jordan with his
16 client. And the quid pro quo or the payoff on that from
17 such an extreme, if you will, provision, the no-contest
18 provision is the cap on trustees' fees at Article VIII,
19 Section 3, for the co-trustee. So it's pretty clear
20 that they really wanted to tamp down on this idea of
21 objections, or basically, beneficiaries -- I think they
22 anticipated that beneficiaries were going to cause
23 problems.

24 But I would point out -- so that's my first
25 comment, just the strict reading of the trust itself.

1 THE COURT: Okay.

2 MR. BOLCHOZ: And then, my second is, I assume -- I
3 don't know -- well, I don't know if your Honor's seen
4 the affidavits, the counter affidavits that we filed in
5 response to this a few days ago. There's an affidavit
6 from Maureen Mosley, who's one of my clients and one of
7 the co-trustees. And there's also two affidavits from
8 the two other sisters who are named as interested
9 parties, but they're not litigants. They didn't answer,
10 and they're in default. So it's six sisters: two co-
11 trustees; Ms. Jolley's clients; the respondents; and two
12 other non-answering respondents.

13 But I would point out Paragraph 29 of my client's
14 affidavit, when I learned about the letters, I was
15 concerned, because, given that Mary and Jean had gone
16 behind our backs immediately after signing the agreement
17 and release, I was certain that they had sent their
18 letters to the ODC in lieu of filing a lawsuit with the
19 hope that the ODC might conclude that Kathleen and I had
20 engaged in some wrong doing so that Mary and Jean could
21 use those findings against us at a later date.

22 You know, I don't know if that ever would have
23 happened. I don't know if that's still going to happen.
24 I do know that last year, Judge Dukes ruled, and the
25 order's in the system, that when the ODC proceeding is

1 concluded, all the information in there is fair game. I
2 mean, it's not privileged. It's subject to discovery,
3 to disclosure. So it's not like that stuff would be
4 hidden forever. And you know, again, I don't know -- I
5 don't know what her clients knew. I know that they're
6 trustees of their own trust. I mean, these are not
7 unsophisticated people. I don't know what they knew. I
8 don't know what their plan is. My clients didn't know
9 what their plan is. And we haven't been able to take --
10 well, we haven't taken depositions yet, because we have
11 that -- also in Judge Dukes order, you know, that
12 stricture that we can't talk about the ODC stuff while
13 it's pending.

14 So, I don't know what they knew or where they were
15 coming from, but I do know that immediately following
16 this negotiated agreement, as a result of all the
17 trouble stirred up, you know, for the no-contest,
18 immediately following that, one of her clients refused
19 to sign the proposal for distribution right away. And
20 then, immediately, we found out while the ink was barely
21 dry on this thing, they were running off to the ODC to
22 object and complain and accuse my clients of actions
23 directly related to the agreement that they had just
24 signed.

25 So that's what our case is about. Doesn't have

1 anything to do with her clients' allegations against the
2 other side's attorney. I mean, that's not what our case
3 is about.

4 THE COURT: All right. Go ahead.

5 MS. JOLLEY: Okay. Thank you, your Honor. I've
6 read the affidavits, and even taking the petitioners'
7 factual allegations as true, quite frankly, there's just
8 no way that led us to the ODC, regardless who they
9 mention in them, can constitute a violation of the trust
10 no-contest provision. There's several reasons for this.
11 First, as your Honor's already noted, the ODC only
12 regulates judges and lawyers. And there's nothing --
13 the ODC has no jurisdiction over trusts. The ODC had no
14 jurisdiction over Mr. Delaney's clients. And the
15 affidavits from my clients made clear, they were
16 complaining in those letters about Mr. Delaney.

17 Now, it's really awkward for us to argue about the
18 content of those complaints, because several judges in
19 this case already have said that they're privileged,
20 that they're confidential, and they can't be discussed
21 here. We keep bringing them up, but they're not
22 supposed to be discussed. In fact, Rule 413 of the
23 South Carolina Appellate Rules includes the largest re-
24 enforcement rule of 13, which provides that all
25 communications with the ODC, every letter, every email,

1 every telephone call, is privileged and confidential.
2 It also grants actually complete immunity from civil
3 suit related to all the communications. And it's not
4 even questionable. It says that no civil suit shall be
5 initiated against any complainant.

6 Now, I know we brought a motion to dismiss earlier
7 in this case that was heard by your Honor, and we didn't
8 win the motion to dismiss. And I get that. But quite
9 frankly, at this point, it's pretty clear that, as far
10 as that specific allegation is, it doesn't matter that
11 whether -- and I'm not bringing those complaints out.
12 I'm not going to show you exactly what they say or
13 don't, because that's not the issue. The point is, the
14 ODC had no authority, no jurisdiction to do anything
15 regarding the trustees and the trust, and my clients
16 have asserted the fact that they knew that.

17 I understand that Mr. Delaney's clients have filed
18 these affidavits that say they thought something else
19 might happen. That really doesn't change the question
20 about the ODC and what they can do.

21 The other issues are that, what a trust contest is,
22 is actually set by statute. I understand that Mr.
23 Jordan's, you know, no-contest clause -- this is the
24 first time I've seen it -- is very broad.

25 THE COURT: Right.

1 MS. JOLLEY: I am pretty confident we could bring
2 him up here and he would not say the intent was to keep
3 people from filing ODC complaints. However, even taking
4 it at its broadest, this is not a trust contest filing
5 and administrative action with the ODC about a lawyer,
6 regardless of all the positions in it.

7 Aside though, I think it's pretty clear, not a
8 trust contest, not an ODC matter; appellate rules grant
9 immunity. But even if there was somehow that this could
10 be a contest, the fact of the matter is, public policy
11 and the trust code would preclude there being no-contest
12 in this. So a few states, California and New York,
13 always enforce no-contest clauses. Some states like
14 Florida never do. South Carolina follows the procedure
15 and the policy in the *Uniform Trust Code*. In the wills
16 section, there is actually 62-3-905 that says, if you
17 have a good-faith purpose, a no-contest clause in a
18 will, will not be enforced. Under trust, it goes a
19 little -- it goes a little back further. But since
20 1912, the common law in South Carolina is, if you have
21 good faith and present a genuine purpose and reasonable
22 belief that there is a contest or a problem, they're not
23 going to disinherit you for bringing that up.

24 The trustees in this case seem to think that,
25 because they had this no-contest clause, they can do

1 whatever they want. And even an email that says I don't
2 understand why the distributions are happening this way.
3 At one point in the discovery, I think what we're
4 actually talking about are four emails, I don't
5 understand why this is happening. They seem to think
6 those are contests.

7 But that's not what the law in South Carolina is.
8 In South Carolina, if you have good faith and you
9 genuinely believe that there is reason for this and
10 there's going to be probable cause, you -- even if it
11 was an actual contest of the trust, it wouldn't be
12 enforced against my clients. However, in this case,
13 it's not a trust contest. It's a letter to the ODC.
14 And public policy in South Carolina, the whole reason
15 there's a privilege and absolute immunity granted is
16 that the State wants people to be able to go and
17 complain about lawyers if they have an issue, so that we
18 can police ourselves. For it to say, look, yeah, you
19 can go do that, but if you do, you get disinherited by
20 the trustees because you may or may not have mentioned
21 the trustees in that complaint, it's just not feasible.

22 So, the last thing is about the contract. This
23 comes up a lot. What they're referring to is the as the
24 private agreement, your Honor, was that Exhibit 1. It
25 was actually like a petition to accept resignation of

1 co-trustees. It really is all about actions that took
2 place before this was signed. And specifically
3 regarding one of my clients, Mary Kathleen Lenahan, who,
4 there's another piece of property in the trust, and
5 ultimately, in this agreement, all of the beneficiaries
6 waived any rights they had over prior actions of the
7 trustees. And Mary specifically gave up her rights to
8 anything under the main trust in exchange for property.

9 THE COURT: Okay.

10 MS. JOLLEY: So, insofar as anything this action
11 says, hey, Mary shouldn't get anything, Mary doesn't get
12 anything. We agree. She signed this document. Jean
13 also signed this document. But there's several
14 allegations in the affidavits and in the argument and in
15 the proposed complaint that say this agreement somehow
16 meant Jean agreed to sign various things or do certain
17 things in the future. The only mention of future events
18 in this document is on Page 4 of Article VII, the last
19 sentence, which says:

20 Nothing in this says: and now everyone is going to
21 agree to do exactly what the trustees say and not ask
22 any questions, which is the way it's being interpreted.

23 So, frankly, your Honor, that's it in a nut shell.
24 We don't think that this could be a no-contest based on
25 those complaints to the ODC regardless of who they

1 mention or what they say, because they're privileged,
2 they're not a trust contest. There's no jurisdiction,
3 and it would violate public policy.

4 THE COURT: Okay. Do you want to respond, Mr.
5 Bolchoz?

6 MR. BOLCHOZ: You know, I understand the desire of
7 the respondents to continue to conflate the idea of, you
8 know, allegations against the other attorney with
9 allegations against my clients, but that isn't -- I'm,
10 that's just not what's going on here. And again, a
11 strict -- I mean, I understand that the other side
12 believes that a strict reading of the trust works a
13 harsh result. But that doesn't mean that the strict
14 reading of the trust is not appropriate here.

15 And the trust doesn't just say anything about
16 contests. I'm actually reading from the no-contest
17 provision. I think it's Article XI.

18 *Impact on Beneficiary Action Taken by*
19 *Beneficiary: If any beneficiary under this*
20 *trust agreement singly or in conjunction with*
21 *any other person or persons:*

22 *(1) contests in any court the validity*
23 *of this trust agreement or in any manner*
24 *seeks to impair or invalidate any of its*
25 *provisions;*

1 *Number 4, objects in any manner to any*
2 *action taken or proposed to be taken in good*
3 *faith by the trustee;*

4 *Number 5, objects to any construction*
5 *or interpretation of this trust agreement*
6 *or any provision of it that is adopted or is*
7 *proposed in good faith by the acting trustee.*

8 There's nothing in the trust that requires that
9 before the exclusion or before the divestment can take
10 place, the objecting parties must take their objections
11 to a forum that has authority to do anything for them.
12 There's no requirement for that. Okay? And I'm saying
13 that's basically the legal version of the, you know, old
14 adage, *if a tree falls in the forest and no one's around*
15 *to hear it, does it make a sound?*

16 Well, I mean, that's not what we're talking about
17 here. The trust -- a strict reading of the trust, which
18 I think under the law, for trust construction, if the
19 settler's intent appears on the face of the document, I
20 mean, there's -- I mean, actually, we're probably
21 entitled to summary judgment in this case, because
22 there's no question, I mean, by any reading of the
23 English language that the statements that they made
24 about my clients -- again, not about counsel -- but the
25 statements they made about my clients were objections to

1 actions taken or proposed to be taken in good faith by
2 the trustee, and actions to constructions and
3 interpretations of the trust agreement. Of course, now,
4 I mean, we're going to get into this, I guess, with
5 motions to amend, but now, contests in any court to the
6 validity of this trust agreement, now we got that,
7 because we got proposed counter claims. But I think
8 like counsel said, she's not really talking about that.
9 She's just talking about the ODC stuff, but seeks to
10 impair or invalidate any of its provisions, I mean,
11 we're -- our hands are kind of tied here.

12 Like I indicated in my motion to stay, which, you
13 know, your Honor denied, I understand, but we can't talk
14 to these -- we can't talk to the other side because a
15 mine field has been laid out for us as a result of this
16 other ruling about the ODC. And of course, once that's
17 over, then all that stuff is fair game and free and all
18 that kind of stuff. So, as far as these sophisticated
19 parties and what they ultimately hope to accomplish by
20 making these defamatory comments and allegations against
21 my clients, we won't know, and we can't know until I'm
22 able to talk to them and take their depositions, which
23 is another reason why summary judgment should be denied
24 until we can complete discovery.

25 With regard to the issue of the probable cause for

1 objecting, I mean, I, you know, I think counsel's
2 referring to Section 62-3-905 for purposes of a trust
3 contest. Actually, that creates another issue of fact,
4 because probable cause for determining whether there was
5 an objection, whether any objections that they made,
6 because they were objections, any objections that they
7 made, if there's probable cause that would justify that,
8 that's an issue of fact that ultimately has to be
9 determined by the fact finder, which is another reason
10 why summary judgment is not appropriate here.

11 With regard to the agreement and violation of it,
12 you know, again, I don't know, it looks like -- I
13 couldn't tell if you had read the affidavits that we
14 filed yet, because you looked like you were looking them
15 up on the screen, so I don't know if your Honor's
16 familiar with them yet. But I think that lays out very
17 clearly how the actions of -- I mean, it lays out,
18 basically, the whole history. This thing was never just
19 about any ODC proceedings. This thing goes back -- of
20 course, I know there's bad family blood, but this thing
21 goes all the way back to 2012 in an ongoing effort by
22 the respondents to basically stymie the administration
23 of this trust and the closing of it for the benefit of
24 all the beneficiaries. And that's laid out in the
25 really comprehensive affidavit that we filed this week

1 from Maureen Mosley.

2 I mean, I think that, again, just the strict
3 reading of the trust and of the agreement and the
4 release that was also part of the agreement -- I don't
5 know if that's attached to Exhibit 2 or not -- but the
6 release that was given along with it was also violated
7 by their actions, because they promised not to institute
8 any proceedings anywhere, which, again, the ODC -- or
9 what they brought in the ODC, those are proceedings. I
10 mean, they're identified that way when you look them up
11 when you research them, the cases are identified that
12 way.

13 So, you know, to the extent that -- I'll point out,
14 too, that counsel is looking for summary judgment and
15 we're not trying the case here and we haven't even
16 talked to -- there have been no depositions yet. I just
17 think that, given the clear reading of the trust, the
18 strict construction of the trust, and the affidavits
19 that have been submitted to the court and the factual
20 allegations therein, I think that summary judgment is
21 totally inappropriate at this stage.

22 And I would also point out that, additionally --
23 and it's reflected in the Mosley affidavit -- I think
24 it's a question of fact about whether the refusal by
25 Jean to sign off and execute the documents necessary to

1 carry the agreement into effect is -- I think it's a
2 question of fact whether that's a breach of the
3 agreement. Much like the refusal by Mary way back
4 before they even executed the agreement to accept my
5 clients' proposal for distribution back then, I think
6 it's back in 2012, it's in the affidavit, a question
7 about the import about that as well. So there are
8 issues of fact that I think preclude summary judgment,
9 your Honor.

10 THE COURT: Yes.

11 MS. JOLLEY: Just briefly, your Honor.
12 Unfortunately, this is one of those cases where, every
13 time you try to put something simply, it blossoms into
14 something that is not simple. But the point of the
15 motion was really to bring two questions of law before
16 the court. I don't believe there's any facts in dispute
17 about these. The fact of the matter is, my clients
18 filed ODC complaints. The content of those complaints
19 has been found to not be discoverable in this case. I
20 know counsel stated that Judge Dukes' order was not even
21 ultimately discoverable. Judge Dukes' order said it's
22 not discoverable now. I think whether it ever is
23 discoverable is a question that can probably be visited.

24 But there is also no question that under the Rules
25 of Procedure, any complaint with the ODC or

1 communication with the ODC is absolutely privileged.
2 And it states that no civil lawsuit predicated thereon
3 may be instituted against any complainant or witness.

4 The question of law we're bringing before the court
5 that we think we should grant summary judgment on is
6 whether these complaints that are privileged and were
7 sent to the ODC, regardless what they mention about
8 anyone, whether that privilege precludes my clients from
9 being sued for them under a breach of trust claim or a
10 breach of contract claim. That is really the question
11 that we have. Okay?

12 THE COURT: Okay. All right. So we have a motion
13 to amend and the complaint and the answer, so.

14 MR. BOLCHOZ: Her -- actually -

15 THE COURT: It's hard to put the cart before the
16 horse.

17 MR. BOLCHOZ: Well, hers -- to be fair, hers was
18 filed before mine, but then, I subsequently filed my
19 motion. So she filed a motion to amend the answer to
20 add counterclaims.

21 THE COURT: Okay.

22 MR. BOLCHOZ: And I filed my motion to amend the
23 original petition. And then, I think I proposed that
24 maybe we could consent and coordinate how that exactly
25 is going to work. So she's not filing an amended answer

1 and a counterclaim, but then, I'm filing an amended
2 petition, and she's got to answer. But I didn't get an
3 answer. I don't know if she objects to -- I don't
4 necessary have an objection to her motion to amend her
5 answer and counterclaim -

6 THE COURT: Okay..

7 MR. BOLCHOZ: -- I guess, discussed with her.

8 MS. JOLLEY: Yeah, no I understand. And your
9 Honor, frankly, our objection in so far as there is one,
10 really relies on this question of the ODC complaints
11 again.

12 THE COURT: Okay.

13 MS. JOLLEY: Because there are no factual
14 allegations regarding defamation in the amended
15 complaint -

16 THE COURT: Okay.

17 MS. JOLLEY: -- until the very end. So the only
18 statements that are alleged defamatory in the beginning
19 of the complaint, or the new paragraphs, are in the
20 complaints to the ODC. And then, there's a brief
21 defamation claim at the end that says the clients made
22 more defamatory comments to third parties.

23 My objection is that, if the only defamatory
24 comments allegedly made -- and we can't tell from the
25 allegations when they were made, to whom they were made

1 or anything --

2 THE COURT: Okay.

3 MS. JOLLEY: -- are the ones to ODC, and we think
4 they're privileged and there's no defamation claim, so I
5 don't get the point.

6 THE COURT: Are there any -- Mr. Bolchoz, are there
7 any other allegations of defamation other than the ODC
8 claim?

9 MR. BOLCHOZ: I don't believe there are, your
10 Honor. There's also some additional allegations that
11 are under the other two causes of action, which are
12 declaratory relief under the trust and the breach of
13 contract. But I think the defamatory -- the defamation
14 is related to the ODC filings.

15 THE COURT: Okay.

16 MS. JOLLEY: And I don't object to anything else,
17 your Honor.

18 THE COURT: Okay.

19 MS. JOLLEY: It's just that defamation question.

20 THE COURT: I understand. Okay. All right, you
21 all, I think I understand on both sides. I will let you
22 all know something very quickly, like today, probably
23 before either one of you get back to Hilton Head. So
24 I'll let you all know. Okay?

25 MS. JOLLEY: Thank you, your Honor.

1 MR. BOLCHOZ: Thanks, Judge.

2 THE COURT: Absolutely.

3 ITEM IDENTIFIED AS PETITION TO
4 ACCEPT RESIGNATION AS CO-TRUSTEES;
5 PETITION TO ACCEPT APPOINTMENT OF
6 SUCCESSOR TRUSTEE; EXHIBIT D, RELEASE,
7 CONSENT, INDEMNIFICATION, AND HOLD
8 HARMLESS AGREEMENT

9 MARKED DEFENDANT EXHIBIT NUMBER 1
10 ADMITTED AS EVIDENCE.

11 ITEM IDENTIFIED AS FOURTH AMENDMENT
12 AND RESTATEMENT OF TRUST AGREEMENT
13 OF ELEANOR MCCARTHY LENAHAAN
14 MARKED DEFENDANT EXHIBIT NUMBER 2
15 ADMITTED AS EVIDENCE.

END PROCEEDING 1:25 P.M.

CERTIFICATE OF REPORTER

TRANSCRIPT OF HEARING

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing Transcript of Hearing is a true, accurate, and complete record of the proceedings had and exhibits admitted on said date, in the case of Eleanor McCarthy Lenahan Trust, et al, versus Kathleen Suzanne Heslin, et al, Beaufort County, Court of Common Pleas, Case Number 2015-CP-07-01980; that I am of neither kin, counsel, nor interest to any party hereto.

This Certificate of Reporter contains my digital signature and is attached to a copy of this transcript requested by Hon. S. Michael Bolchoz. Pursuant to SCACR 607, requests for copies of this or any transcript must be made to the court reporter. Unauthorized copying/emailing is prohibited.

Witness my signature June 12, 2017.

Wanda H. Rowe

Wanda H. Rowe, CVR-M
Official Court Reporter

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
CASE NUMBER 2015-CP-07-01980

KATHLEEN SUZANNE HESLIN AND
MAUREEN THERESA MOSLEY, ET AL

PLAINTIFFS

VERSUS

ORIGINAL

JANUARY 13, 2016
TRANSCRIPT OF HEARING
BEAUFORT, SOUTH CAROLINA

MARY KATHLEEN LENAHAAN, ET AL

DEFENDANTS

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

1 about here, and that's privileged, and they can say that
2 and not be subject to civil liability.

3 THE COURT: I would agree with Mr. Bolchez. That's
4 to protect lawyers, and that's to protect complaining
5 clients about their lawyers. I mean, that's -- whether
6 or not that's a violation of the trust, I have no idea,
7 and I would guess not. I mean, but.

8 At this point, as a motion to dismiss, I'm going to
9 deny your motion. I think there is some kind of
10 question going on. I do think you need to do some
11 limited discovery. You'd better figure out what you all
12 want at the end of the day. If you want to live by the
13 trust, then, just live by the trust and be done with it.

14 I mean, I can tell you this, Mr. Bolchez, I have a
15 hard time believing that their complaint to ODC is
16 somehow a violation of the trust agreement. I mean, I
17 don't think you're going to be successful on that end,
18 so. But we'll see where it goes, but.

19 MR. CERRATI: Your Honor, if I may?

20 THE COURT: Yes.

21 MR. CERRATI: We also have two other grounds for
22 dismissal. I'm sorry. One was just a 12(b)(4) and
23 12(b)(5), based on improper service.

24 THE COURT: Okay.

25 MR. CERRATI: One of the clients, Mary Lenahan, was

FOURTH AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT
OF
ELEANOR MCCARTHY LENAHAN

Michael L.M. Jordan, Esquire
MCNAIR LAW FIRM, P.A.
23-B Shelter Cove Lane, Suite 400
Hilton Head Island, SC 29928
843-785-2171

FOURTH AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT

Introductory Clause. This Fourth Amendment and Restatement of Trust Agreement made the 22 day of February, 2012, between Eleanor McCarthy Lenahan, hereinafter referred to as the Settlor, and Eleanor McCarthy Lenahan, hereinafter referred to as the Trustee.

The Settlor has eight living children: Patricia Ann Jarrell, born October 19, 1953; Thomas Richard Lenahan, born February 4, 1955; William Robert Lenahan, born April 3, 1956; Mary Kathleen Lenahan, born October 22, 1957; Joan Eleanor De Maio, born April 5, 1959; Jean Marie Qualliu, born July 11, 1960; Maureen Theresa Mosley, born May 30, 1963; Christine Ann Lenahan (Thompson), born December 31, 1964; and Kathleen Suzanne Heslin, born July 10, 1967. The Settlor has one deceased child: Thomas Richard Lenahan, who died on December 20, 2011. The Settlor has two grandchildren from the Settlor's deceased child: Julie Elizabeth Lenahan and Thomas James Lenahan. It is the Settlor's intent that none of the Settlor's grandchildren are beneficiaries of this Trust Agreement.

WHEREAS, the Settlor and the Trustee entered into a Trust Agreement dated July 12, 2001, hereinafter called the Trust Agreement, and

WHEREAS, Article "5.3" of the Trust Agreement provided that the Settlor reserved the right to amend in any manner or revoke in whole or in part the Trust Agreement, and

WHEREAS, the Trust Agreement was amended on November 25, 2001, September 9, 2004, and October 13, 2009, and

WHEREAS, the Settlor is desirous of further modifying and amending the Trust Agreement and the Trustee is agreeable to the modifications and amendments contained herein,

NOW, THEREFORE, IT IS AGREED that the entire Trust Agreement (except Schedule A, which is not modified hereby) as modified and amended will read as follows:

This Trust shall be known as the "Eleanor McCarthy Lenahan Revocable Trust, dated the 12th day of July 2001."

ARTICLE I

Trustee Succession if Settlor Resigns, Dies or Becomes Incapacitated. If the Settlor resigns, dies or is adjudicated to be incompetent or in the event that the Settlor is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the Settlor's own affairs, then and in that event Kathleen Suzanne Heslin and Maureen Theresa Mosley shall immediately become the Trustees under this Trust Agreement.

Third parties may rely on an affidavit by the Trustees named above stating that the successor Trustees are now acting as Trustees hereunder.

ARTICLE II

Description of Property Transferred. The Settlor upon original execution of this Trust Agreement paid over, assigned, granted, conveyed, transferred and delivered, unto the Trustee certain property described in Schedule A, annexed hereto and made a part hereof. Any property that may be received or which has been received by the Trustee hereunder, as invested and reinvested (hereinafter referred to as the "Trust Estate"), shall be held, administered and distributed by the Trustee as hereinafter set forth.

ARTICLE III

Provisions for Settlor During Lifetime. The Trustee shall hold, manage, invest and reinvest the Trust Estate (if any requires such management and investment) and shall collect the income, if any, therefrom and shall dispose of the net income and principal as follows:

(1) Discretionary Payment of Income. During the lifetime of the Settlor, the Trustee shall pay to or apply for the benefit of the Settlor all the net income from this Trust. Any income not distributed shall be accumulated annually and thereafter treated as principal.

(2) Discretionary Payment of Principal. During the lifetime of the Settlor, the Trustee may pay to or apply for the benefit of the Settlor such sums from the principal of this Trust as in the Trustee's sole discretion shall be necessary or advisable from time to time for the medical care, support and maintenance in reasonable comfort of the Settlor, taking into consideration to the extent the Trustee deems advisable, any other income or resources of the Settlor known to the Trustee.

ARTICLE IV

Settlor's Rights to Amend, Change or Revoke the Trust Agreement. The Settlor may, by signed instruments delivered to the Trustee during the Settlor's life: (1) withdraw property from this Trust in any amount and at any time upon giving reasonable notice in writing to the Trustee; (2) add other property to the Trust; (3) change the beneficiaries, their respective shares and the plan of distribution; (4) amend this Trust Agreement in any other respect; and (5) revoke this Trust in its entirety or any provision therein; provided, however, the duties or responsibilities of the Trustee shall not be enlarged without the Trustee's consent nor without satisfactory adjustment of the Trustee's compensation.

ARTICLE V

Discretionary Provisions for Trustee to Deal with Settlor's Estate and Make Payment of Debts and Taxes. After the Settlor's death, the Trustee, if in its discretion it deems it advisable, may pay all or any part of the Settlor's funeral expenses, legally enforceable claims against the Settlor or the Settlor's estate, reasonable expenses of administration of the Settlor's estate, any allowances by court order to those dependent upon the Settlor, any estate, inheritance, succession, death or similar taxes payable by reason of the Settlor's death, together with any interest thereon or other additions thereto, without reimbursement from the Settlor's personal representatives, from any beneficiary of insurance upon the Settlor's life, or from any other person. All such payments, except of interest, shall be charged generally against the principal of

the Trust Estate includable in the Settlor's estate for federal estate tax purposes and any interest so paid shall be charged generally against the income thereof; provided, however, any such payments of estate, inheritance, succession, death, or similar taxes (except generation-skipping transfer taxes) shall be charged against the principal constituting the Trust Estate and any interest so paid shall be charged against the income thereof. If such share or trust was created as a fraction, then such taxes thus paid shall reduce the numerator of that share or trust and the Trust Estate, thus likewise reducing the denominator of the fraction. The Trustee may make such payments directly or may pay over the amounts thereof to the personal representatives of the Settlor's estate. Written statements by the personal representatives of such sums due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of the Trustee and the Trustee shall be under no duty to see to the application of any such payments. If administrative expenses are deducted on the estate's income tax return but paid from principal, then they shall be charged against the Trust Estate.

ARTICLE VI

Specific Distributions. Upon the death of the Settlor, the Trustee shall make the following distributions:

(1) General Distribution of Personal and Household Effects with a Mandatory Memorandum. All the Settlor's personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, shall be distributed as follows:

(a) The Settlor may leave written memoranda disposing of certain items of tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of the Settlor's death. If no such written memoranda are found or identified by the Trustee within ninety (90) days after the Settlor's death, it shall be conclusively presumed that there are no such memoranda and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of the Settlor's death and for whom no effective alternate provision has been made shall pass according to the provisions of the following subparagraph, and not pursuant to any anti-lapse statute.

(b) In default of such memoranda, or to the extent such memoranda do not completely or effectively dispose of such property, the rest of the Settlor's personal and household effects of every kind shall be distributed to the Settlor's children surviving the Settlor, in approximately equal shares. If the Settlor's issue do not agree to the division of the property among themselves, the Trustee shall make such division among them, the decision of the Trustee to be in all respects binding upon the Settlor's issue. The cost of packing and shipping such property shall be charged as an expense of administration.

(2) Definition of Trust Estate. As used in this Trust Agreement, the words "Trust Estate" shall mean the entire Trust Estate minus the specific distributions under this Article.

ARTICLE VII

Trust Estate to Settlor's Issue. Upon the death of the Settlor, the Trust Estate (which shall include any property which may be added from the Settlor's general estate) shall be paid over and distributed in the following manner:

- i) The Settlor's daughter, Patricia Lenahan Jarrell, and the Settlor's son, William Robert Lenahan, previously received benefits from prior estate planning of the Settlor or by other means in the amounts of Four Hundred Eighty-Six Thousand and Seventy-Three (\$486,073.00) Dollars and Four Hundred Fifty Thousand (\$450,000.00) dollars, respectively. The Trustee shall first distribute the following sums to the children set forth below to equate for advances and/or transfers made previously by the Settlor.

Patricia Ann Jarrell	\$0.00
William Robert Lenahan	\$36,073
Mary Kathleen Lenahan	\$486,073
Joan Eleanor De Maio	\$486,073
Jean Marie Qualliu	\$486,073
Maureen Theresa Mosley	\$486,073
Christine Ann Lenahan (Thompson)	\$486,073
Kathleen Suzanne Heslin	\$486,073

If there shall not be sufficient Trust Estate to fully fund this part of the distribution, then the distribution shall be reduced proportionately. Provided, however, that the children other than the Settlor's son, William Robert Lenahan, shall receive their proportionate distributions up to \$450,000.00 before the Settlor's son shall be entitled to participate in this allocation. ~~These distributions shall not be reduced by any proportionate~~ share of any estate tax liability, administration expense, of other charge, unless there is no distribution in accordance with the following subparagraph. All such charges shall be paid out of the shares allocated and distributed from the following subparagraph. The Settlor's children shall not challenge or question the amounts of these distributions. If any child shall predecease the Settlor, the deceased child's share shall lapse.

- ii) The Trustee shall next, but subject to the previous provision, distribute the remainder of the Trust Estate, if any, to the Settlor's surviving children in equal shares. If any child of the Settlor shall predecease the Settlor, the deceased child's share shall lapse.

Provided, however, that if the Settlor's estate shall be subject to estate tax that includes either of the prior gifts referred to in subparagraph i) above, then the portion of the estate tax due as a result of such prior gift(s) shall be due by that recipient to the Settlor's estate and may be paid from any distributions made to that person under either subparagraphs i) and/or ii).

ARTICLE VIII

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

(1) Individual Trustees Succession. If an initial successor individual Trustee should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, then the remaining individual Trustee shall continue to serve without a successor or substitute.

(2) Final Succession if All Individual Successor Trustees Cannot Act. If all the Settlor's individual successor Trustees should fail to qualify as Trustee hereunder, or for any reason should cease to act in such capacity, then the successor or substitute Trustee who shall also serve without bond shall be Christine Ann Lenahan (Thompson).

(3) Fee Schedule for Individual Trustee. For its services as Trustee, each of the individual Trustees shall receive Ten Thousand (\$10,000.00) Dollars as reasonable compensation for all services rendered as both Trustee and Personal Representative together with the reimbursement for reasonable expenses incurred by them.

(4) Trustee Voting Rights. If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by unanimous vote of the Trustees.

(5) Delegation Among Trustees. When there is more than one individual or entity serving as co-Trustees, then any Trustee may delegate to any other Trustee the power to exercise any or all of the powers granted to the Trustees in this Trust Agreement, including those powers, which are discretionary, to the extent allowed by law. Any delegating Trustee may revoke any such delegation with written notice to the other serving co-Trustees. The delegation of any such power, as well as the revocation of any such delegation, shall be evidenced by an instrument in writing signed by the delegating co-Trustee. As long as any such delegation is in effect, any of the delegated powers may be exercised by the Trustee receiving such delegation with the same force and effect as if the delegating Trustee had personally joined in the exercise of such power. Provided, however, that if such Trustee, or co-Trustee, shall also be a current beneficiary and such delegation shall be deemed to create in that Trustee a right that shall be deemed to be a general power of appointment, then such individual Trustee shall not be vested with such right to delegate such power.

(6) Limitations on Trustees. No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which the Settlor has given to the Trustee to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations; provided, however, if an individual trustee (who is also a beneficiary) is the sole trustee or at any time is acting as the sole trustee, and such trustee has discretion to invade principal for himself or herself and such discretionary authority is limited by an ascertainable standard, then such trustee may invade principal (if limited by such standard) for himself or herself but not in relief of his or her legal obligations.

(7) Designation of Successor Trustee as HIPAA Personal Representative. During the administration of this Trust, it may be necessary for a successor Trustee to inquire about the mental or physical capacity of a currently serving individual Trustee. Each serving individual

Trustee therefore grants and confirms that each such successor Trustee shall be treated as a "personal representative" under the Health Insurance Portability and Accountability Act of 1996 and its regulations (including 45 C.F.R. § 164.502(g)(2)) for all purposes relating to the "protected health information" of any currently serving individual Trustee. Any serving individual Trustee does hereby authorize all health care providers, including, but not limited to, hospitals, nursing homes, treatment facilities, and other covered entities, and all physicians, nurses, therapists, and other persons who may have provided in the past or are currently providing any currently serving individual Trustee with any type of medical, mental, or other types of health care, to disclose to the HIPAA personal representative and any other successor HIPAA personal representative all of the currently serving individual Trustee's health care information and all "protected health information" for the purpose of determining the currently serving individual Trustee's capacity to continue to serve as a Trustee of this Trust, or as may be required or permitted by state law. The HIPAA personal representative may also give this authorization to the Settlor's lawyer and/or other substitute individuals to so act in addition to such HIPAA personal representative. This authorization is intended to provide the currently serving individual Trustee's health care providers with the authorization necessary to allow each of them to disclose such general medical information and protected health information regarding the currently serving individual Trustee to the above designated successor Trustee of this Trust. The information disclosed by any such health care provider pursuant to this authorization is subject to further disclosure and use by such successor Trustee and may thereafter no longer be protected by such privacy rules. Any successor individual Trustee waive any and all liability and hold such physicians or other health care providers harmless for providing such information, rendering an opinion concerning the mental or physical incapacity of the individual Trustee, or for signing a certificate of incapacity concerning the individual Trustee. This authorization shall have no expiration date and shall remain in effect until the earlier of its revocation by the currently serving individual Trustee or the death of such person. By agreeing to serve as a Trustee, each successor individual Trustee grants the authority provided above to that individual Trustee's successor Trustee.

(8) Determination of Incapacity of Individual Trustee. If any serving individual Trustee either is adjudicated to be incompetent or in the event that the individual Trustee is not adjudicated incompetent, but by reason of illness or mental or physical disability is, in the opinion of two licensed physicians, unable to properly handle the fiduciary responsibilities of the trusteeship, then and in that event the Trustee next designated herein shall serve as the successor Trustee. The disqualified Trustee may regain the position as Trustee, if and when such incompetency is removed, as determined by two licensed physicians in the same manner as was followed to initially establish the Trustee's incapacity. Third parties may rely on an affidavit by the Trustee stating that the successor Trustee is now acting as Trustee hereunder.

(9) Limitation of Liability and Duties of Successor Trustee for Acts of Prior Trustee. No successor Trustee shall have any liability or responsibility for any acts or omissions of any prior Trustee. The Trust shall indemnify and hold harmless any currently serving Trustee for the acts or omissions of any such prior Trustee. A current Trustee may, but shall not have the obligation to, audit or investigate the accounts or administration of any prior Trustee. In the event that any present or future beneficiary shall request in writing that the Trustee investigate or take any action against a prior Trustee, the current Trustee may, but not be required to, either: i)

determine if such action is either inappropriate or unlikely to result in a favorable conclusion for the Trust and therefore decline to take such action, or ii) require that the beneficiary requesting such action indemnify the Trust and Trustee and fund all the expenses of such action to the extent that the Trustee deems appropriate. The Trustee shall have the sole discretion to act with regard to these decisions.

ARTICLE IX

Definition of Trustee. Whenever the word "Trustee" or any modifying or substituted pronoun therefor is used in this Trust, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine, and neuter gender thereof, and shall apply equally to the Trustee named herein and to any successor or substitute Trustee acting hereunder, and such successor or substitute Trustee shall have all the rights, powers and duties, authority and responsibility conferred upon the Trustee originally named herein.

ARTICLE X

Powers for Trustee. The Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this Trust Agreement and without authorization by any court and in addition to any other rights, powers, authority, and privileges granted by any other provision of this Trust Agreement or by statute or general rules of law:

(1) To collect Trust property and accept or reject additions to the Trust Estate from a Settlor or any other person.

(2) To retain in the form received any property or undivided interests in property donated to, or otherwise acquired as a part of the Trust Estate, including residential property and shares of the Trustee's own stock, regardless of any lack of diversification, risk, or nonproductivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a material percentage of the total property of the Trust Estate or even the entirety thereof.

(3) To deposit assets of the Trust in accounts of all types, including margin accounts, in all types of regulated financial service institutions.

(4) To invest and reinvest all or any part of the Trust Estate or any Trust share created hereunder in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, limited liability companies or similar entities, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective, or pooled trust funds of the Trustee, insurance contracts on the life of any beneficiary, or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries. References to powers herein related to shares of stock

shall include such powers over other types of securities, including interests in partnerships, limited liability companies, and other similar entities.

(5) To abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration.

(6) To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of the Trust Estate or any Trust share created hereunder, for cash or on credit, at public or private sale, to exchange any property of the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.

(7) To hold any securities or other property in its own name as Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.

(8) To keep, at any time and from time to time, all or any portion of the Trust Estate in cash and uninvested for such period or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.

(9) To sell or exercise stock option, subscription, or conversion rights.

(10) To refrain from voting or to vote shares of stock which are a part of the Trust Estate or any Trust share created hereunder at shareholders' meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers, and privileges of an owner in respect to any securities constituting a part of the Trust Estate or Trust share.

(11) To participate in any plan of reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by the Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.

(12) To borrow money with or without security and to encumber, mortgage, or pledge any asset of the Trust Estate for a term within or extending beyond the term of the Trust, in connection with the exercise of any power vested in the Trustee. If money is borrowed from the Trustee, the Trustee may charge interest thereon at a prevailing rate. In no event shall any mortgagee be under any obligation to verify the proper application of the loaned proceeds.

(13) To pledge the Trust Estate and to cause this Trust to guarantee loans made by others to a beneficiary or any business owned by the Trust.

(14) To enter for any purpose into a lease as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without option to purchase or renew for a term within or extending beyond the term of the Trust.

(15) To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate public or private easements to private or public use without consideration, including by way of example qualified conservation and facade easements.

(16) To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, and to raze existing or erect new party walls or buildings.

(17) To continue and operate any business or other enterprise owned by the Settlor at the Settlor's death, whether an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, and to do any and all things deemed needful or appropriate by the Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable by shareholders, members, or property owners, without liability for loss resulting from the continuance or operation of the business except for its own bad faith, gross negligence, and/or willful misconduct; and to merge or otherwise change the form of business organization or contribute additional capital, close out, liquidate, or sell the business at such time and upon such terms as it shall deem best.

(18) To collect, receive, and issue receipt for rents, issues, profits, and income of the Trust Estate.

~~(19) To insure the assets of the Trust Estate against damage or loss and to insure the Trustee, the Trustee's agents, and beneficiaries against liability arising from the administration of the Trust.~~

(20) To select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the Trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds.

(21) In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary capacity.

(22) To compromise, extend, assign, adjust or give partial release from, arbitrate, sue on, discharge, foreclose, or otherwise defend, abandon, or decline to administer property of no value or of insufficient value to justify its collection or continued administration, or otherwise deal with and settle claims in favor of or against the Trust Estate or to prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect the Trust Estate and the Trustee in the performance of the Trustee's duties, as the Trustee shall deem best.

(23) To exercise elections with respect to federal, state, and local taxes.

(24) To employ and compensate agents, accountants, investment advisors, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, appraisers, and other assistants and advisors deemed by the Trustee needful for the proper administration of the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care. A Trustee may employ any firm with which the Trustee is affiliated to provide services for and on behalf of the Trust for the proper administration of the Trust.

(25) To appoint a Trustee to act in another jurisdiction with respect to the Trust Estate located in the other jurisdiction, confer upon the appointed Trustee all of the powers and duties of the appointing Trustee, require that the appointed Trustee furnish security, and remove any Trustee so appointed.

(26) To determine what shall be fairly and equitably charged or credited to income and what to principal, including the power and authority in the exercise of its fiduciary responsibilities and in accordance with state law to credit realized capital gains to income and to charge income expenses to principal.

(27) To resolve a dispute concerning the interpretation of the Trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution.

(28) To consolidate, hold, and retain the principal of the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on the Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.

(29) To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.

(30) In general, to exercise all powers in the management of the Trust Estate which any individual could exercise in his or her own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this Trust Agreement.

(31) To purchase property, real or personal, from the Settlor's general estate upon such terms and conditions as to price and terms of payment as the Settlor's personal representatives and the Trustee shall agree, to hold the property so purchased as a part of the Trust Estate although it may not qualify as an authorized Trust investment except for this provision, and to dispose of such property as and when the Trustee shall deem advisable. The fact that the

Settlor's personal representatives and the Trustee are the same shall in no way affect the validity of this provision.

(32) To lend funds to the Settlor's general estate or to a beneficiary upon such terms and conditions as to interest rates, maturities, and security as the Settlor's personal representatives and the Trustee shall consider to be fair and reasonable under the circumstances, the fact that they may be the same in no way affecting the validity of this provision.

(33) To receive property bequeathed, devised, or donated to the Trustee by the Settlor or any other person; to receive the proceeds of any insurance policy which names the Trustee as beneficiary; to execute all necessary receipts and releases to Personal Representatives, donors, insurance companies, and other parties adding property to the Trust Estate.

(34) To combine assets of two (2) or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if the Trustee reasonably determines that the administration as a single trust is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

(35) To divide any trust into separate shares or separate trusts or to create separate trusts if the Trustee reasonably deems it appropriate and the division or creation is consistent with the Settlor's intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.

(36) For any Trust share being held hereunder, as defined in section 2642(a)(1) of the Internal Revenue Code of 1986, as from time to time amended or under similar future legislation, to divide such Trust share (a) with an inclusion ratio of neither one (1) nor zero (0) into two separate trusts representing two fractional shares of the property being divided, one to have an inclusion ratio of one (1) and the other to have an inclusion ratio of zero (0), or (b) into separate Trust shares for the benefit of one or more of the Trust beneficiaries, provided however, that (i) each beneficiary's interest in the resulting trusts (collectively) equals the beneficiary's interests in the original Trust share; (ii) the terms of each of the resulting trusts are the same as the terms of the original Trust, even though each permissible distributee of the original Trust is not a beneficiary of all of the resulting Trust shares, and (iii) such severance must neither shift the beneficial interest in the Trust to any beneficiary in a lower generation nor extend the time for vesting of any beneficial interest beyond the period provided for in the original Trust. The Trustee, in its sole discretion, may also create Trust shares to receive property with an inclusion ratio of either one (1) or zero (0), and if this cannot be done, refuse to accept property which does not have a matching inclusion ratio to the receiving Trust's ratio.

(37) If the Trustee shall act as the Personal Representative of the Settlor's estate, to elect to allocate any portion or all the Settlor's generation-skipping transfer exemption provided for in Internal Revenue Code section 2631 or under similar future legislation in effect at the time of the Settlor's death, to any portion or all of any other trusts or bequests in the Settlor's Will or any other transfer in which the Settlor is the transferor for purposes of the generation-skipping tax. Generally, the Settlor anticipates that the Settlor's Personal Representative will elect to allocate this exemption first to direct skips as defined in Internal Revenue Code section 2612, then in

such other manner as the Trustee deems appropriate, unless it would be inadvisable based on all the circumstances at the time of making the allocation; and to make the special election under section 2652(a)(3) of the Internal Revenue Code to the extent the Settlor's Personal Representative deems in the best interest of the Settlor's estate.

ARTICLE XI

No Contest Restriction. The Settlor has, intentionally and with full knowledge, either failed to provide for more beneficiaries and/or provided for such beneficiaries in a more limited manner than other beneficiaries in this Trust Agreement.

(1) Impact on Beneficiary of Action Taken by Beneficiary. If any beneficiary under this Trust Agreement, singly or in conjunction with any other person or persons, directly or indirectly, (i) contests in any court the validity of this Trust Agreement or, in any manner, attacks or seeks to impair or invalidate any of its provisions; (ii) claims entitlement by way of any written or oral contract to any portion of the Settlor's estate, whether in probate or under this Trust Agreement; (iii) unsuccessfully challenges the appointment of any person named as Trustee or successor Trustee of this Trust, or as Personal Representative or successor Personal Representative of the Settlor's Last Will and Testament; (iv) objects in any manner to any action taken or proposed to be taken in good faith by the Trustee; (v) objects to any construction or interpretation of this Trust Agreement, or any provision of it, that is adopted or is proposed in good faith by the acting Trustee; (vi) unsuccessfully seeks the removal of any person acting as Trustee of any Trust created under this instrument; (vii) files any creditor's claim against the Settlor's estate (without regard to its validity), whether the claim arose before or after the date of this instrument; (viii) files a petition or other pleading to change the character of any property subject to this Trust Agreement; (ix) claims in any proceeding that any assets held or claimed under this instrument were held as joint with right of survivorship property; (x) files a petition or other pleading seeking to impose a constructive trust or resulting trust on any assets claimed under this Trust Agreement; or (xi) participates, conspires, or assists with another in any of the previous actions in a manner adverse to this Trust Agreement, then and in that event that person's right to take any interest given to him or her by or under this Trust Agreement shall be determined as it would have been determined if the person had predeceased the execution of this instrument without surviving issue.

(2) Exclusions. The provisions of this Article shall neither apply to any "qualified disclaimer" by any person of any benefit under this Trust Agreement or any Last Will and Testament nor cause a forfeiture of any distribution otherwise qualifying for either a marital or charitable federal estate tax deduction.

(3) Trustee Powers. The Trustee is hereby authorized to defend, at the expense of the Trust Estate, any contest or other attack of any nature on this Trust Agreement or any of its provisions. All such costs of defense of such action shall be charged to and deducted from the share, if any, of that challenging beneficiary, regardless of whether the challenging beneficiary was successful or not in his or her challenge. If there is no such share, then the defense of this action shall be treated as an administrative expense of the Trust Estate.

(4) Severability. In the event that any provision of this Article is held to be invalid, void, or illegal, the same shall be deemed severable from the remainder of the provisions in this Article, and shall in no way affect, impair, or invalidate any other provision in this Article. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed to the extent of the scope and breadth permitted by law.

ARTICLE XII

Trustee's Discretion in Making Payments to a Person Incompetent or Incapacitated. In case the income or principal payment under any trust created hereunder or any share thereof shall become payable to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is, in the opinion of the Trustee unable properly to administer such amounts, then such amounts shall be paid out by the Trustee in such of the following ways as the Trustee deems best: (1) directly to the beneficiary; (2) to the legally appointed guardian of the beneficiary; (3) to some relative or friend for the medical care, education, support and maintenance in reasonable comfort of the beneficiary; (4) by the Trustee using such amounts directly for the beneficiary's care, support, and education.

ARTICLE XIII

Power of Trustee to Resign. Any Trustee may resign this trusteeship by giving thirty (30) days' notice in writing delivered to the Settlor in person or mailed to the Settlor's last known address, if the Settlor is then living, or to all of the then income beneficiaries, if the Settlor shall then be deceased. The resignation shall become effective as hereinafter provided. If a successor Trustee is appointed pursuant to the terms of the Trust Agreement, then such successor Trustee shall become the Trustee. If no successor Trustee is appointed by this Trust Agreement, then upon receipt of such notice, the Settlor, if living (or the income beneficiaries, by majority vote if the Settlor is then deceased), shall appoint a successor Trustee which may be either an individual or a bank or trust company to replace an individual Trustee or shall be a bank or trust company with regulated fiduciary powers to replace a corporate Trustee. Upon the failure of the Settlor (or the income beneficiaries, as appropriate) to appoint a successor Trustee who accepts the Trust within thirty (30) days from the time notice was delivered in person or mailed to the Settlor (or the income beneficiaries, as appropriate), the Trustee may resign to the court having jurisdiction over this Trust, which court may, if it deems advisable, accept the resignation and appoint a successor Trustee which shall be a bank or trust company with regulated fiduciary powers. Upon the appointment of and acceptance by the successor Trustee, the original Trustee shall pay over, deliver, assign, transfer or convey to such successor Trustee the Trust Estate and make a full and proper accounting to the Settlor, whereupon its resignation shall become effective. The substitute or successor Trustee upon acceptance of this Trust and the Trust Estate shall succeed to and have all the rights, powers and duties, authority, and responsibility conferred upon the Trustee originally named herein.

ARTICLE XIV

Definitions of Family. The following definitions shall be used to define the family:

(1) Definition of Children. For purposes of this Trust, "children" means the lawful descendants in the first degree of the parent designated; and "issue" and "descendants" mean the lawful descendants in any degree of the ancestor designated. The terms "child," "children," "issue," "descendant," and "descendants" or those terms preceded by the terms "living" or "then living" shall include the lawful descendant in the first degree of the parent designated even though such descendant is born after the death of such parent.

(2) Definition of Per Stirpes. The term "per stirpes" as used herein has the identical meaning as the term "taking by representation" as defined in the South Carolina Probate Code.

ARTICLE XV

Definition of Words Relating to the Internal Revenue Code. As used herein, the words "gross estate," "adjusted gross estate," "taxable estate," "unified credit" ("unified credit" shall also mean "applicable credit amount"), "applicable exclusion amount," "applicable credit amount," "pass," "qualified terminable interest," "qualified terminable interest property," and any other word or words which from the context in which it or they are used refer to the Internal Revenue Code shall have the same meaning as such words have for the purposes of applying the Internal Revenue Code to the Settlor's estate. For purposes of this Trust Agreement, the Settlor's "available generation-skipping transfer exemption" means the generation-skipping transfer tax exemption provided in section 2631 of the Internal Revenue Code of 1986, as amended, in effect at the time of the Settlor's death reduced by the aggregate of (1) the amount, if any, of the Settlor's exemption allocated to lifetime transfers of the Settlor by the Settlor or by operation of law, and (2) the amount, if any, the Settlor has specifically allocated to other property of the Settlor's gross estate for federal estate tax purposes. For purposes of this Trust Agreement if at the time of the Settlor's death the Settlor has made gifts with an inclusion ratio of greater than zero for which the gift tax return due date has not expired (including extensions) and the Settlor has not yet filed a return, it shall be deemed that the Settlor's generation-skipping transfer exemption has been allocated to these transfers to the extent necessary (and possible) to exempt the transfer(s) from generation-skipping transfer tax. Reference to sections of the Internal Revenue Code and to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of the Settlor's death.

ARTICLE XVI

Simultaneous Death Provision Presuming Beneficiary Predeceases Settlor. If any beneficiary and the Settlor should die under such circumstances as would make it doubtful whether the beneficiary or the Settlor died first, then it shall be conclusively presumed for the purposes of this Trust that the beneficiary predeceased the Settlor.

ARTICLE XVII

State Law to Govern. This Trust Agreement and the trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ARTICLE XVIII

Spendthrift Provision. Except as otherwise provided herein, all payments of principal and income payable, or to become payable, to the beneficiary of any trust created hereunder shall not be subject to anticipation, assignment, pledge, sale or transfer in any manner, nor shall any beneficiary have the power to anticipate or encumber such interest, nor shall such interest, while in the possession of the fiduciary hereunder, be liable for, or subject to, the debts, contracts, obligations, liabilities or torts of any beneficiary.

Testimonium Clause. IN WITNESS WHEREOF, the Settlor and the Trustee have executed this Fourth Amendment and Restatement of Trust Agreement.

WITNESSES:

Barbara J. Hays
Michael Russell

Eleanor McCarthy Lenahan
ELEANOR MCCARTHY LENAHAN

SETTLOR and TRUSTEE

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

)
) ACKNOWLEDGMENT
)

I, a Notary Public, within and for the State and County aforesaid do hereby certify that the foregoing Fourth Amendment and Restatement of Trust Agreement was this day produced to me in the above State and County and was executed and acknowledged by Eleanor McCarthy Lenahan, as Settlor and Trustee, to be the free and voluntary act and deed of the Settlor and Trustee.

WITNESS my signature this 22 day of February, 2012.

Michael Russell

Notary Public for South Carolina

My commission expires: 3/5/2019

STATE OF SOUTH CAROLINA)

) IN THE PROBATE COURT

COUNTY OF BEAUFORT)

) Case No.

IN THE MATTER OF:)

ELEANOR McCARTHY LENAHAAN)
TRUST AGREEMENT)

UAD 071201)

ART X(35) MKL TRUST SHARE)

UAD 071201)

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, CO-)
TRUSTEES)

Petitioners)

PETITION TO ACCEPT RESIGNATION

AS CO-TRUSTEES; PETITION TO

ACCEPT APPOINTMENT OF

SUCCESSOR TRUSTEE

The Petitioners, KATHLEEN SUZANNE HESLIN and MAUREEN THERESA MOSLEY, CO-TRUSTEES of the ELEANOR McCARTHY LENAHAAN TRUST UAD 071201 amended and restated under the FOURTH AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT on February 22, 2012 (referred to herein as the "PARENT TRUST") and that particular trust share created under Article X(35) of the PARENT TRUST and formally known as the ART X(35) MKL TRUST SHARE UAD 071201 (collectively referred to herein as the "MKL TRUST SHARE"), hereby petitions and would respectfully show unto this Honorable Court that:

1. The Petitioners, KATHLEEN SUZANNE HESLIN and MAUREEN THERESA MOSLEY ("CO-TRUSTEES"), are currently serving as co-trustees of the PARENT TRUST and the MKL TRUST SHARE. A copy of the PARENT TRUST is attached

hereto as Exhibit "A". A copy of the Trustee Statement Pursuant to Article XI(1)(iv) dated January 10, 2014 ("TRUSTEE STATEMENT") is attached hereto as Exhibit "B." A copy of the Assignment of Interest to the MKL TRUST SHARE dated February 24, 2014 ("ASSIGNMENT OF INTEREST") is attached hereto as Exhibit "C".

2. Mrs. Eleanor McCarthy Lenahan was the grantor of the PARENT TRUST ("GRANTOR"). The children of the GRANTOR are: PATRICIA ANN JARRELL, WILLIAM ROBERT LENAHAAN, MARY KATHLEEN LENAHAAN, JOAN ELEANOR DE MAIO, JEAN MARIE QUALLIU, MAUREEN THERESA MOSLEY, CHRISTINE ANN LENAHAAN (THOMPSON) and KATHLEEN SUZANNE HESLIN. The beneficiaries of the PARENT TRUST are MARY KATHLEEN LENAHAAN, JOAN ELEANOR DE MAIO, JEAN MARIE QUALLIU, MAUREEN THERESA MOSLEY, CHRISTINE ANN LENAHAAN (THOMPSON) and KATHLEEN SUZANNE HESLIN (collectively referred to herein as the "BENEFICIARIES"). The GRANTOR died on August 8, 2012. Article VII of the PARENT TRUST provides that it shall be divided into shares for the BENEFICIARIES.
3. Due to a continuing dispute with MARY KATHLEEN LENAHAAN, the CO-TRUSTEES (with the approval of the remaining trust beneficiaries) have been required to undergo additional trust administration to facilitate the proper closing of the PARENT TRUST. One such additional step was the formal creation and funding of the MKL TRUST SHARE as set forth in Exhibits B and C and authorized by Article X (35) of the PARENT TRUST. The additional legal fees generated as a result of this dispute have

been clearly allocated as to that share set aside for MARY KATHLEEN LENAHAAN and reported monthly to all BENEFICIARIES and who waive any contest or dispute thereto.

4. As a result of this dispute and in full settlement of her full share under the PARENT TRUST, MARY KATHLEEN LENAHAAN agrees to accept the MKL TRUST SHARE as Trustee and beneficiary thereof. MARY KATHLEEN LENAHAAN acknowledges and understands that the sole asset owned by the MKL TRUST SHARE is a one hundred (100%) percent membership interest in Willbluff Realty, LLC. MARY KATHLEEN LENAHAAN acknowledges and understands that the sole asset owned by Willbluff Realty, LLC is that certain parcel referred to as Cat Branch Road and Highway 278 in Early Branch, South Carolina.
5. MARY KATHLEEN LENAHAAN acknowledges, understands and consents that the CO-TRUSTEES will make no further distributions, accountings or communications concerning this matter to MARY KATHLEEN LENAHAAN. All BENEFICIARIES by execution of the filings contemplated herein agree to fully release the CO-TRUSTEES in settlement of this share for the benefit of MARY KATHLEEN LENAHAAN and all matters related to the administration of the PARENT TRUST until the date of execution of these filings.
6. The CO-TRUSTEES have provided regular monthly accountings to all BENEFICIARIES of the PARENT TRUST and the MKL TRUST SHARE, in particular. The BENEFICIARIES have accepted without any objection the propriety of each

monthly statement and have therefore intentionally waived and released any claim or challenge as to against the CO-TRUSTEES regarding the trust administration until the date of execution of these filings. The CO-TRUSTEES and BENEFICIARIES (collectively referred to herein as the "FAMILY") have agreed, pursuant to the Release, Consent, Indemnification and Hold Harmless Agreement ("RELEASE") attached hereto as Exhibit "D".

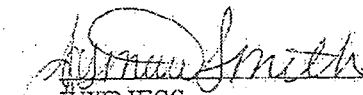
7. Upon complete execution of the filings contemplated herein by the BENEFICIARIES, the CO-TRUSTEES will execute a Statement of Resignation as CO-TRUSTEES of the MKL TRUST SHARE, a copy of which is attached hereto as Exhibit "E." All BENEFICIARIES hereby understand, agree and consent to any purported modification of the PARENT TRUST sufficient to facilitate the appointment of MARY KATHLEEN LENAHAAN as sole trustee of the MKL TRUST SHARE and the funding thereof contemplated within these filings. The CO-TRUSTEES will continue to serve as CO-TRUSTEES OF THE PARENT TRUST (excluding the assets within the MKL TRUST SHARE) until conclusion of the administration of the PARENT TRUST.
8. Upon complete execution of the filings contemplated herein by the BENEFICIARIES, the CO-TRUSTEES agree, with the consent of the BENEFICIARIES, to appoint MARY KATHLEEN LENAHAAN as successor trustee of the MKL TRUST SHARE. After the execution of these filings, the BENEFICIARIES understand and agree that the CO-TRUSTEES will not be providing any additional information, correspondence, documentation, or communications concerning the PARENT TRUST, MKL TRUST

SHARE, or any other matter related to the affairs of the GRANTOR to MARY KATHLEEN LENAHA. A copy of the CO-TRUSTEES' written appointment is incorporated within the Statement of Resignation set forth in Exhibit "E".

9. The BENEFICIARIES accept service and waive any notice or right to a hearing as indicated on Exhibit "F".

10. The BENEFICIARIES all concur, consent and agree to the representations, Proposed Order Exhibit "G" and filings contemplated herein as set forth by their signatures below:


MARY KATHLEEN LENAHA
DATE: 11/25/14


WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

MAUREEN T. MOSLEY
DATE: _____

WITNESS

CHRISTINE A. LENAHA
DATE: _____

WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

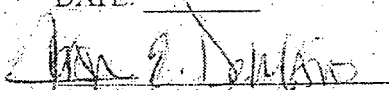
SHARE, or any other matter related to the affairs of the GRANTOR to MARY KATHLEEN LENAHAAN. A copy of the CO-TRUSTEES' written appointment is incorporated within the Statement of Resignation set forth in Exhibit "E".

9. The BENEFICIARIES accept service and waive any notice or right to a hearing as indicated on Exhibit "F".

10. The BENEFICIARIES all concur, consent and agree to the representations, Proposed Order Exhibit "G" and filings contemplated herein as set forth by their signatures below:

MARY KATHLEEN LENAHAAN

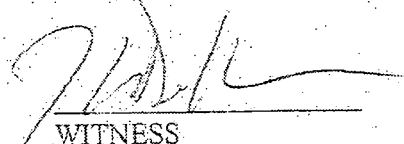
DATE: _____



JOANE DEMAIO

DATE: 10.23.14

WITNESS



WITNESS

JEAN M. QUALLIU

DATE: _____

WITNESS

MAUREEN T. MOSLEY

DATE: _____

WITNESS

CHRISTINE A. LENAHAAN

DATE: _____

WITNESS

KATHLEEN S. HESLIN

DATE: _____

WITNESS

SHARE, or any other matter related to the affairs of the GRANTOR to MARY KATHLEEN LENAHAH. A copy of the CO-TRUSTEES' written appointment is incorporated within the Statement of Resignation set forth in Exhibit "E".

9. The BENEFICIARIES accept service and waive any notice or right to a hearing as indicated on Exhibit "F".
10. The BENEFICIARIES all concur, consent and agree to the representations, Proposed Order Exhibit "G" and filings contemplated herein as set forth by their signatures below:

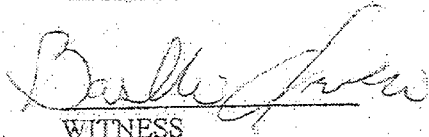
MARY KATHLEEN LENAHAH
DATE: _____

WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____


WITNESS

MAUREEN T. MOSLEY
DATE: _____

WITNESS

CHRISTINE A. LENAHAH
DATE: _____

WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

SHARE, or any other matter related to the affairs of the GRANTOR to MARY KATHLEEN LENAHAAN. A copy of the CO-TRUSTEES' written appointment is incorporated within the Statement of Resignation set forth in Exhibit "E".

9. The BENEFICIARIES accept service and waive any notice or right to a hearing as indicated on Exhibit "F".

10. The BENEFICIARIES all concur, consent and agree to the representations, Proposed Order Exhibit "G" and filings contemplated herein as set forth by their signatures below:

MARY KATHLEEN LENAHAAN
DATE: _____

WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

Maureen T. Mosley

MAUREEN T. MOSLEY
DATE: 12/12/14

[Signature]

WITNESS

CHRISTINE A. LENAHAAN
DATE: _____

WITNESS

Kathleen S. Heslin

KATHLEEN S. HESLIN
DATE: 12/12/2014

[Signature]

WITNESS

SHARE, or any other matter related to the affairs of the GRANTOR to MARY KATHLEEN LENAHA. A copy of the CO-TRUSTEES' written appointment is incorporated within the Statement of Resignation set forth in Exhibit "E".

9. The BENEFICIARIES accept service and waive any notice or right to a hearing as indicated on Exhibit "F".

10. The BENEFICIARIES all concur, consent and agree to the representations, Proposed Order Exhibit "G" and filings contemplated herein as set forth by their signatures below:

MARY KATHLEEN LENAHA
DATE: _____

WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

MAUREEN T. MOSLEY
DATE: _____

WITNESS

Christine A. Lenahan

CHRISTINE A. LENAHA
DATE: 6/17/14

Michelle Cleland

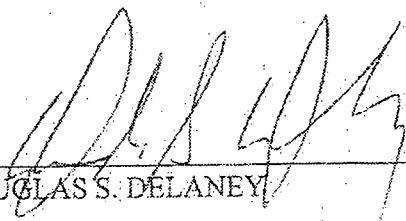
WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

WHEREFORE, your Petitioners pray that this Honorable Court:

- (1) approve the RELEASE between the FAMILY, CO-TRUSTEES and BENEFICIARIES,
- (2) relieve the CO-TRUSTEES of all liabilities of any nature arising out of their performance as co-trustees of the PARENT TRUST and MKL TRUST SHARE,
- (3) accept the CO-TRUSTEES' resignation as co-trustees of the MKL TRUST SHARE and make such determination as it deems appropriate as to the successor trustee of the MKL TRUST SHARE, and
- (4) sign the proposed Order and grant such other and further relief as this Court deems just and proper.


DOUGLAS S. DELANEY

ATTORNEY FOR PETITIONERS, KATHLEEN
SUZANNE HESLIN and MAUREEN THERESA
MOSLEY, CO-TRUSTEES of the ELEANOR
McCARTHY LENAHAH TRUST UAD 071201
and ART X (35) MKL TRUST SHARE

BEAUFORT, SC

 2014

**EXHIBIT D
RELEASE, CONSENT, INDEMNIFICATION
AND HOLD HARMLESS AGREEMENT**

[Attached is a copy of the RELEASE]

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

RELEASE, CONSENT
INDEMNIFICATION AND HOLD
HARMLESS AGREEMENT

THIS RELEASE, CONSENT INDEMNIFICATION AND HOLD HARMLESS AGREEMENT is entered into this 12th day of December, 2014, by and between KATHLEEN SUZANNE HESLIN and MAUREEN THERESA MOSLEY (whether then serving or not, collectively referred to as the "CO-TRUSTEES") and MARY KATHLEEN LENAHA, JOAN ELEANOR DE MAIO, JEAN MARIE QUALLIU, MAUREEN THERESA MOSLEY, CHRISTINE ANN LENAHA (THOMPSON) and KATHLEEN SUZANNE HESLIN (collectively referred to as the "PARTIES").

WITNESSETH

WHEREAS, the CO-TRUSTEES are currently serving as co-trustees of the ELEANOR MCCARTHY LENAHAAN TRUST UAD 071201 amended and restated under the FOURTH AMENDMENT AND RESTATEMENT OF TRUST AGREEMENT on February 22, 2012 (referred to herein as the "PARENT TRUST") and that particular trust share created under Article X(35) of the PARENT TRUST and formally known as the ART X(35) MKL TRUST SHARE UAD 071201 (collectively referred to herein as the "MKL TRUST SHARE")

WHEREAS, the PARTIES have had differences concerning trust term interpretation, administration and other matters concerning the the PARENT TRUST; and

WHEREAS, the PARTIES are desirous of having the CO-TRUSTEES resign as co-trustees of the MKL TRUST SHARE upon certain conditions set forth below; and

WHEREAS, the CO-TRUSTEES are willing to resign as CO-TRUSTEES of the MKL TRUST SHARE and appoint MARY KATHLEEN LENAHA as sole successor trustee of the MKL TRUST SHARE with the understanding that MARY KATHLEEN LENAHA release the CO-TRUSTEES and the PARENT TRUST as well as indemnify and hold the CO-TRUSTEES and the PARENT TRUST harmless from any liability or responsibility for any other distribution, including legal and extraordinary co-trustee fees, from the PARENT TRUST or MKL TRUST SHARE (whether due in the past or future), for any actions of the CO-TRUSTEES or for any other responsibilities of any nature regarding the MKL TRUST SHARE; and

WHEREAS, MARY KATHLEEN LENAHA is willing to provide the indemnification requested and will hold the CO-TRUSTEES harmless as further stated herein.

NOW THEREFORE, in consideration of the premises and other promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the PARTIES hereto agree as follows:

1. The PARTIES, on behalf of themselves, their successors, heirs, administrators, assigns and privies, intend to and do hereby release, acquit and forever discharge the CO-TRUSTEES and the PARENT TRUST, their successors, heirs, administrators, assigns and privies, and any and all other persons, firms or corporations whomsoever of and from any and all liabilities of any nature, as well as any federal, state, or local taxes, any past, present or future transfers, transactions, distributors or other action or inaction and from any and all actions, causes of action, demands and claims of any nature whatsoever, whether in contract or in tort, at law or in equity or arising under or by virtue of any statute or regulation, for resulting past, present and future damages, known or unknown, which the PARTIES their successors, heirs, administrators, assigns and privies may have or may in the future be entitled to have against the CO-TRUSTEES or the PARENT TRUST.
2. The PARTIES represent, as evidenced by their signatures hereto, that they have determined that this Agreement is fair and reasonable under all the circumstances and that this determination has been based solely upon their independent judgment after consulting with counsel or knowingly waiving their right to consult independent legal counsel.
3. The PARTIES further declare and represent that no promise, inducement or agreement not herein expressed has been made to them and that this release constitutes the entire agreement between the PARTIES hereto and that the terms of this release are contractual and not a mere recital.
4. In the event that the CO-TRUSTEES or the PARENT TRUST in any capacity is a party, or is threatened to be made a party, to any action, claim, suit or proceeding, the PARTIES are hereby obligated to fully and entirely indemnify and hold harmless the CO-TRUSTEES and PARENT TRUST from any and all costs, expenses and all attorneys' fees incurred by the CO-TRUSTEES and the PARENT TRUST with respect to such action, claim, suit or proceeding. Such obligation to indemnify and hold the CO-TRUSTEES and PARENT TRUST harmless shall be the joint and several personal obligation of each of the PARTIES in the sole discretion of the CO-TRUSTEES.
5. This Agreement supersedes any and all other agreements between the PARTIES relating hereto.
6. The PARTIES acknowledge that this Agreement is executed voluntarily by each of them, without any duress or undue influence on the part of, or on behalf of any of them. The PARTIES further acknowledge that they have had the opportunity for representation by independent legal counsel in the negotiations for, and in the performance of, this Agreement.

and if a party declined to consult independent legal counsel, she acknowledges that she has knowingly waived her right to consult independent legal counsel.

7. The PARTIES acknowledge that they have read this Agreement and/or have had it fully explained to them by their independent legal counsel and that they are fully aware of the contents of this Agreement and its legal effect.

8. The PARTIES hereto agree that this document may be signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement.

9. This Agreement shall be construed in accordance with, and the rights and duties of the PARTIES hereto shall be governed by, the internal laws of the State of South Carolina. The PARTIES hereto irrevocably and unconditionally consent to and submit themselves to the exclusive jurisdiction of the courts of the State of South Carolina located in Beaufort County, South Carolina and the courts of the United States of America located in the District of South Carolina (collectively, the "Agreed Courts") with respect to any actions, suits or proceedings arising out of or in connection with this Agreement and the transactions contemplated hereby. The PARTIES hereto agree not to commence any action, suit or proceeding relating thereto except in such Agreed Courts. The PARTIES hereto irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the Agreed Courts, and hereby further irrevocably and unconditionally waive and agree not to plead or claim that any such action, suit or proceeding brought in any of the Agreed Courts has been brought in an inconvenient forum. The recitals set forth above are incorporated herein as if repeated verbatim.

(Balance of page intentionally blank)

IN WITNESS WHEREOF, the PARTIES have set their hands and seals on that date represented below.

Mary Kathleen Lenahan
MARY KATHLEEN LENAHA
DATE: 11/25/14

[Signature]
WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

CHRISTINE A. LENAHA
DATE: _____

WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

MAUREEN THERESA MOSLEY
DATE: _____

WITNESS

IN WITNESS WHEREOF, the PARTIES have set their hands and seals on that date represented below.

MARY KATHLEEN LENAHA
DATE: _____


JOAN E. DEMAIO
DATE: 10/23/14

WITNESS



WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

CHRISTINE A. LENAHA
DATE: _____

WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

MAUREEN THERESA MOSLEY
DATE: _____

WITNESS

IN WITNESS WHEREOF, the PARTIES have set their hands and seals on that date represented below.

MARY KATHLEEN LENAHAH
DATE: _____

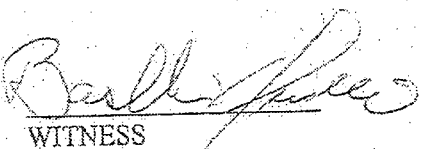
WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS



JEAN M. QUALLIU
DATE: 11-1-88



WITNESS

CHRISTINE A. LENAHAH
DATE: _____

WITNESS

KATHLEEN S. HESLIN
DATE: _____

WITNESS

MAUREEN THERESA MOSLEY
DATE: _____

WITNESS

IN WITNESS WHEREOF, the PARTIES have set their hands and seals on that date represented below.

MARY KATHLEEN LENAHA
DATE: _____

WITNESS

JOAN E. DEMAIO
DATE: _____

WITNESS

JEAN M. QUALLIU
DATE: _____

WITNESS

Christine A. Lenahan
CHRISTINE A. LENAHA
DATE: 6/17/14

M. J. Cleland
WITNESS

Kathleen S. Heslin
KATHLEEN S. HESLIN
DATE: 12/12/2014

[Signature]
WITNESS

Maureen Theresa Mosley
MAUREEN THERESA MOSLEY
DATE: 12/12/2014

[Signature]
WITNESS

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

**AFFIDAVIT OF MAUREEN
THERESA MOSLEY**

MARY KATHLEEN LENAHAAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAAN,)

Respondents.)

Personally appeared before me, Maureen Mosley, who, first being duly sworn, deposes and states the following:

1. I am a co-trustee of the Eleanor McCarthy Lenahan Trust, under agreement dated July 12, 2001 ("Trust"), along with my sister and cotrustee, Kathleen Heslin, and we have both served in such capacity since 2012.
2. The Trust currently has six beneficiaries, to wit: myself, Kathleen, Mary Kathleen Lenahan, Jean Qualliu, Joan Demaio, and Christine Lenahan, all of whom are sisters.
3. The Fourth Amendment and Restatement of the Trust Agreement, dated February 22, 2012, contains a "No Contest Restriction" in Article XI; if a beneficiary "contests in any court," or "in any manner, seeks to impair or invalidate" any Trust provisions,

- or "objects in any manner" to any actions taken by me or Kathleen, or "objects to any construction or interpretation" of the Trust Agreement, that beneficiary is subject to losing her share.
4. Mary Lenahan and Jean Qualliu have objected to the way Kathleen and I have interpreted the Trust, to how we have administered the Trust and to nearly every action we have taken as trustees.
 5. In 2012, Mary informed us that she would not consent to our planned distributions, and that she objected to our proposal to give her control of a parcel of real estate; when we offered to just distribute the real estate to her outright, she objected to that, too.
 6. Mary also objected to and contested the value we placed on the real estate and other personal property, notwithstanding that the values were based on an independent appraisal.
 7. Mary's objections to our administration and interpretation of the Trust prevented us from being able to administer the Trust and distribute, to the detriment of the Trust and the other beneficiaries.
 8. Later, in 2014, Jean indicated that she, too, would not consent to our planned distributions; eventually, Jean stated that she had been advised not to agree to the distribution proposal until Mary did.
 9. During this two-year period, Kathleen and I received incessant communications – directly from Jean and through Mary's attorney – questioning and second-guessing our actions and motives as trustees, disputing and objecting to our interpretation and administration of the Trust, and complaining and arguing about several frivolous matters.
 10. Kathleen and I could not even close our mother's estate in the probate court because Mary and Jean demanded a hearing, despite the fact that estate contained property of negligible value, and the only beneficiary of the estate was the Trust.

11. All of these actions on the part of Mary and Jean required us, as trustees, to devote considerable time, energy and resources to contend with them, to the detriment of the Trust and the other beneficiaries.
12. Mary and Jean serve as trustees of other trusts themselves, and they knew that they could delay indefinitely the closure of the Trust by their actions and, in effect, hold the Trust "hostage" until such time as we gave up and acquiesced to Mary and Jean's wishes.
13. Although we had the power and authority as trustees to divest Mary and Jean from the Trust due to their actions, which violated the No Contest Restriction of the Trust, Kathleen and I decided, in the interests of family harmony and to honor our deceased mother, to instead try and negotiate a settlement with Mary and Jean, through our attorney, Doug Delaney.
14. For our negotiations, Mary was represented by Attorney Rick Haight of Hilton Head Island, South Carolina; Jean was represented by Attorney Timothy Corrigan of New Jersey.
15. After months of negotiation (during which Mary and her counsel went back and forth over whether or not she wanted the parcel of real estate we had previously offered her) and vast amounts of time and resources spent addressing Mary and Jean's objections, we reached a deal whereby the parcel of real estate Mary had been fighting about would be placed in the "MKL Trust," with Mary appointed as trustee.
16. As part of our deal, each of the beneficiaries – including Jean – would receive an equal share, distributed over the course of a year, while we wrapped up the administration of the Trust. Mary and Jean agreed to fully cooperate with the planned distribution of the assets in the Trust.
17. Also, Mary and Jean completely released me and Kathleen for any and all actions about which they had previously complained and to which they had objected.
18. The terms of our negotiated deal were drafted into a written agreement ("Agreement"), reviewed by all parties' counsel, and signed by us, Mary and Jean, and the other beneficiaries.

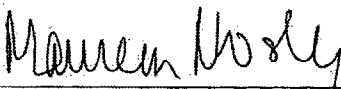
19. The Agreement was prepared in a "petition" format in the event it would need to be filed with the probate court for approval.
20. It was understood by all that the settlement was meant to buy everyone's "peace" and resolve all outstanding concerns, and Mary and Jean would no longer object to, contest or complain about actions we had taken as trustees – in any capacity, in any forum, in any proceeding.
21. After we reached the Agreement, Kathleen and I prepared to wind up the administration of the Trust.
22. Despite the time spent reaching a deal, and the negotiated Agreement and release, in March of 2015, I sent Jean a written proposal for distribution and she refused to consent and execute it.
23. Thereafter, I learned that both Mary and Jean had sent letters about our negotiations and other matters relating to the Trust to a body called the South Carolina Office of Disciplinary Counsel ("ODC"), which apparently looks into complaints about South Carolina lawyers.
24. I have read letters that Mary and Jean sent to the ODC in 2015, though there may be others in addition to the ones I have seen.
25. The only lawyer referenced in Mary and Jean's letters is Doug Delaney; Delaney represented me and Kathleen, and *did not represent Mary and Jean*, who were represented by Rick Haight and Timothy Corristan, respectively.
26. Despite the fact that Attorney Corristan wrote our attorney and made demands on Jean's behalf, Jean has asserted throughout this litigation that she was never represented by Corristan – an outright falsehood.
27. Although the letters purport to be complaints about the actions of our attorney, the letters are filled with defamatory, derogatory and untrue statements and accusations about me and Kathleen and our administration of the Trust.
28. The language of the letters clearly constitute "objections" to actions taken by me and Kathleen, and "object[ion]s to ... construction or interpretation" of the Trust Agreement made by me and Kathleen; moreover, the complaints accuse of us breach of trust, breach of fiduciary duty and fraud.

29. When I learned about the letters I was concerned because, given that Mary and Jean had gone behind our backs immediately after signing the Agreement and release, I was certain that they had sent their letters to the ODC in lieu of filing a lawsuit, with the hope that the ODC might conclude that Kathleen and I had engaged in some wrongdoing, so that Mary and Jean could use those findings against us at a later date.
30. Mary and Jean's numerous objections to our administration and interpretation of the Trust, both before and after the Agreement was reached, and their refusal to consent to the planned distributions and other obstructionist tactics are in violation of the No Contest Provision of the Trust, and have delayed the ultimate distribution of the Trust assets, to the detriment of the Trust and other beneficiaries.
31. The objections made in letters to the ODC violated both the No Contest Provision of the Trust and the Agreement, in that Mary and Jean had released us and agreed to refrain from any further objection, complaint or contest.
32. Jean's objection to and refusal to execute the written proposal for distribution was a violation of the No Contest Provision of the Trust and the Agreement.
33. In 2016, Mary and Jean, through their attorney, filed documents with the Beaufort County Court of Common Pleas wherein they specifically assert claims against me and Kathleen for breach of fiduciary duty and breach of trust, which are direct violations of the No Contest Provision, as well as the Agreement.
34. The claims for breach of trust and breach of fiduciary duty filed in 2016 contain the same allegations of wrongdoing contained in the ODC letters – including Mary's objections to our administration of the Trust's parcel of real estate – which letters supposedly only concerned our lawyer.
35. Unfortunately, Mary and Jean's actions, as outlined herein, have guaranteed that the Trust assets will not be distributed for the foreseeable future, as it would be imprudent for Kathleen and me to close the Trust with the pending claims, four to five-years-old now, asserted by Mary and Jean. This is detrimental to the Trust and the other beneficiaries.
36. Since the beginning of our tenure as cotrustees, Mary and Jean received regular accountings of the Trust in the form of monthly reports that reflected the Trust's

assets, liabilities, income and expenses. Mary received these up until December of 2014; Jean received the accounting statements I prepared from 2013 until 2015, then, starting in 2015, Jean began receiving monthly statements directly from Morgan Stanley.

37. Until their claims filed in late 2016, neither Mary nor Jean ever made specific objections to or about the accountings they have received on a regular basis.

FURTHER SAYETH AFFIANT NOT.


Maureen Theresa Mosley

Sworn to before me this

30th day of January, 2017.


Notary Public for South Carolina

My Commission Expires: Jan. 4, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)
_____)

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

MARY KATHLEEN LENAHAAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAAN,)

Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980

**AFFIDAVIT OF CHRISTINE
ANN LENAHAAN**

Personally appeared before me, Christine Lenahan, who, first being duly sworn, deposes and states the following:

1. I am a beneficiary of the Eleanor McCarthy Lenahan Trust, under agreement dated July 12, 2001 ("Trust") and I am named as an interested party in this lawsuit.
2. Kathleen and Maureen ("Reenie") are my sisters, and have been cotrustees of the Trust ever since my mother passed away in 2012.
3. Mary Kathleen Lenahan and Jean Marie Qualliu are also my sisters.
4. Since right after my mother's death, Mary and Jean have objected to every action taken by Kathleen and Reenie as cotrustees, as well as to their administration of the Trust.

5. Mary objected to Reenie and Kathleen distributing some real estate to her, and claimed that Reenie and Kathleen did not have the power to distribute such property.
6. Jean regularly harassed Reenie and Kathleen about their administration of the Trust, and complained about decisions they made as cotrustees.
7. Both Mary and Jean refused to consent to Reenie and Kathleen's proposal for distribution, which delayed the distribution for all the rest of us.
8. Reenie and Kathleen tried hard to settle the matter with Mary and Jean from 2012 until 2014, while I and the other beneficiaries waited to receive our distribution.
9. Mary and Jean hired their own attorneys to deal with Reenie and Kathleen's attorney, Douglas Delaney.
10. After months of negotiation, Mary and Jean finally settled their differences with Reenie and Kathleen and they, along with me and all other beneficiaries, executed an agreement and release, allowing Reenie and Kathleen to begin winding up the Trust administration.
11. However, even after the negotiations were over and the agreement was signed, Jean decided that she would not sign the written proposal for distribution that Reenie sent her, which once again meant that the distributions could not be made and the Trust would not be closed.
12. What is more, Jean and Mary both sent letters to some South Carolina legal office objecting to and complaining about the deal they had just struck with Reenie and Kathleen – behind all of our backs.
13. The actions of Mary and Jean in this regard have prevented the closure of the Trust and have hurt all of the beneficiaries, including me.

FURTHER SAYETH AFFIANT NOT.

Christine Ann Lenahan
Christine Ann Lenahan

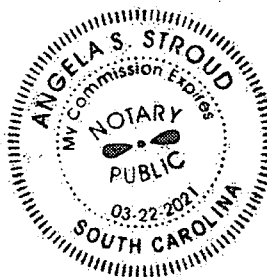
Sworn to before me this

30 day of January, 2017.

Angela S. Stroud

Notary Public for South Carolina

My Commission Expires: 3/22/2021



STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

AFFIDAVIT OF JOAN ELEANOR
DEMAIOMARY KATHLEEN LENAHA,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHA,)

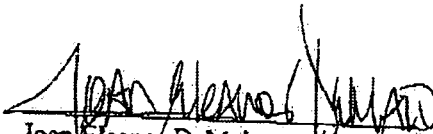
Respondents.)

Personally appeared before me, Joan DeMaio, who, first being duly sworn, deposes and states the following:

1. I am a beneficiary of the Eleanor McCarthy Lenahan Trust, under agreement dated July 12, 2001 ("Trust") and I am named as an interested party in this lawsuit.
2. Kathleen and Maureen ("Reenie") are my sisters, and have been cotrustees of the Trust ever since my mother passed away in 2012.
3. Mary Kathleen Lenahan and Jean Marie Qualliu are also my sisters.
4. Following my mother's death, Mary and Jean have objected to every action taken by Kathleen and Reenie as cotrustees, as well as to their administration of the Trust.

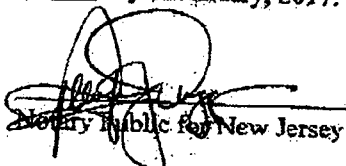
5. Mary objected to Reenie and Kathleen distributing some real estate to her, and claimed that Reenie and Kathleen did not have the power to distribute such property.
6. Jean regularly harassed Reenie and Kathleen about their administration of the Trust, and complained about decisions they made as cotrustees.
7. Both Mary and Jean refused to consent to Reenie and Kathleen's proposal for distribution, which delayed the distribution for all the rest of us.
8. Reenie and Kathleen tried hard to settle the matter with Mary and Jean from 2012 until 2014, while I and the other beneficiaries waited to receive our distribution.
9. Mary and Jean hired their own attorneys to deal with Reenie and Kathleen's attorney, Douglas Delaney.
10. After months of negotiation, Mary and Jean finally settled their differences with Reenie and Kathleen and they, along with me and all other beneficiaries, executed an agreement and release, allowing Reenie and Kathleen to begin winding up the Trust administration.
11. However, even after the negotiations were over and the agreement was signed, Jean decided that she would not sign the written proposal for distribution that Reenie sent her, which once again meant that the distributions could not be made and the Trust would not be closed.
12. What is more, Jean and Mary both sent letters to some South Carolina legal office objecting to and complaining about the deal they had just struck with Reenie and Kathleen - behind all of our backs.
13. The actions of Mary and Jean in this regard have prevented the closure of the Trust and have hurt all of the beneficiaries, including me.

FURTHER SAYETH AFFIANT NOT.


Joan Eleanor DeMaio

Sworn to before me this

30th day of January, 2017.


Notary Public for New Jersey

My Commission Expires: _____

PAUL J. DUGGAN
NOTARY PUBLIC OF NEW JERSEY
ID # 2396758
My Commission Expires May 25, 2020



STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

ELEANOR MCCARTHY LENAHA
N TRUST under agreement dated July 12,
2001

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in their
capacities as Cotrustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

Petitioners,

v.

MARY KATHLEEN LENAHA
N, individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
07201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMAIO, and CHRISTINE
ANN LENAHA
N,

Respondents.

IN THE COURT OF COMMON PLEAS

CASE NO. 2015-CP-07-001980

MARY KATHLEEN LENAHA
N'S AND
JEAN MARIE QUALLIU'S MOTION TO
DISMISS

2015 OCT -1 PM 3:48
JEAN MARIE QUALLIU
BEAUFORT COUNTY, S.C.

TO: SEAN M. BOLCHOZ, ESQUIRE, AND DOUGLAS S. DELANEY, ESQUIRE,
ATTORNEYS FOR THE PETITIONERS:

Pursuant to Rules 12(b)(4), 12(b)(5) and 12(b)(6) of the South Carolina Rules of Civil Procedure, Respondents Mary Katherine Lenahan and Jean Marie Qualliu (hereinafter collectively "Respondents") hereby move for an Order dismissing each and every cause of action against the Respondents raised in the Petition, due to Petitioners' failure to state facts sufficient to constitute a cause of action as to each such cause of action and failure to serve Respondent Mary Kathleen Lenahan.

Petitioners' causes of action for declaratory judgment and breach of contract should be dismissed because they are barred by Lawyer Disciplinary Enforcement Rule 13 included in Rule 413, South Carolina Appellate Rules, which provides that all communications from a complainant to the Commission on Lawyer Conduct and Office of the Disciplinary Counsel are absolutely privileged and grants complainants with complete immunity from a civil suit relating to such communications. The gravamen of Petitioners' complaint is that Respondents allegedly violated a private agreement between the parties and the terms of the Fourth Amendment and Restatement of Trust Agreement of Eleanor McCarthy Lenahan, dated February 22, 2012, by filing letters of complaint with the Office Disciplinary Counsel. As stated in Rule 13,

Communications to the Commission, Commission counsel, disciplinary counsel, or their staffs relating to misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings and testimony given in the proceedings shall be absolutely privileged, and no civil lawsuit predicated thereon may be instituted against any complainant or witness.

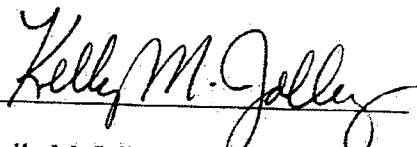
SCACR Rule 413 (emphasis added). Accordingly, this action must be dismissed.

Additionally, Respondent Mary Kathleen Lenahan moves to dismiss this action for insufficiency as process as she has not been properly served in this matter and does not waive service of process.

This Motion is based upon the South Carolina Rules of Civil Procedure, the pleadings filed herein, applicable statutory and common law, any supporting memorandum filed prior to or at the hearing on this motion, and such other arguments as may be submitted at the hearing. Each and every cause of action should be dismissed because Petitioners have failed to state a valid cause of action against either Respondent.

Respectfully submitted,

JOLLEY LAW GROUP, LLC

A handwritten signature in cursive script, reading "Kelly M. Jolley", written over a horizontal line.

Kelly M. Jolley (SC Bar No. 72573)
Michael C. Cerrati (SC Bar No. 78011)
Post Office Box 22230
Hilton Head Island, SC 29925
(843) 681-6500 - phone
(877) 513-3444 - fax

Attorneys for Mary Kathleen Lenahan and
Jean Marie Qualliu

September 28, 2015
Hilton Head Island, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)
)

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)
)

Petitioners,)
)

v.)
)

MARY KATHLEEN LENAHAAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAAN,)
)

Respondents.)
)

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980

2016 MAR -1 PM 4:00
CLERK OF COURT
JANET L. HARRIS

**NOTICE OF MOTION AND
MOTION TO STAY LITIGATION**

TO: RESPONDENTS MARY KATHLEEN LENAHAAN, JEAN MARIE QUALLIU, AND
ATTORNEYS:

PLEASE TAKE NOTICE THAT the Petitioners, by and through their undersigned attorney, will move before the Presiding Judge of the Beaufort County Court of Common Pleas, at the Beaufort County Courthouse in Beaufort, South Carolina, to be heard on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for an Order staying the within case, and as grounds therefor, would respectfully state as follows:

1. The Petitioners have asserted two causes of action against Respondents Mary Kathleen Lenahan and Jean Marie Qualliu in this case: one for declaratory judgment and one for breach of contract.

2. There is currently a matter proceeding before the S.C. Office of Disciplinary Counsel (ODC), which proceeding was initiated by Respondents Mary Lenahan and Qualliu in order to, upon information and belief, object to actions taken by the Petitioners as trustees of the trust at issue in this case (the "Trust").
3. The Petitioners intend to prove that the Respondents Mary Lenahan and Qualliu violated the 'No Contest' clause of the Trust by, among other things, initiating the ODC proceeding and, in conjunction with same, making numerous, defamatory allegations of malfeasance, misconduct and breach of fiduciary duty on the part of the Petitioners.
4. By Order dated July 13, 2016, The Honorable Marvin Dukes III, Beaufort County Master in Equity and Special Circuit Court Judge, held that, under Rule 12 of the S.C. Rules for Lawyer Disciplinary Enforcement, any filing, complaints, communications or any other documents relating to the ODC proceedings are privileged and shielded from disclosure by Respondents Mary Lenahan and Qualliu, and that the Petitioners are prohibited from examining, questioning or deposing said Respondents concerning any communications relating to the ODC matter, whether at deposition, trial or otherwise.
5. The Order goes on to hold that, at the conclusion of the ODC proceeding, or once the ODC proceeding is no longer pending or active, then any filings, complaints or other documents relating to the said proceeding will no longer be shielded from disclosure and/or discovery, and Petitioners will no longer be prohibited from examining, questioning or deposing the Respondents concerning communications relating to the ODC matter.
6. The filings, complaints and other documents Respondents Mary Lenahan and Qualliu delivered to the ODC concerning the Petitioners, as well as the said Respondents' communications to the ODC concerning the Petitioners, are crucial to the Petitioners' claims. If the Petitioners are forced to continue this litigation in the absence of the aforesaid documents and communications, they will be unfairly prejudiced.
7. Therefore, the Petitioners are informed and believe that this Court should

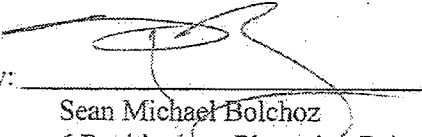
immediately stay the within litigation until such time as the ODC proceeding has concluded, or is no longer pending or otherwise active. The Petitioners further request that such stay apply to any and all court proceedings, motion hearings, ADR, discovery and/or any other litigation matters associated with this case, whether currently scheduled, pending or otherwise, until further order of this Court.

This Motion is and shall be supported by the pleadings and any applicable memoranda, as well as the statutory and common law of the State of South Carolina.

WHEREFORE, the Petitioners herein pray that this Court enter its Order granting them the relief requested hereinabove, and granting them any such other and further relief as this Court deems just and proper.

Respectfully submitted,

BOLCHOZ LAW FIRM, PA

By: 

Sean Michael Bolchoz
6 Buckingham Plantation Drive, Suite B
P.O. Box 828
Bluffton, SC 29910
(843) 836-3033

Douglas S. Delaney
Delaney Law Firm
P.O. Box 3199
Bluffton, SC 29910
(843) 815-9777

Attorneys for Petitioners

Bluffton, South Carolina

JULY 27, 2016

H:\H to M\Clients\Heslin, Kathleen - BL026\motion - to stay.wpd

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
IN RE: ELEANOR MCCARTHY)
LENAHAN TRUST under agreement)
dated July 12, 2001)

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-07-1980

KATHLEEN SUZANNE HESLIN and)
MAUREEN THERESA MOSLEY, in)
their capacities as Cotrustees of the Eleanor)
McCarthy Lenahan Trust under agreement)
dated July 12, 2001,)

Petitioners,)

v.)

MARY KATHLEEN LENAHAAN,)
individually and in her capacity as Trustee)
of the Art. X(35) MKL Trust Share UAD)
071201, JEAN MARIE QUALLIU, JOAN)
ELEANOR DEMAIO, and CHRISTINE)
ANN LENAHAAN,)

Respondents.)

**NOTICE OF MOTION AND
MOTION FOR RECONSIDERATION,
ALTERATION AND/OR AMENDMENT**

TO: RESPONDENTS MARY KATHLEEN LENAHAAN AND JEAN MARIE QUALLIU, AND
ATTORNEY:

PLEASE TAKE NOTICE THAT the Petitioners, by and through their undersigned counsel,
will move before the Beaufort County Court of Common Pleas, to be heard on the 10th day after
service thereof, or as soon thereafter counsel may be heard, for the Court's reconsideration, alteration
and/or amendment, under the SCRCP, of the Order filed on February 3, 2017 and issued in the
within action by The Honorable Carmen T. Mullen ("Order"), and as grounds therefor, respectfully
set forth as follows:

1. Counsel for the Petitioners received a copy of the filed Order from the Court on
February 3, 2017.

2. The Order is in error and/or unclear in that it identifies no specific basis or grounds for the grant of partial summary judgment to Respondents Mary Jean Lenahan and Jean Marie Qualliu ("Respondents"), sets forth no reasoning for the ruling, and points to no evidentiary material as support for the ruling.
3. The Order is in error and/or unclear in that it appears to disregard and conflict with this Court's prior order, dated April 18, 2016, denying the Respondents' motion to dismiss, which motion was based on the same legal grounds as the Respondents' motion for partial summary judgment.
4. The Order is in error and/or unclear in that, by ruling that "Defendants' Motion for Partial Summary Judgment is hereby granted," it appears to grant all relief requested by the Respondents in their motion for partial summary judgment, which relief includes a request for "an Order dismissing Petitioner's second cause of action" for breach of contract, even though the Order grants the Petitioners' motion to amend their original petition, which amended petition also includes a cause of action for breach of contract.
5. The Order is in error and/or unclear in that it appears to grant the requested relief of dismissal of the entire breach of contract cause of action, notwithstanding that, in their motion for partial summary judgment, Respondents also indicate they are only seeking summary judgment as to the issue of whether the Office of Disciplinary Counsel (ODC) complaints can "breach a private agreement between [the parties]."
6. The Order is unclear in that it grants the Petitioners' motion to amend their original pleadings to include a claim for defamation against the Respondents based solely upon the ODC proceedings, while apparently ruling at the same time that the ODC proceedings, or materials from the ODC proceedings, cannot serve as the basis for any part of Petitioners' other two causes of action.

WHEREFORE, the Petitioners pray that this Court reconsider, alter and/or amend its Order dated February 3, 2017, taking into account the foregoing, and award the Petitioners any such other and further relief as this Court deems just and proper.

Respectfully submitted,

BOLCHOZ LAW FIRM, PA

By: s/Sean Michael Bolchoz
Sean Michael Bolchoz
S.C. Bar No. 15860
6 Buckingham Plantation Drive, Suite B
Post Office Box 828
Bluffton, South Carolina 29910
(843) 836-3033
sbolchoz@bolchozlaw.com

Douglas S. Delaney
Delaney Law Firm, P.A.
P.O. Box 3199
Bluffton, SC 29910
(843) 815-9777

Attorneys for Petitioners

February 10, 2017
Bluffton, South Carolina

LAH to M Clients\Heslin, Kathleen - BL026\motion - to reconsider - rev.wpd

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

IN THE MATTER OF:

ELEANOR MCCARTHY LENAHA
TRUST under agreement dated July 12,
2001

CASE NO. 2015-CP-07-001980

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in their
capacities as Co-trustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

MARY KATHLEEN LENAHAHAN'S AND
JEAN MARIE QUALLIU'S
MEMORANDUM IN REPSONSE TO
PETITIONERS' MOTION FOR
RECONSIDERATION, ALTERATION,
AND/OR AMENDMENT

Petitioners,

v.

MARY KATHLEEN LENAHAHAN,
individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
07201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMAIO, and CHRISTINE
ANN LENAHAHAN,

Respondents.

Respondents Mary Katherine Lenahan and Jean Marie Qualliu (hereinafter collectively "Respondents") submit this memorandum and the attached proposed order in response to the motion Petitioners Kathleen Suzanne Heslin and Maureen Theresa Moseley, in their capacities as co-trustees of the Eleanor McCarthy Lenahan Trust under agreement dated July 12, 2001 (hereinafter jointly referred to as "Petitioners"), filed seeking Reconsideration, Alteration and/or Amendment of this Court's grant of partial summary judgment to Respondents via Form 4 Order dated February 3, 2017. For the sake of clarity and efficiency in moving forward with this case,

Respondents support Petitioners' motion in part and oppose it in part for the reasons set forth in the proposed order filed with this memorandum.

Respectfully submitted,

JOLLEY LAW GROUP, LLC

s/ Kelly M. Jolley

Kelly M. Jolley (SC Bar No. 72573)
Ariail B. Kirk (SC Bar No. 71101)
Post Office Box 22230
Hilton Head Island, SC 29925
(843) 681-6500 - phone
(877) 513-3444 - fax

Attorneys for Mary Kathleen Lenahan and
Jean Marie Qualliu

March 8, 2017
Hilton Head Island, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

ELEANOR MCCARTHY LENAHA
N TRUST under agreement dated July 12,
2001

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in their
capacities as Cotrustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

Petitioners,

v.

MARY KATHLEEN LENAHA
N, individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
07201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMAIO, and CHRISTINE
ANN LENAHA
N,

Respondents.

IN THE COURT OF COMMON PLEAS

CASE NO. 2015-CP-07-001980

RESPONDENTS MARY KATHLEEN
LENAHAN'S AND JEAN MARIE
QUALLIU'S MOTION FOR PARTIAL
SUMMARY JUDGMENT

2016 NOV -4 PM 2:09

TO: SEAN M. BOLCHOZ, ESQUIRE, AND DOUGLAS S. DELANEY, ESQUIRE,
ATTORNEYS FOR THE PETITIONERS:

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Respondents Mary Katherine Lenahan and Jean Marie Qualliu (hereinafter collectively "Respondents") hereby move for an Order dismissing Petitioners' second cause of action and a determination by the Court that Respondents' submission of complaints regarding Petitioners' counsel Douglas Delaney with the South Carolina Office of Disciplinary Counsel (the "ODC") did not and could not violate a trust agreement's no contest restriction justifying Petitioners removal of Respondents as trust beneficiaries and did not breach a private agreement between Petitioners

and Respondents because no genuine issue of material fact exists and the Respondents are entitled to summary judgment as a matter of law.

The gravamen of Petitioners' complaint is that Respondents allegedly violated a no contest restriction contained in the Fourth Amendment and Restatement of Trust Agreement of Eleanor McCarthy Lenahan, dated February 22, 2012, (the "Trust Agreement") as well as a private agreement between the parties, defined as the Agreement and Release in the Petition, by filing letters of complaint with the ODC about the Respondents' counsel Douglas Delaney. Specifically, Paragraph 31 and the entire first cause of action for a declaratory judgment (Paragraphs 33 through 36) allege that Respondents' actions, including their communications with the ODC, constituted and constitute a violation of Article XI of the Trust Agreement. In addition, Paragraph 32 of the Petition and the entire second cause of action for a breach of contract (Paragraphs 37 through 41) contend that the "proceedings" initiated by Respondents in the ODC constituted and constitute a violation of the Agreement and Release.

Petitioners have alleged other actions by Respondents also violated the no contest restriction in the Trust Agreement, which allegations are not subject to this motion, but have not alleged any other ground upon which Respondents could have breached the Agreement and Release. Therefore, this motion seeks the complete dismissal of Petitioners' second cause of action and a determination by the Court that Respondents' initiation of a proceeding with the ODC did not violate the no contest restriction of the Trust Agreement.

Even taking Petitioners' factual allegations as true, as a matter of law, a letter of complaint to the ODC cannot constitute a contest of the Trust Agreement for the following reasons:

1. The only actions at issue in this motion were complaints made by Respondents to the ODC regarding Petitioners' attorney, Douglas Delaney. The ODC has no jurisdiction over trust contests, non-judges and non-lawyers, nor any authority to alter the administration or handling of a trust. As the ODC has no ability to impact the trust or trustees, it is nonsensical to claim that letters complaining about the actions of the legal counsel for the trustees of a trust is a contest of the trust.
2. Pursuant to South Carolina Code Section 62-7-201(a), any contest regarding the management of the trust must be filed with the Probate Court. No such contest was filed in this matter.
3. Petitioners' claims are barred by Lawyer Disciplinary Enforcement Rule 13 included in Rule 413, South Carolina Appellate Rules, which provides that all communications from a complainant to the Commission on Lawyer Conduct and Office of the Disciplinary Counsel are absolutely privileged and grants complainants with complete immunity from a civil suit relating to such communications.
4. Any no contest provision that allows the trustees of a trust to disavow trust beneficiaries on the grounds that the beneficiaries complained to the ODC about the trustees' counsel is void as a violation of public policy. Individuals have a right to complain to the ODC about the harm they believe they have received due to the actions of counsel. Trustees should not be able to retaliate against beneficiaries who file confidential claims against the legal counsel of trustees and should not be able to use those privileged letters to the ODC as grounds for

refusing to make trust distributions to the beneficiaries or for charging all legal fees to the complaining beneficiaries. It is well settled in South Carolina, that public policy is against enforcing no contest clauses, especially where – as in this instance – probable cause exists for the contest based on justice and morality.

Lawyer Disciplinary Enforcement Rule 13 included in Rule 413 also bars Petitioners' claim that the Respondents' letters to the ODC breached the Agreement and Release. In addition, the Agreement and Release does not contain any provision prohibiting Respondents from filing grievances against Petitioners counsel. Even such a provision was included in the Agreement and Release, that provision would be void as against public policy and unenforceable. As a result, the ODC "proceedings" cannot serve as the basis for any liability with respect to Petitioners' first cause of action and Petitioners' second cause of action must fail entirely.

This Motion is based upon the South Carolina Rules of Civil Procedure, the South Carolina Appellate Rules, the pleadings filed herein, the Affidavit of Jean Marie Qualliu and Affidavit of Mary Kathleen Lenahan filed concurrently with this motion, applicable statutory and common law, any supporting memoranda filed prior to or at the hearing on this motion, and such other arguments as may be submitted at the hearing.

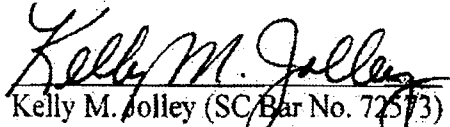
The undersigned hereby affirms that there is no requirement under SCRCP, Rule 11(a) to consult with Petitioners' counsel regarding this motion, and further that any such consultation, if required, would serve no useful purpose.

Signature block appears on following page.

November 1, 2016
Hilton Head Island, South Carolina

Respectfully submitted,

JOLLEY LAW GROUP, LLC



Kelly M. Jolley (SC Bar No. 72573)
Michael C. Cerrati (SC Bar No. 78011)
Post Office Box 22230
Hilton Head Island, SC 29925
(843) 681-6500 - phone
(877) 513-3444 - fax

*Attorneys for Mary Kathleen Lenahan and
Jean Marie Qualliu*

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

ELEANOR MCCARTHY LENAHAAN
TRUST under agreement dated July 12,
2001

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in their
capacities as Cotrustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

Petitioners,

v.

MARY KATHLEEN LENAHAAN,
individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
07201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMAIO, and CHRISTINE
ANN LENAHAAN,

Respondents.

IN THE COURT OF COMMON PLEAS

CASE NO. 2015-CP-07-001980

AFFIDAVIT OF JEAN MARIE QUALLIU

2016 NOV -4 PM 2:09
CLERK OF COURT
JANET B. HARRIS, CLERK
JANET B. HARRIS, CLERK
JANET B. HARRIS, CLERK

PERSONALLY appeared before me, Jean Marie Qualliu, who being duly sworn, deposes
and says that:

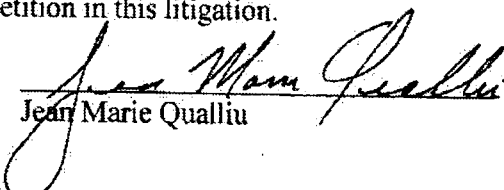
1. I am a citizen and resident of Bergen County, New Jersey.
2. I am named as one of the Respondents in the above-referenced matter. I am fully
familiar with all of the facts, circumstances and proceedings concerning this matter.
3. As stated in my Answer in this litigation, on or about March 23, 2015, I initiated a
complaint against Douglas Delaney with the South Carolina Office of Disciplinary Counsel (the
"ODC").

4. The purpose of complaining to the ODC was to voice my concern over the way Mr. Delaney acted while representing my sisters, Kathleen Heslin and Maureen Mosley, during the administration of our mother's trust. I am a beneficiary of our mother's trust and Kathleen Heslin and Maureen Mosley are the co-trustees.

5. I was aware when I first contacted the ODC that the ODC only handles complaints against attorneys and judges.

6. I was also aware when I first contacted the ODC that the ODC has no jurisdiction over my mother's trust or the co-trustees, including, without limitation, any ability to alter the terms of my mother's trust, to change the actions contemplated and taken by the co-trustees or to penalize the co-trustees for their actions.

7. Aside from sending emails to Kathleen Heslin and Maureen Mosley with questions about the administration of our mother's trust, I have not contested the actions taken by Kathleen Heslin and Maureen Mosley in their administration of the trust or breached the Agreement and Release referenced in the Petition in this litigation.


Jean Marie Qualliu

SWORN to before me this
27th day of October, 2016.


Notary Public for South Carolina
My Commission Expires: 10/3/2023

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

ELEANOR MCCARTHY LENAHA
TRUST under agreement dated July 12,
2001

KATHLEEN SUZANNE HESLIN and
MAUREEN THERESA MOSLEY, in their
capacities as Cotrustees of the Eleanor
McCarthy Lenahan Trust under agreement
dated July 12, 2001,

Petitioners,

v.

MARY KATHLEEN LENAHA,
individually and in her capacity as Trustee
of the Art. X(35) MKL Trust Share UAD
07201, JEAN MARIE QUALLIU, JOAN
ELEANOR DEMAIO, and CHRISTINE
ANN LENAHA,

Respondents.

IN THE COURT OF COMMON PLEAS

CASE NO. 2015-CP-07-001980

AFFIDAVIT OF MARY KATHLEEN
LENAHAN

2016 NOV -4 PM 2:09
CLERK OF COURT
JANET L. HARRIS

PERSONALLY appeared before me, Mary Kathleen Lenahan, who being duly sworn,
deposes and says that:

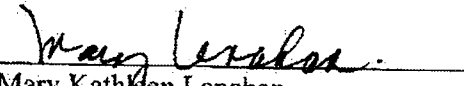
1. I am a citizen and resident of Habersham County, Georgia.
2. I am named as one of the Respondents in the above-referenced matter. I am fully familiar with all of the facts, circumstances and proceedings concerning this matter.
3. As stated in my Answer in this litigation, on or about April 9, 2015, I initiated a complaint against Douglas Delaney with the South Carolina Office of Disciplinary Counsel (the "ODC").

4. The purpose of complaining to the ODC was to voice my concern over the way Mr. Delaney acted while representing my sisters, Kathleen Heslin and Maureen Mosley, during the administration of our mother's trust. I am a beneficiary of our mother's trust and Kathleen Heslin and Maureen Mosley are the co-trustees.

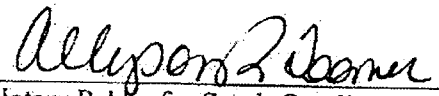
5. I was aware when I first contacted the ODC that the ODC only handles complaints against attorneys and judges.

6. I was also aware when I first contacted the ODC that the ODC has no jurisdiction over my mother's trust or the co-trustees, including, without limitation, any ability to alter the terms of my mother's trust, to change the actions contemplated and taken by the co-trustees or to penalize the co-trustees for their actions.

7. I have not contested the actions taken by Kathleen Heslin and Maureen Mosley in their administration of the trust or breached the Agreement and Release referenced in the Petition in this litigation.


Mary Kathleen Lenahan

SWORN to before me this
27th day of October, 2016.


Notary Public for South Carolina
My Commission Expires: 10/3/2023

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2017-000882

RECEIVED
JAN 11 2018
SC Court of Appeals

In Re: Eleanor McCarthy Lenahan Trust under agreement Dated July 12, 2001.

Kathleen Suzanne Heslin and Maureen Teresa Mosley, in their capacities as
Cotrustees of the Eleanor McCarthy Lenahan Trust under agreement
dated July 12, 2001.....Appellants,

v.

Mary Kathleen Lenahan, individually and in her capacity as Trustee of the
Art. X(35) MKL Trust Share UAD 071201, Jean Marie Qualliu, Joan Eleanor
DeMaio, and Christine Ann Lenahan Respondents,

Of Whom Mary Kathleen Lenahan and Jean Marie Qualliu are Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal contains all material proposed
to be included by any of the parties and not any other material.

(Signature on next page following.)



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January 10, 2018