

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Circuit Court Case No. 2009-CP-10-3010
Appellate Court Case No. 2018-000604

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SC Court of Appeals

Betty Fisher and Lisa Fisher, ...Appellants

v.

Bessie Huckabee, Kay Passailaigue Slade and Sandra Byrd,.....Respondents

In the Matter of the Estate of Alice Shaw-Baker.

**PETITION FOR WRIT OF SUPERSEDEAS AND FOR
EMERGENCY/ INTERIM RELIEF ;
JOINDER BY BETTY FISHER IN PETITION**
(Filed concurrently with Affidavits of Lisa Fisher and Betty Fisher)

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(Appellant)

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(Appellant requesting Joinder in said
Petition)

**TO THE HONORABLE SUPREME COURT OF SOUTH CAROLINA AND ALL
INTERESTED PARTIES:**

Pursuant to Rule 241 (c), SCACR, the common law, and South Carolina Constitutional rights and substantive and procedural due process, Appellants Betty Fisher and Lisa Fisher ("Appellants") respectfully petition this Court to issue a writ of supersedeas to stay enforcement of the judgment and orders of the Honorable Thomas L. Hughston, Jr., Judge Presiding, Charleston County dated October 26, 2017, March 21, 2018, and April 3, 2018. (Attached hereto are certified copies of said orders marked as Exhibits A, B, and C, pp. 29, 32, 67, respectively)

Appellants have appealed from these Orders on April 5, 2018. Appellant Lisa Fisher served the Notice of Appeal on all counsel of record for the Respondents and the Attorney General on April 4, 2018, and has filed said Notice with this Supreme Court and the Court of Common Pleas in Charleston. (Attached hereto is a true and correct copy of said Notice of Appeal marked as Exhibit D, p. 69) Appellants learned that on April 6, 2018, the Supreme Court transferred the matter to the Court of Appeals. (Attached hereto is a true and correct copy of said order marked as Exhibit E, p. 74)

The Supreme Court's number on said case is: 2018-000604.

This Notice of Appeal was filed in the South Carolina Supreme Court, because the Order of April 3, 2018 issued an additional sanction without Notice and an opportunity to be heard and contrary to the provisions of Rule 59, SCRCR as follows:

"As Additional sanctions for Plaintiffs and their attorneys, they are enjoined and restrained from filing any motions in the Circuit Court. Any future filings in this case must be filed with the Supreme Court of South Carolina." (Ex. C, prg. 5. Pp. 68)

This Order precluded the proper and necessary filing of a Rule 59 motion. While SCRCF, Rule 63 does allow a different judge to hear a new trial matter when a judge “by reason of death, sickness, or other disability” is unable to perform the duties, the rule provides that the “resident judge of the circuit or any other judge having jurisdiction in the court in which the action was tried may perform those duties.” There is no provision or authority for Appellants to file the Rule 59 motion in the Supreme Court, nor in the now transferred Court of Appeal. Therefore, Appellants were forced to file the Notice of Appeal.

As set forth herein, these Extraordinary circumstances make it impractical and futile for Appellants to apply to the lower court for a Supersedeas or interim relief, because by way of the April 3, 2018 (Ex. C, p. 68, prg. 5) order and the March 21, 2018 order (Ex. B, p. 34) , the lower court already ruled there would be no stay and actually made orders that Appellants could only file in the Supreme Court.

Appellants pray that this Court will look seriously at this Petition for Writ of Supersedeas, accompanying Exhibits, and Affidavits of Lisa Fisher and Betty Fisher, and stay all orders of enforcement pending this Appeal.

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I. INTRODUCTION

Edward R. Murrow, *See It Now* (1954) is quoted as saying:

“We must not confuse dissent with disloyalty. We must remember always that accusation is not proof and that conviction depends upon evidence and due process of law. We will not walk in fear, one of another. We will not be driven by fear into an age of unreason, if we dig deep in our history and our doctrine, and remember that we are not descended from fearful men — not from men who feared to write, to speak, to associate and to defend causes that were, for the moment, unpopular.” (<http://www.lib.berkeley.edu/MRC/murrowmccarthy.html>, emphasis added)

Appellant Lisa Fisher is a lawyer, albeit not from South Carolina, she still reveres the law and believes that it has meaning. She did not mean to act in dissent—rather she has fought for the rights of her great aunt, Alice Shaw Baker, not to punish anyone. Appellants ask for this matter be resolved based on evidence and due process of law, and not on accusations by the judge, advocacy by the judge on behalf of the Respondents, and by error in law which precludes and deprives Appellants of a fair trial. The trial court’s orders have interfered with the jurisdiction of this court, the jurisdiction of the Special probate judge-Honorable Judge Fulp, and the appellate jurisdiction of the Circuit Court reviewing the improper orders of the magistrate court related to the real property based on the premature and improper filing by Bessie Huckabee.

While this is a fight, as all lawsuits are, it has led to shocking results, not because reasonable people can’t differ, but because as Judge Hughston stated at the conclusion of the jury trial, the case has “taken too long.” (Attached hereto as Exhibit F, portion of will contest trial, p. 79, ll. 25)

Appellant Betty Fisher relied on the advise of her counsel and is now being subjected to the same fate as her daughter, a judgment nearing half a million dollars, not demanded by Respondents in any pleading or motion,¹ but contrived by the Court without notice and contrary to these other court's jurisdiction.

Appellants Lisa Fisher and Betty Fisher² believe that when this Supreme Court looks at the pleadings, evidence, orders, and judgment in this case, the only result that can be made is reversal of the Judgment of the bifurcated trials and reversal of the release of cash assets in excess of \$200,000.00 to Respondents. Appellant Lisa Fisher has protected these assets during the pendency of these proceedings, based on her duty under S.C. Code § 62-5-425 (d) and § 62-7-707. Due to her actions, the house has nearly doubled in value, the monies in the investment have doubled in value, and no other attorneys and/or Special Administrators have incurred additional fees which would have diminished the value of the property.³

¹ Although Respondents filed post trial motions for attorney fees pursuant to S.C. Code § 15-36-10, said motion did not request fees, costs, or damages amounting to the sanctions imposed herein. Therefore, Appellants had no notice that there additional sanctions, nor a sanction that would preclude them from filing a Rule 59 motion.

² Appellant Betty Fisher files a joinder in this writ of supersedeas. She files her separate affidavit. Due to the conflict of interest created by the judgment in this case, she has lost counsel. She seeks a stay along with Appellant Lisa Fisher.

³ Respondents will claim that the increase in value of the property is merely the market changes, however during these proceedings (since the freezing of the assets) Lisa Fisher has paid for all maintenance, insurance, etc. on the house. There has been no loss to the estate.

Appellants ask that this Court stay the release of these monies,⁴ stay transfer of Alice Shaw Baker's house, and stay transfer of all Estate assets to Respondents, until this Appeal is completed.

The Court has already released these monies to Respondent Bessie Huckabee, the claimed personal representative, admitted at trial that she could not be bonded. (Ex. C, p. 67) Also, the Court's release of monies to Respondent Kay Passailague Slade while the Appeal is pending is contrary to well established principles of depositing the money in the court when the issues are disputed and contrary to law governing probate which precludes the use of monies by a "personal representative" while an action is pending.⁵

⁴ At this time, Appellant is aware that without notice to Lisa Fisher, the bank transferred \$106,731.19 and \$20,534.26 presumably to Attorney W. Westbrook Wills, who does not represent Respondent Huckabee as personal representative. Respondent Huckabee admitted at trial, she can not be bonded. Also, the trial court ordered the release of \$22,642.76, \$2,189.36, \$4,000.00, and \$75,246.24, plus interest in the amount of \$935.86, totaling \$105,014.22 to Respondent Slade. These monies are not protected, in the event that Appellants are successful on Appeal. Thus, causing losses to Alice Shaw Baker's estate and interfering with Appellant Lisa Fisher's duties to protect the trust property and deliver to the proper representative. The Court also ordered ejectment proceedings, despite the current appeal of improper ejectment proceedings initiated by Counsel Jessica Crowley and set for hearing before the appellate division of the magistrates court, Circuit court. Case no. 2017CP1006629. An appeal bond was filed in this case.

⁵ While Judge Hughston makes terrible allegations against Appellant Lisa Fisher which are not true, the court apologized to defendants in its March 21, 2018 order as follows: "I deeply regret signing two Orders almost nine years ago that were meant to be temporary for Plaintiffs, except for the bond requirement." However, those orders were never in effect, because Respondent Huckabee never obtained a bond, testified that she could not get a bond, did not inform the court that she marshaled the assets without a bond, *after she filed a motion to modify the bond*. Moreover, in reality, the court granted no relief to Appellants by the order.

As set forth in SC Code § 62-3-414 (2017), once Appellants filed for formal probate, the code itself provides: "...the previously appointed personal representative, after receipt of notice thereof, **shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.**" (Attached hereto is a true and correct copy of said order dated June 10, 2009 marked as Exhibit G, p. 81) The court's orders stated that "restraint of the Personal Representative is limited to disbursing or distributing any estate assets pending a trial on the merits on all issues in controversy." However, the court imposed a bond, which Bessie Huckabee never obtained.

II.

BRIEF STATEMENT OF THE FACTS

Alice Shaw-Baker died on February 25, 2009. She was a wonderful woman who led a life devoted to animals and animal charities. She had been placed under a conservatorship and guardianship without notice to her family. Once they learned about the conservatorship, Appellant Lisa Fisher traveled to South Carolina. She assisted in fixing her house up, obtaining caregivers, and helping her great aunt Alice Shaw Baker from being institutionalized. Alice Shaw Baker appreciated Lisa Fisher's help, because as she put it, "My best friend [Bessie Huckabee] betrayed me." There was a power of attorney and advanced healthcare directive naming Bessie Huckabee, who refused to assist Alice. Appellant Lisa Fisher was appointed successor guardian and trustee, and acted at all times to make sure that Alice was happy and healthy.

During the conservatorship trial, the court put in the order that Alice Shaw Baker could not change her will. This was done without notice to Alice or Appellants, and is contrary to South Carolina Law. Also, this was done, despite findings by the court that it was a limited conservatorship and that she had capacity to nominate Lisa Fisher

Under SC Code § 62-3-414, there is no time limit regarding this limitation of a personal representative, and there is no issue of bad faith, there is only statutory protections precluding distribution and exercising powers of administration.

Appellant Lisa Fisher had knowledge both from her conversations with Alice Shaw-Baker, Alice Shaw Baker's attempted revocation, documentary evidence, and Respondent Kay Passailaigue's judicial admission, Respondents failure to care for her during her time of need, that releasing monies to Bessie Huckabee would jeopardize the value of Alice Shaw Baker's estate and her desires to benefit animal charities. Appellant Lisa Fisher took action to protect the monies. She spent over \$58K of her own monies to protect the property and ensure that the property was not left abandoned and increased costs for storage. (Attached hereto is a true and correct copy of said disbursements marked as Exhibit H, p. 83—these were not presented at trial, because Appellant Lisa Fisher believed that this document was to be provided to Judge Fulp, in Beaufort County). She is still attempting to locate some of the payments that she made to protect Alice's estate.

Alice Shaw Baker was sent to the hospital on or about February 14, 2009 for changes to her medication. On February 25, 2009, Alice Shaw Baker died, the very day Lisa Fisher had flown out to pick her up (by medical ambulance/plane) to bring her to California to try and get her some additional medical help. It was devastating for Alice's family, Appellants herein.

Bessie Huckabee filed an informal petition for probate without notice to Betty Fisher. (Attached hereto is a true and correct copy of said petition marked as exhibit I, p. 90) Appellants objected to and filed a formal will contest on April 27, 2009. (Attached hereto is a true and correct copy of said petition marked as Exhibit J, p. 100) Respondents filed their answer which did not seek attorney fees. (Attached hereto is a true and correct copy of said answer marked as Exhibit K, p. 129)

During the litigation, Appellants objected to and asserted the rights for Alice Shaw Baker that Attorney Peter Kouten had an actual conflict in representing Respondents. This was appealed as were other erroneous orders which delayed the trial of this case. Nevertheless, Appellants at all times believed that there legal claims were warranted under existing law or that there was a good faith and reasonable argument existing for the extension, modification, or reversal of, delay, existing law. Moreover, the pleadings were not filed to harass or injure any party, to delay, or properly adjudicate the case.

Still, the case has been fraught with what Appellants believe is legal error. There is a pending Petition for Writ of Certiorari before the Supreme Court, Case no. 2017-000743 which related to the prior appointment of a Special Fiduciary and freezing orders related to the bank accounts.⁶

⁶ This petition is important for 2 reasons. The trial court forced trial of the Will contest matter prior to a decision on these estate assets which the trial court has now released to Respondents. Further, Judge Fulp instructed Jessica Crowley, counsel about the proper procedure for seeking a Special Administrator, which Appellants had contested that Lisa Fisher

The Supreme Court ordered the Charleston South Carolina Probate Court disqualified on August 16, 2017 and appointed Judge Fulp as Special probate judge. (Attached hereto is a true and correct copy of said order dated 8-16-17 marked as Exhibit L, p. 141.) Judge Fulp indicated that the issues related to Lisa Fisher's accounting would be dealt with after the trial in the bifurcated trial on the equitable issues in this matter. After trial, Appellant Lisa Fisher was under the impression that she would have an opportunity to be heard.

On Appellant's petition, there was a jury trial before Judge Hughston. Judge Hughston assisted Respondents in taking action to introduce evidence of the of the (revoked) will. Judge precluded testimony of Lisa Fisher as to what Alice Shaw Baker stated under the dead man's statute, even though she did not receive any monies and she was testifying in a fiduciary capacity. He refused to let Appellants argue that the monies were for the benefit of animal charities. He instructed the jury that they had to consider the conservatorship order which

could not release said monies under the improper legal analysis provided. Judge Fulp stated: Okay. And the other thing I would like to point out, Ms. Crowley, the other section 62-3-614, appointment of special administrator. There's a couple of instructive provisions there. Of course, the Court may appoint the special administrator informally. That's without summons, petition, service, and a hearing. There would be the necessity of an application to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated.

Okay. Also and they threw this amendment in 2013, effective 2014, to take appropriate actions involving estate assets. And there are many cases in which we might have to appoint a special administrator even while a general personal representative appointment is still in place to handle certain specific assets that it may not be appropriate for the general personal representative to handle at that time. So when I was indicating that there is -- a certain amount of your argument was expended on the subject, but nothing was ever turned over to the special fiduciary -- well, of course he's dead. And if the Court is being asked to appoint someone to replace him, then a proper application would have to be made. I think the proper section to proceed under, if one is going to be made, is the one I just mentioned.

MS. CROWLEY: Thank you, your Honor." (Attached hereto are true and correct copies of said transcript marked as Exhibit M, p. 142.)

Appellant Lisa Fisher contends that the court's instructions to Attorney Crowley vindicate her and demonstrate good cause for her to raise the issue on appeal.

precluded Alice Shaw Baker from making a new will. He refused important instructions. He failed to get a finding on Alice Shaw Baker's testamentary intent. At trial, Judge Hughston threatened Appellant with sanctions and concluded that the case was going on "too long." (See Ex. F, p. 79)

Thereafter, Appellants demanded a trial on the equitable matters. Prior to trial, the Court indicated that it had reviewed the entire conservatorship file, the probate file, demanded Lisa Fisher's accounting⁷ in the conservatorship case, demanded all discovery that had been conducted in the case, and in the middle of Appellants' case, the trial court ordered disclosure of Appellants' finances⁸ and that of their attorney.⁹ Appellants formerly objected to the trial court's independent investigation of the case. (Attached hereto is a true and correct copy of said pre-trial Brief, marked as Exhibit N, p. 145) All of this was done without prodding, request or motion of Respondents. At the conclusion of trial, the court issued its order dated March 21, 2018. (See Ex. B, p. 32) Sanctions were imposed in excess of \$500,000.00. These orders were made from Appendices completed presumably by the trial court's staff, however the information was in a different format and valuation is unclear. The court also granted loss of opportunity

⁷ The suggestion that the case was simple is wrong. Appellant fought to be appointed to help her great aunt. The co-conservator Jane Oreinstein attempted to have her put on anti-psychotics. They wanted her to go to a nursing home. Dr. Waid testified at the bifurcated trial on equitable issues that her diabetes may have impacted her cognitive issues. The trial court's assessment is just wrong. Moreover, Judge Hughston did "not have the power to review, modify, affirm or reverse the findings" of another judge. (See *Cooper v. Taylor*, 272 S.C. 536, 252 S.E.2d 923(1979).)

⁸ This order is subject to separate Appeal, Case no. 2018-000566 filed on March 30, 2018, which Appellants will seek to consolidate as soon as possible.

⁹ Appellants' long time Attorney John Hughes Cooper was forced to withdraw from this case due to the conflict created by the legal errors in this case, leaving Appellants without counsel.

costs in the amount of \$76,533.17,¹⁰ and tripled the amount of actual damages against Lisa Fisher. However, determination of the actual damages is unclear.¹¹ The trial court denied all conservator fees to Lisa Fisher.¹² The trial court ordered attorney John Hughes Cooper to repay the fees that he was awarded by Judge Curry in the probate court, stating that “I cannot imagine what he did to earn this in what should have been a simple matter of filling out forms if anything.” (See Ex. B, p. 40)

On April 3, 2018, the court issued an order which it immediately¹³ provided to the Bank releasing monies to Respondents Huckabee, releasing monies to Slade from the County Clerk, ordering ejectment of the caregiver of the home (despite there being an appeal in the other court), and enjoining Appellants from filing motions in the Circuit Court, and ordering them to be filed in the Supreme Court.

Finally, Appellant Lisa Fisher has received an Order and Rule to Show Cause over these orders. (Attached hereto is a true and correct copy of said OSC dated April 4, 2018 marked as

¹⁰ Loss of Opportunity damages was not requested, nor is clearly established in South Carolina. It is uncertain how this was calculated, in light of the increase in value of the property.

¹¹ For instance, Appendix 2 claimed that there was \$25,000.00 charge for air ambulance. However, Appellant was able to get a partial reimbursement of that fee back. Whether it should have been denied at all is questionable. Charge for hair would not have been for after her death, merely payment after her death. Lisa Fisher should have had an opportunity to refute these charges, and moreover Respondents did not ask for any of this relief.

¹² The trial court made this order despite the fact that the case was before the Supreme Court, and the appellate court had previously ordered it remanded to the *probate* court for determination of the fee. (See Opinion 2016-UP-528 filed on December 21, 2016, SC Code Ann. § 62-5-414 (2009) [entitled to reasonable compensation].)

¹³ Rule 62(a) provides that no execution shall take place until the expiration of 10 days after entry. This should have provided Appellants sufficient time to bring this to this court’s attention. However, the court is refusing to follow the law, and acting as advocate for Respondents. There was no petition or order seeking this action. Even had there been time, Appellants were precluded from filing in the circuit court. (See Ex. C)

Exhibit O, p. 162) Therefore, a stay pending final review is necessary to review the important legal issues which govern this case.

MEMORANDUM OF LAW

III.

A STAY IS NECESSARY TO AVOID IRREPARABLE HARM AND TO PROTECT APPELLANTS' RIGHT TO MEANINGFUL APPEAL, IN A CASE WHERE PREJUDICE, LEGAL ERROR, AND LACK OF DUE PROCESS HAS PERMEATED THE TRIAL AND THE COURT'S ORDERS

A Petition for Writ of Supersedeas is governed by Rule 241(c)(2), SCACR, which provides:

“in determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.”

In this case, both grounds have been met. Releasing the monies to Respondents, prior to allowing Appellants a fair trial would deprive Appellant from a proper hearing on issues in this case, and the Orders interfere with the Supreme Court's jurisdiction in Case nos. Supreme Court Case no. 2017-000743 and the Circuit Court's jurisdiction in the related appeal of the improper magistrate's Case no. 2017CP1006629.

The granting of supersedeas or the lifting of the automatic stay under this Rule may be conditioned upon such terms, including but not limited to the filing of a bond or undertaking, as the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court may deem appropriate. Further, where it appears that the granting or lifting of a stay, or the issuance of a writ of supersedeas is insufficient to afford complete relief, the lower court,

administrative tribunal, appellate court, or judge or justice of the appellate court may order other affirmative relief upon such terms as are deemed appropriate. (See Rule 241(c)(3), SCACR.)

“[The purpose of a supersedeas is to stay proceedings in the trial court, to preserve the status quo pending the determination of the appeal and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him. As a rule, a supersedeas does not reverse, annul, or undo what has already been done, or impair the force of the judgment, order, or decision of the trial court. [A] supersedeas suspends the judgment but does not annul the judgment itself.” (*Graham v. Graham*, 301 S.C. 128, 130 390 S.E.2d 469, 470 (Ct. App. 1990).)

“Generally, the effect of a supersedeas or stay is to suspend proceedings and preserve the status quo pending the determination of the appeal or proceeding in error.” (*Melton v. Walker*, 209 S.C. 330, 336, 40 S.E.2d 161, 164 (1946).)

In this case, a writ of supersedeas is proper and necessary to preserve the status quo pending this Court’s decision on Appellants’ appeal. The trial court’s order is subject to immediate appeal. The trial court placed Appellants’ in harms way, as they did not provide them with due process nor a fair trial. Instead, it intended early in the proceedings to act as advocate and assist respondents in prosecuting the case. It has not required counsel to take any action independently. It is rushing the proceedings to prevent Appellants from meaningful review. It deprived Appellants of their right to file a Rule 59 motion.

In the absence of a writ of supersedeas, Appellants would suffer irreparable harm and be deprived of their right to a meaningful appeal. (*State v. Harper*, 297 S.C. 257, 376 S.E. 2d 272 (1989).)

In this instant, even after the court indicated that Appellant was not to file any motions in the Circuit Court, she is being ordered to the Court on an Order and Rule to Show Cause. (See Ex. 0, p. 162) The serious violations by the Court and deprivation of a fair trial must be decided

by this Court to prevent the harm to the estate, to prevent the loss of jurisdiction, and to prevent unnecessary harm to Appellant Lisa Fisher who has acted only to “represent” herself and previously her mother zealously within the bounds of the law. (See Supreme Court Rule 32; Code of Professional Responsibility, Canon 7 (1988).)

In *State v. Harper*, 376 S.E. 2d 272 (S.C. 1989), the Court held that “The rule with regard to contempt of court by an attorney begins with recognition that under our adversarial system of justice, zealous advocacy on the part of the attorney must be permitted (*State v. Boyd*, 166 W. Va. 690, 276 S.E. 2d 829 (1981).) The arguments of a lawyer in presenting his client’s case strenuously and persistently cannot amount to a contempt of court so long as the lawyer does not in some way create an obstruction which blocks the judge in the performance of his judicial duty. *In re McConnell*, 370 U.S. 230, 82 S. Ct. 1288.” (*Id.* at 259)

While both of these cases are criminal cases, Appellant Lisa Fisher’s filing of papers, assertion of arguments, and requests for legal authority must be decided, and she should not be penalized for making these arguments and acting as a zealous advocate.

The issue as to delivery of property to the Court is on appeal, however the premise that Lisa Fisher was to deliver monies from a bank where there is a blocked account is clearly erroneous. (Ex. C, p. 67) With regard to the false allegations referenced in the March 21, 2018 order purportedly supporting Sanction governed by S.C. Code § 15-36-10, the Affidavit of Lisa Fisher attached hereto sets forth the legal validity of all of Appellant’s actions.

These are issues that require resolution of the underlying case, as set forth herein which will mandate reversal.

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IV.
APPELLANTS ARE LIKELY TO SUCCEED ON THE MERITS, AS THE TRIAL COURT ERRED AS A MATTER OF LAW RESULTING IN THE ERRONEOUS JUDGEMENT AND ORDER OF SANCTIONS

The trial court erred as a matter of law in its interpretation and application of law governing Rule 52, Rule 59, independent investigation, changing orders of other courts, depriving Alice Shaw Baker of her right to revoke her will based on an order that she was not given notice of, interfering with jurisdiction of other courts, and violating Appellants' Due Process and Equal protections rights. As the case was conducted, Appellant Lisa Fisher could not assert her right to qualified immunity and/or even provide a defense for the false accusations asserted against her. At all times, Appellants acted in good faith, and were entitled to a fair trial. This stay will ensure that the estate of Alice Shaw Baker is preserved and that an orderly transfer of assets to the proper person can be made.

As the order stands, there is no protection for Appellants, nor likelihood that they can recover the assets from Respondents as they have no bond and they are receiving the monies without restraints. Appellant Lisa Fisher has no way of protecting her duty to turn over the property to the proper person and protect the trust assets pending resolution of this trial, unless this court acts to enter a stay and protect the assets.

Appellants are not raising all issues in this brief petition, however these are some of the most substantive errors that have deprived Appellants of a fair trial.

A. The Trial Court Erred by Refusing to Issue Findings under Rule 52.

Judge Hughston's March 21, 2018 order states: "Since I am confident there will be an immediate appeal of my decisions, consistent with the prior acts of the Plaintiffs and their attorneys, I decline to write about the tortuous history and undisputed facts. **I leave that to the**

Justices of the Supreme Court of South Carolina. They can find the facts in this equity case.” (Ex. C, p. 68, emphasis added.)

However, Rule 52 (a), SCRCF states that: “In all actions tried upon the facts without a jury..., the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58.” (Emphasis added)

Appellants contend that the lower court had no discretion to fail to provide findings of fact on the equitable issues in this case. For that reason, there is a reasonable likelihood that Appellants will prevail on its appeal.

B. The Trial Court Deprived Appellants of the Ability to Bring a Rule 59 motion by its April 3, 2018 order.

At the time of the April 3, 2018 order, Exhibit C, Appellants were working on their Rule 59 motions. The motion was to be filed by April 5, 2018.

It does not appear that there is any sanction or ground by which the court can deny a party the right to file the motion. However, by the trial court’s order precluding Appellants from filing any motions in the Circuit Court (Ex. C, p. 67), Appellants were precluded from filing there motion and instead were forced to file a Notice of Appeal.

To comply with the Order, Appellant reviewed the law under Rule 63, SCRCF to see if this Court could hear the matter. However, the rule is very specific in that only a “resident judge of the circuit or any other judge having jurisdiction in the court in which the action was tried may perform those duties.”

There is no provision or authority for Appellants to file in this Supreme Court. Therefore, Appellants were forced to file the Notice of Appeal, this was a deprivation of Appellants' due process and equal protection rights and statutory protections.¹⁴

C. *The Trial Court had no Authority to do an Independent Investigation in this Case, nor Act on Behalf of Respondents.*

On December 8, 2017, the American Bar Association issued its Formal Opinion 478 concerning Independent Factual Research by Judges Via the Internet. This Opinion is instructive with regard to Judge Hughston's independent investigation in this case, although Appellant Lisa Fisher understands that South Carolina adheres to the rules set forth in Canon 1 for its discipline of Judges. However, Appellants do not raise this issue as to whether discipline is appropriate, rather this issue is crucial in evaluating Appellants' claims and violation of their rights. It further demonstrates prejudice by the trial court.

The opinion states:

"Independent investigation of adjudicative facts generally is prohibited unless the information is properly subject to judicial notice. The restriction on independent investigation includes individuals subject to the judge's direction and control."

Moreover, the opinion cites to Model Rule 2.9© states: "A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed."

¹⁴ The Fourteenth Amendment prohibits the enactment or enforcement of laws which "abridge the privilege or immunities of citizens of the United States" or "deprive any person of life, liberty or property without due process of law...[or] deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. Amend XIV, § 1." Due Process has been "applied in the civil context." (*S.C. DSS on Behalf of State of Texas v. Holden*, 319 S.C. 72, 459 S.E.2d 846 (1995).)

The underlying principles for these types of rules are that “[The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society.” This system requires that judges’ decisions be based upon evidence presented on the record or in open court, and available to all parties. Except for evidence properly subject to judicial notice, a defining feature of the judge’s role in an adversarial system is that the judge will **“consider only the evidence presented by the parties.”** Judges must be careful not to undermine this hallmark principle of judicial impartiality, or substitute for the time-honored role of the neutral and detached magistrate someone who combines the roles of advocate, witness, and judge.” (Emphasis added)

The Court’s orders requiring Appellants to produce all discovery, review all of the cases files without giving parties judicial notice, and not informing the parties of what was being admitted caused Appellants’ harm.

Parties are entitled to believe that the proceedings are not the subject to a secret inquiry. Appellants had a right to object and /or at least explain the reasons for pleadings and legal rationale.

It is well settled that Pre-judging the issues deprives the proceeding of impartiality and denies due process. (See *Marshall v. Jerrico*, 446 U.S. 238, 242, 200 S. Ct. 1610, 64 L.3d 2d 182 (1980).)

Appellants contend that this was a violation of Due Process, Equal protections, and the statutory and evidentiary codes. As set forth in Appellants’ Pre Trial Brief, Appellants objected formally and informally at trial. For these reasons, Appellants believe that there is a reasonable likelihood that they will prevail on appeal.

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D. Alice Shaw Baker had a Right to Revoke her Will, and The Trial Court Erred by Instructing the Jury to the Contrary. This Revocation of the Will supported the Equitable Relief Sought by Appellants.

At the time of appointment of conservators, Alice Shaw Baker was never served with any notice that there could be orders depriving her of her right to execute a will, revoke a will, or change her will. Neither the petition nor the summons provided that notice. Moreover, the order appointing Appellant as conservator found that it should be a limited conservatorship, and that she had capacity to nominate the conservator, herein Lisa Fisher.

In the *Estate of Weeks*, the court held that "Under the Probate Code, an order determining that a basis for appointment of a conservator or other protective order exists has no effect on the capacity of the protected person, except to the extent the order affects his estate or affairs. S.C. § 62-5-408 (4)(1987). The Court held that Mrs. Weeks had the requires testamentary capacity to execute a will.

Therefore, the trial court's ruling in this matter was error. The fact that the order said that she could not make a will could not be controlling. Moreover, even if it was controlling that did not mean that Alice Shaw Baker's attempted revocation could not be used as evidence of an intent to revoke.

Appellants were entitled to Rule 52 findings, and should have been able to present this information to the jury.

E. Appellant Lisa Fisher was Not on Notice of any of these Horrible Allegations Against Her, However She was entitled to Present a Defense of Qualified Immunity had she Been Given Notice.

In seeking to protect the property of Alice Shaw Baker, Appellant Lisa Fisher contends that she has absolute-judicial immunity . (See *Briscoe v. LaHue*, 460 U.S. 325, 335, 103 S.Ct. 1108, 1115-16.) The common law provided absolute immunity from subsequent damages

liability for all persons-governmental or otherwise—who were integral parts of the judicial process. *Hairline v. Clary*, 141 F.Supp.151, 152 (1956), “Judicial officers, quasi judicial officers, judges, prosecuting attorneys, executive and ministerial officials of the government are immune from civil suits for acts committed by them in the performance of their official duties.”

Appellant Lisa Fisher completely denies any wrongdoing. Her actions in using her own money in excess of \$58,000.00 to protect the monies further demonstrates her good faith. Appellants merely want a fair trial and to ensure that no additional losses or costs are imposed on the estate.

F. The Trial Court Had No Legal Authority to Order Appellants’ Former Attorney to Return the Attorney Fees Previously Ordered by Judge Curry.

The trial court had no authority to Order repayment of Attorney fees payable to John Hughes Cooper that were previously ordered by Judge Curry. It is well settled that a judge does “not have the power to review, modify, affirm or reverse the findings” of another judge. (See *Cooper v. Taylor*, 272 S.C. 536, 252 S.E.2d 923(1979).)

For this reason, Appellants are likely to be successful on appeal.

G. The Court Improperly Sought Information re Sanctions During Trial.

In this Case, Respondents moved for sanctions after the first trial. They did not seek further sanctions or ask for any authority to seek additional sanctions during or after the Second trial.

Consideration of any new sanctions was in violation of Appellants’ rights. They were entitled to notice and an opportunity to be heard with regard to those sanctions.

By the court imposing a judgement against Mr. Cooper, Appellants lost him as an attorney. However, under subsection G(2) of S.C. Code Ann. § 15-36-10, neither Lisa Fisher

nor John Hughes Cooper could be held responsible for attorney fees and costs. The court could only impose a reasonable fine to the court. (S.C. Code Ann. § 15-36-10(D).)

As set forth in Appellant's affidavit filed concurrently herein, She acted in good faith, believed under the facts of the case that all of the legal claims were warranted under existing law and that a good faith or reasonable argument existed for the extension modification or reversal of existing law. Further, that Appellants did not take any action to harass or injure the other party. Appellants did not and do not believe that the case was frivolous in fact, interposed for delay, or brought for any improper purpose. Appellants knew that Alice Shaw Baker had intended that all of her monies went to animal charities. There was documentary evidence showing that Alice Shaw Baker believed that Respondent Slade worked at a dog rescue. There was the judicial admission of Respondent Slade who testified:

THE WITNESS: We talked about the Charleston Animal Society and they did not want to agree to her wishes and how that really upset her. Other than that, because I work with some rescue, she one time told me that as far as she was concerned, I could sell her house and buy land and that way I could bring in -- have all the dogs I wanted.

BY MR. COOPER:

Q. Next question: Did she ever express to you or talk to you about what you -- what - anything she left to you, what that will be used for?

A. Well, like I said, she told me she would hope that I would get land and that way I could have all the dogs I wanted. She could only have three dogs where she lived, but she did know that I would take in dogs and have surgery or whatever needed to be done and find them homes and keep them, yes, sir."

However, on further inquiry, Kay Slade admitted that she did not tell Alice Shaw Baker that was what she was going to do, but that Slade said she did not want to think about that because that would mean that she lost her [Alice]. This is significant because a reasonable trier of fact could find this was deceptive in that she never told Alice that she had no intention of buying land, and it would justify the equitable relief of constructive trusts, etc.

Further inquiry led to Respondent Slade saying how do you know I won't, wherein the trial court laughed and said "GOOD ANSWER!"

This is further evidence that the court was prejudiced and prejudged the case.

Alice Shaw Baker's own writing and words demonstrated her intentions, not merely for as beneficiaries of her life insurance and deferred compensation, but also to her probate assets where she described Defendant Slade:

"...custodian of pets and rescue-governed by will...."

And

"...Current bene[ficiary] works on A dog rescue and \$ to go to the dog rescue...."

Appellants pray that the court issue a stay to ensure that those monies are preserved in the event that the case is reversed.

G. *The Court Improperly Determined Lisa Fisher's Entitlement to Conservator's Fees. These fees were to be Determined by the Probate Court.*

The Court of Appeals already remanded Lisa Fisher's entitlement to conservator fees to the **probate court**. This has not occurred, because other issues are before the Supreme Court on the same matter. (See Opinion 2016-UP-528 filed on December 21, 2016, SC Code Ann. § 62-5-414 (2009) [entitled to reasonable compensation].)

However, even if the Court of Appeals had not remanded this issue back to the probate court, the statutory provisions provide for reasonable fees. SC Code Ann. § 62-5-414 (2009) [entitled to reasonable compensation.

Finally, the court in *Ex Parte Brown*, 393 S.C. 214, 711 S.E.2d 899 (2011) held that a court appointed attorney's service is property for purposes of the Takings' Clause. This holds true for a conservator's fees. Any other ruling would be in violating of the due process and equal protection clause. (U.S. Const. Amend 14, S.C. Const. Art. I, § 3)

Finally, the code states that a conservator is entitled to reasonable fees.

For all these reasons, Appellants contend that they will be successful on appeal.

H. *The Courts Hatred for Appellant Lisa Fisher Is Evident, as There Was No Testimony to Support Any Conclusion That Lisa Fisher Wanted Alice Shaw Baker to Die in California. This Is Contrary to the Intent Stated in These Proceedings to Benefit Animal Charities and Contrary to the Law, as South Carolina Probate Court Would Have Had Continuing Jurisdiction over the Monies. (P. 9)*

In South Carolina disqualification of Judges is governed by the South Carolina Code of Judicial Conduct, which calls on a judge to disqualify himself in any proceeding in which his impartiality might reasonably be questioned, including instances where he has a personal bias against a party; as well as by Rule 33 of the Rules of Practice of the Supreme Court, which generally requires that a judge recuse when he has a personal bias concerning a party.

There is no evidence in the record to support the hate-filled statements of the judge concerning Lisa Fisher. The court is not bothered by Respondent Huckabee's disregard of his order regarding bond. The court isn't concerned that Respondents just couldn't help Alice, because of their age and family life. However, Lisa Fisher who stopped her own life and career to help her loved one—Alice Shaw Baker, is described in the most vile terms. This is especially disturbing in light of the fact that Appellants' did everything they could to ensure she remained in her home, advanced monies for repairs to the home, and traveled from California. Further, during this process, she advanced over \$58,000.00 to protect Alice Shaw Baker's property for her intended beneficiaries.

As the facts are shown, this type of hatred by a Judge are grounds for recusal. This alone is a ground for reversal, and Appellants request that this Court issue a stay to ensure that Alice Shaw Baker's estate remains safe and does not suffer any losses.

REMEDY SOUGHT

WHEREFORE, Appellants respectfully pray that this Court issue a stay of issuance of the trial court's orders of the October 26, 2018, March 21, 2018, and April 3, 2018 orders and issue this petition for writ of supersedeas, any interim relief, or extraordinary writs, and allow time for review and determination of the appeal now pending and that Appellants have such other relief as the Court may deem proper.

April 7, 2018

RESPECTFULLY SUBMITTED,

~~LISA FISHER~~, AS CONSERVATOR FOR
ALICE SHAW-BAKER (*Pro Se*)
P.O. Box 91112
Long Beach, CA 90809-1112
562-965-3267
lfisher6736@yahoo.com

attached JOINDER OF BETTY FISHER

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Circuit Court Case No. 2009-CP-10-3010
Supreme Court Case No. 2018-000604

RECEIVED
APR 09 2018
SC Court of Appeals

Betty Fisher and Lisa Fisher, ...Appellants

v.

Bessie Huckabee, Kay Passailaigue Slade and Sandra Byrd,.....Respondents

In the Matter of the Estate of Alice Shaw-Baker.

JOINDER BY BETTY FISHER IN
PETITION FOR WRIT OF SUPERSEDEAS AND FOR
EMERGENCY/ INTERIM RELIEF

I BETTY FISHER do hereby join and petition for writ of supersedeas. I have requested that this joinder be part of the record and agree and verify the petition. My affidavit is also filed herein.

April 7, 2018

RESPECTFULLY SUBMITTED,


BETTY FISHER (Pro Se)
P.O. Box 91112
Long Beach, CA 90809-1112

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Case No. 2009-CP-10-3010

Betty Fisher and Lisa Fisher.....Appellants

v.

Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd.....Respondents

PROOF OF SERVICE

I certify that I have served **PETITION FOR WRIT OF SUPERSEDEAS AND FOR EMERGENCY/ INTERIM RELIEF ; JOINDER BY BETTY FISHER IN PETITION (and all attachments) and PROOF OF SERVICE (and AFFIDAVITS OF LISA FISHER AND BETTY FISHER)** upon Interested Party John Hughes Cooper, Esquire, Respondents and upon the Attorney General, and the Honorable Thomas L. Hughston by depositing a copy of it in the United States Mail, postage prepaid, on April 7, 2018 addressed as follows:

John Hughes Cooper, Esquire
1476 Ben Sawyer Blvd. Ste. 11
Mt. Pleasant, SC 29464
Attorney in Pro Se/Interested Party

RECEIVED

APR 09 2018

SC Court of Appeals

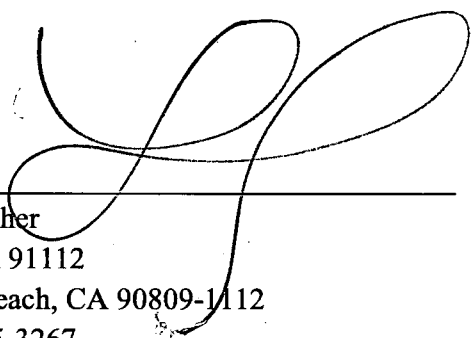
Honorable Thomas L. Hughston, Judge Presiding
100 Broad St. Ste. 368
Charleston, SC 29401-2284

W. Westbrook Wills III, Esquire
PO Box 822
Folly Beach, SC 29439

Jessica L. Crowley, Esquire
PO Box 30189
Charleston, SC 29417

Hon. Mary France Jowers, Esquire
Assistant Attorney General
PO Box 11549
Columbia, SC 29211

April 7, 2018



Lisa Fisher
PO Box 91112
Long Beach, CA 90809-1112
562-965-3267

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-10-3010

Alice Shaw Baker, etc et al

Bessie Huckabee, etc et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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: **We, the jury, find that Defendant's Exhibit 3 is the Last Will of Alice Shaw Baker so verdict is for the Defendant. The parties will have 10 days to file any post-trial motions.**

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)
N/A		
		\$
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.**

T.L. Hughton J.
Circuit Court Judge

2008
Judge Code

10/26/17
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:

John Hughes Cooper

Lisa Fisher

ATTORNEY(S) FOR THE PLAINTIFF(S)

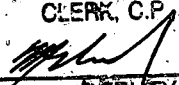
Warren W. Wills

Jessica Crowley

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Denise Lauder

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By 
DEPUTY CLERK

IN THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NUMBER 2009-CP-10-3010

In the Matter of ALICE SHAW-BAKER,
BETTY FISHER, and LISA FISHER

Plaintiffs,

vs.

BESSIE HUCKABEE, KAY PASSAILAGUE
SLADE, SANDRA BYRD, HENRY MCMASTER
In his capacity as Attorney General of South
Carolina, STATE BUDGET AND CONTROL
BOARD, and SOUTH CAROLINA
RETIREMENT SYSTEMS, INC.
Defendants.

VERDICT

FILED
2017 OCT 26 PM 3:34
CLERK OF COURT

We find that Exhibit #3 is the Last Will of Alice Shaw-Baker.


FORELADY

10/26/2017

We find that Exhibit # 3 is not the Last Will of Alice Shaw-Baker since it was revoked by tearing up a copy of it with her intention to thereby revoke it, she died without a Will and therefore, Betty Fisher, and other next of kin, shall inherit her estate.

FORELADY

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-10-3010

Betty Fisher, et al.
PLAINTIFF(S)

Bessie Huckabee, et al.
DEFENDANT(S)

Submitted by:

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
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, 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:

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)
Bessie Huckabee, Kay Passailague Slade, and Sandra Byrd	Lisa Fisher, John Hughes Cooper, & Betty Fisher	\$253,969.31
The Estate of Alice-Shaw Baker	Lisa Fisher	\$229,599.51
The Estate of Alice-Shaw Baker	John Hughes Cooper	\$65,151.34

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

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.

J. L. [Signature]
Circuit Court Judge

SCRPC Form 4C (02/2017)

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

By *[Signature]*
DEPUTY CLERK

2008 Judge Code

March 24, 2018 Date

Page 1 of 4

Ex B

32

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

CASE NO. 2009-CP-10-3010

BETTY FISHER and LISA FISHER,)

Plaintiffs,)

vs.)

BESSIE HUCKABEE, KAY)

PASSAILAGUE SLADE, and)

SANDRA BYRD,)

Defendants.)

In the Matter of the Estate of Alice)

Shaw-Baker. Charleston County)

Probate No.: 2009-ES-10-0378)

ORDER

FILED
2018 MAR 21 PM 4:48
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

"In Hell there will be nothing but law..." (*Grant Gilmore*). "Justice delayed is justice denied." (*William E. Gladstone*). Also, I reference *Dickens'* Bleak House and *Kafta's* The Trial for what Defendants and their attorneys must feel like after nine years of this frivolous litigation.

This case is before me following a jury trial that resulted in a Verdict upholding the Will of Alice Shaw-Baker, and rejecting the claim of the Plaintiffs that she had revoked that Will by her words and acts. I deny Plaintiffs' post-trial motions regarding this, and confirm this Verdict.

Plaintiffs made equitable claims regarding the Estate. I deny all these claims based on my findings as to the credibility of the witnesses, and totality of the evidence. Essentially, I find no reason in believable facts and equity to do any of the acts requested. I make all these decisions by a standard of overwhelmingly clear and convincing evidence considering this case as a whole, and that is the only way one can ever begin to understand this case—as a whole. (See the Appendices, testimony and evidence.)

#1
T.L.H.8

The facts of this case began when a concerned neighbor and friends of Alice Shaw-Baker asked for help since they thought she was mentally and physically unable to care for herself, and as part of the process to appoint a conservator, notice of this proceeding was given to Plaintiffs. The actions of Plaintiffs and their attorneys resulted in this nine year legal nightmare for Defendants.

Since I am confident there will be an immediate appeal of my decisions, consistent with the prior acts of the Plaintiffs and their attorneys, I decline to write about the tortuous history and undisputed facts. I leave that to the Justices of the Supreme Court of South Carolina. They can find the facts in this equity case. It is sufficient for me to say and I do find that overwhelming facts, law and equities are against Plaintiffs' claims.

In addition to contesting the Will, Plaintiffs claim that Shaw-Baker's life insurance, S.C. Retirement Account, and Deferred Compensation account should be given to "animal charities," because she was an "animal lover," raised and showed Chihuahua dogs, and had shown a longtime interest in doing something like that. Plaintiffs ignore the fact that though she often talked about doing this, she never signed the documents that would have done so. She was an intelligent, fiercely independent, and resourceful lady who executed many Wills, had many communications with her excellent attorneys and agents for her life insurance and other non-probate assets. She never changed where that money was to go and it will go as she directed and not as Plaintiffs frivolously claim it should go by their deviously concocted suit. The trust involved in this case is the trust between genuine friends established over many years, and not a half-baked scheme by people and their attorneys who had minimum contacts with her or her friends prior to this lady's demented condition.

I trust the same people she trusted to "Do right because it is right." (*W. Clement Stone*).

#2
T.L.H. Dr.

Remaining are issues of attorneys fees, sanctions, and other appropriate relief. Any Restraining Order restraining Defendants from acting under the Will is vacated. I deeply regret signing two Orders almost nine years ago that were meant to be temporary for Plaintiffs, except for the bond requirement. That remains. All assets in Plaintiffs possession shall be immediately delivered to the Charleston County Clerk of Court, 100 Broad Street, Suite 106 Charleston, South Carolina 29401-2258, and be held by her until further Order. This is not stayed for any appeal. Also, Plaintiffs are to deliver the keys for the house at 306 Cassina Road, Charleston, South Carolina to the Charleston County Clerk of Court. Non-rent paying occupant shall vacate this house within one week after being notified to do so by Defendants attorney, and shall commit no waste. These actions are not stayed during an appeal under Rule 241, Rule 62, and S.C. Code Section 18-9-150.

Sanctions are governed by S.C. Code Section 15-36-10.

§ 15-36-10. Frivolous lawsuits; signing pleadings; imposition of sanctions; notice and opportunity to respond; reporting violations.

(A) (1) A pleading filed in a civil or administrative action on behalf of a party who is represented by an attorney must be signed by at least one attorney of record who is an active member of the South Carolina Bar or who is admitted to practice in the courts of this State and must include the address and telephone number of the attorney signing the document.

(2) A document filed in a civil or administrative action by a party who is not represented by an attorney must be signed by the party and must include the address and telephone number of the party.

(3) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:

(a) the person has read the document;

(b) a reasonable attorney in the same circumstances would believe that under the facts his claim or defense may be warranted under the existing law or, if his claim or defense is not warranted under the existing law, a good faith argument exists for the extension, modification, or reversal of existing law;

(c) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of a civil cause is not intended merely to harass or injure the other party; and

#3
T.L.H.-J.

(d) a reasonable attorney in the same circumstances would believe his claim or defense is not frivolous, interposed for delay, or brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based.

(4) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

(i) the person has not read the frivolous pleading, motion, or document;

(ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or

(iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

(B) (1) If a document is not signed or does not otherwise comply with this section, it must be stricken unless it is signed promptly or amended to comply with this section after the omission is called to the attention of the attorney or the party.

(2) If a document is signed in violation of this section, or an attorney or pro se litigant has violated subsection (A)(4), the court, upon its own motion or motion of a party, may impose upon the person in violation any sanction which the court considers just, equitable, and proper under the circumstances.

(C) (1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

#4
T.L.H.-J.

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(D) A person is entitled to notice and an opportunity to respond before the imposition of sanctions pursuant to the provisions of this section. A court or party proposing a sanction pursuant to this section shall notify the court and all parties of the conduct constituting a violation of the provisions of this section and explain the basis for the potential sanction imposed. Upon notification, the attorney, party, or pro se litigant who allegedly violated subsection (A)(4) has thirty days to respond to the allegations as that person considers appropriate including, but not limited to, by filing a motion to withdraw the pleading, motion, document, or argument or by offering an explanation of mitigation.

(E) In determining if an attorney, party, or a pro se litigant has violated the provisions of this section, the court shall take into account:

(1) the number of parties;

(2) the complexity of the claims and defenses;

(3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);

(4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation;

(5) previous violations of the provisions of this section;

(6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and

(7) other factors the court considers just, equitable, or appropriate under the circumstances.

(F) In determining whether sanctions are appropriate or the severity of a sanction, the court shall consider previous violations of the provisions of this section.

(G) Sanctions may include:

(1) an order for the party represented by an attorney or pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section. Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage, parking, costs of reports, and any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding;

(2) an order for the attorney to pay a reasonable fine to the court; or

#5
T.L.H. Jr.

(3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

(H) If the court imposes a sanction on an attorney in violation of the provisions of this section, the court shall report its findings to the South Carolina Commission of Lawyer Conduct.

(I) This act shall not alter the South Carolina Rules of Civil Procedure or the South Carolina Appellate Court Rules.

(J) The provisions of this section shall not apply where an attorney or pro se litigant establishes a basis to proceed with litigation, or to assert or controvert an issue therein, that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of the existing law.

(K) The provisions of this section apply in addition to all other remedies available at law or in equity.

(L) The amount requested for damages in a pleading may not be considered in a determination of a violation of the provisions of this section.

(M) All violations of the provisions of this section must be reported to the South Carolina Supreme Court and a public record must be maintained and reported annually to the Governor, Senate, and House of Representatives.

Plaintiffs' commencement and continuation of this action is sanctionable under Rule 11. As is set forth herein, it is clear to me that Plaintiffs' claims were entirely frivolous and, for that reason, I find Plaintiffs and their attorneys are subject to sanction under Rule 11, and the South Carolina Frivolous Proceedings Act.

Plaintiffs and their attorneys are subject to sanctions under the Court's inherent authority. As the United States Supreme Court held, Courts have an inherent authority to award attorney's fees where the losing party has "acted in bad faith, vexatiously, or for oppressive reasons." Plaintiffs' conduct through the case appears to have been nothing but vexatious, that is, brought without sufficient grounds, and the maintenance of this completely frivolous claim can only be characterized as unreasonable. Plaintiffs' claims were completely baseless and subject to sanctions based upon the inherent authority of courts to sanction litigants who act in bad faith, vexatiously, that is, without proper grounds, or for oppressive and improper purposes. It is not their actual intent to harm, but harm is the reasonable foreseeable outcome.

#6
T.L.B.J.

Some equate the judge's job to that of an umpire to call balls and strikes, and of referees to call offsides and out of bounds—a judge of physical facts. This ignores the elements of judgment and intent. These are part of calling a bean ball in baseball, a technical foul in basketball and unsportsman like conduct in football. A judge, like these officials, must sometimes determine intent. This is at the heart of finding a frivolous suit.

I start with a procedural timeline found in Appendix 1. Plaintiffs have done nothing but delay justice and harass Defendants. As Justice Few recently wrote in a companion case: “This case was litigated in confusion from the beginning.” Appellate case No. 2016-000320, filed February 28, 2018.

The jury trial and non-jury trials are perhaps the best evidence of their frivolous actions. The claim that the Will was revoked should have never been filed. The only testimony on this came from Lisa Fisher. She and only she claims to have seen Ms. Shaw-Baker destroy a copy of her Will. Nothing corroborates this. If it did happen, I am sure Lisa Fisher would have saved every scrap, put these in an envelope, made a contemporary written summary of the events, and presented this at trial.

To me, her testimony is not believable and I count it as nothing. The only reason I do not call it perjury is that Alice Shaw-Baker is now deceased and unavailable, and I am aware of the standard for proof in a criminal trial. Even if it did happen as described, this was an act of an incompetent person with no legal effect. Also, Judge Curry's Order said she could not revoke her Will due to her incapacity. These two facts alone should have been enough to tell any reasonably competent lawyer not to file this suit. These were two huge legal stop signs with bright flashing red danger lights and said to any reasonably competent attorney, “Go no further and if you do, you travel at your own peril.”

#7
T.L.B.-J.

I turn to the difficult issue of sanctions. This involves calculations of Defendants' losses for which Plaintiffs and their attorneys should pay, and some amount of money to tell them and persons who learn about this to not engage in similar conduct. Defendants' reasonable attorneys' fees are \$157,539.93. I Order Plaintiffs and their attorneys to pay these reasonable fees. In addition, Defendants have loss of opportunity costs of \$76,533.17 associated with all the assets they should have received almost nine years ago. Attorney's fees plus lost opportunity cost equal \$234,073.10. I Order a Judgment in favor of Defendants and against Plaintiffs and their attorneys, jointly and severally, for \$253,969.31, which includes prejudgment interest. (See Appendix, Court's Summary of Fees).

Sanctions for Lisa Fisher in addition to the foregoing are in the nature of punishment. The several Unfair Trade Practices statutes and the Constitution of the United States of America provide some guidance and limits. This is the worst case of frivolous acts that I have experienced. A deterrent is necessary to warn her and others. Therefore, I award three times actual damages to the Estate from Lisa Fisher being \$229,599.51, and Order a Judgment against her for this. These calculations have had to be made despite repeated efforts to get financial information from Plaintiffs including threats of contempt of court. John Hughes Cooper complied almost immediately. Also, John Hughes Cooper is denied his requested attorney's fees and costs. Additionally, he should repay to the Estate a sum of \$65,151.34 he was paid for work he says he did during the short period of time he was involved with the conservatorship. I cannot imagine what he did to earn this in what should have been a simple matter of filling out forms if anything. Additionally, Lisa Fisher's requested fees for alleged work that she did as conservator/attorney of \$67,814.50 is denied. Also, she should repay any money she received by her involvement in this frivolous case.

#8
T.M.Hg

Summary of monetary sanctions and Judgments: \$253,969.31 against Lisa Fisher, John Hughes Cooper, and Betty Fisher and in favor of Bessie Huckabee, Kay Passailague, and Sandra Byrd; \$229,599.51 against Lisa Fisher and in favor of The Estate of Alice Shaw-Baker; \$65,151.34 against John Hughes Cooper and in favor of the Estate of Alice Shaw Baker.

I turn to additional sanctions. Lisa Fisher and Betty Fisher are enjoined and restrained from spending any money directly or indirectly controlled by them personally or through any corporation of which she is a part, with the exception of what I have Ordered her to immediately pay herein to the Clerk of Court. Of course, an exception is made for reasonable costs associated with their appeal, law practice, and ordinary living expenses.

The frivolous actions of the attorneys will be reported to the South Carolina Commission on Lawyer Conduct.

I cannot conclude without mentioning the most egregious waste of Alice Shaw-Baker's money. On February 24, 2009, Lisa Fisher spent \$25,000 of her own money (later reimbursed from the Estate) in an attempt to fly Alice Shaw-Baker to California from the Medical University of South Carolina from her death bed supposedly for a beneficial visit. The real purpose undoubtedly was to have her die in California, ultimately avoid the jurisdiction of South Carolina Courts, control the Estate, defeat the Will, and benefit her mother and herself.

I hope that I have ruled on everything that is before me. I give up everything to the Supreme Court of South Carolina for their greater consideration and ultimate decisions.

IT IS SO ORDERED.

March 21, 2018
Charleston, South Carolina

Thomas L. Hughston, Jr.

Thomas L. Hughston, Jr., Presiding Judge

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

By *[Signature]*
DEPUTY CLERK

#9

41

APPENDIX 1

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CIVIL ACTION NO.: 2009-CP-10-3010
Betty Fisher, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Bessie Huckabee, et al.,	)	COURT'S PROCEDURAL TIMELINE
	)	
Defendants.	)	
	)	
IN THE MATTER OF:	)	
ALICE SHAW-BAKER	)	
_____	)	

The following procedural outline for the above captioned case also includes the underlying Probate Case, 2009-ES-10-0378, and the separate but related Guardian and Conservator action in Probate Court, *Elisabeth Spencer v. Alice Shaw-Baker, et al.*, 2008-GC-10-0088.

LEGEND:

Circuit Court Case=No Emphasis
Underlying Probate Case=Underlined
Guardian and Conservator action=*Italics*

2008

July 31, 2008—*Elisabeth Spencer files Petition for Appointment of Conservator and Petition for Appointment of Guardian and Petition for Emergency Appointment of Guardian.*

August 4, 2008—*Order granting petition for emergency appointment of guardian and appointing Walter Kaufman.*

August 18, 2008—*Order appointing Family Services, Inc. as Conservator and Order appointing Walter Kaufman and Jane Orenstein as co-guardians.*

August 19, 2008—*John Hughes Cooper files Petition to Appoint Lisa Fisher as Conservator and Petition to Appoint Lisa Fisher as Guardian.*

August 21, 2008—*Elisabeth Spencer Answers and objects to petition to appoint Lisa Fisher.*

September 8, 2008—*Alice Shaw-Baker and Lisa Fisher file Motion for Temporary Restraining Order to enjoin the removal of Alice Shaw-Baker from her home.*

September 9, 2008—*Lisa Fisher answers petition filed by Elisabeth Spencer.*

September 16, 2008—*Judge Curry grants temporary restraining order preventing the removal of Alice Shaw-Baker from her home and removes Walter Kaufman as guardian and appoints Lisa Fisher as co-guardian with Jane Orenstein. Judge Curry further ordered the guardians to make Alice Shaw-Baker's house habitable, contact the conservator Family Services, Inc., to arrange an inventory of and take possession of Alice's financial records, arrange for a caretaker, and to inform Alice she can no longer smoke cigarettes inside home.*

September 30, 2008—*Judge Curry Orders (1) Peter A. Kouten to visit home of Alice Shaw-Baker to observe conditions and report to the court; (2) Appointment of physician/Examiner L. William Mulbry, M.D., and Rebecca McCrudden; (3) Appointment of Peter A. Kouten as attorney and guardian ad-litem for Alice Shaw-Baker.*

October 8, 2008—*Attorney John Hughes Cooper files Affidavit by physician Shanon Honney, M.D., attesting to her finding that Alice Shaw-Baker is not incapacitated.*

October 9, 2008—*Peter Kouten files visitor report stating, among other things, Ms. Shaw-Baker presented well and the house appeared clean.*

October 13, 2008—*Conservator Family Services, Inc., files inventory and appraisal reflecting total net worth of \$388,055.13.*

October 26, 2008—*Court's designated Medical Examiner, Dr. William Mulbry, files report stating Alice Shaw-Baker is incapacitated and requires appointment of guardian and conservator*

October 29, 2008—*Alice Shaw-Baker and Lisa Fisher file memo in support of appointment of Lisa Fisher as Guardian and Conservator.*

November 10, 2008—*Judge Curry issues several orders awarding fees to: (1) temporary co-guardian Jane Orenstein in the amount of \$2,832.90; (2) temporary co-guardians Orenstein and Kaufmann in the amounts of \$2,571.00 and \$1,747.00; and (3) Attorney C. Mac Gibson for representation of Elisabeth Spencer in the amount of \$7,192.18;*

November 12, 2008—*Judge Curry order granting fees to Court appointed GAL Peter Kouten in the amount of \$3,915.84.*

November 19, 2008—*Judge Curry enters order appointing Lisa Fisher as sole guardian and conservator of Alice Shaw-Baker and Lisa Fisher files \$401,700 bond.*

December 2, 2008—*Peter Kouten files monthly visitor's report.*

December 5, 2008—*Judge Curry awards cost to court appointed GAL Peter Kouten in the amount of \$585.00.*

December 18, 2008—*Judge Curry authorizes Family Services, Inc., to withdraw \$1,067.00 to pay Jane Orenstein and Family Services files petition for discharge of conservatorship.*

December 19, 2008—*Family Services, Inc., files final accounting for period from 08/14/2008–12/18/2008 showing receipts of \$247,964.99 and Disbursements of \$247,964.99.*

December 30, 2008—*Letter from John Hughes Cooper stating that Ms. Orenstein appeared at Alice's residence without being invited or making arrangements.*

2009

January 8, 2009—*Judge Curry Order granting fees to Peter Kouten in the amount of \$690.00 and Lisa Fisher files Neuropsychological Report of L. Randolph Waid, Ph. D.*

January 29, 2009—*Conservator Lisa Fisher files annual report and accounting for period 10/29/08–12/31/08 stating ending balance is \$158,522.01*

February 25, 2009—*Alice Shaw-Baker's date of death.*

February 27, 2009—*Judge Curry order permitting Lisa Fisher to reimburse herself \$44,530.00 in attorney's fees incurred for representation in this action. Attached is John Hughes Cooper's Affidavit of Attorney's Fees totaling \$44,530.00. In addition, Judge Curry issued order granting GAL fees in the amount \$1,320.00 and discharging GAL.*

March 2, 2009—*Bessie Huckabee files a petition for discharge and a motion for order of termination of conservatorship, filing of final accounting, and distribution of estate assets to court-appointed PR.*

March 10, 2009—Application for informal probate of will and appointment filed in probate court.

March 11, 2009—*Judge Condon issues certificate of appointment of Bessie Huckabee as Personal Representative of the Estate of Alice Shaw-Baker.*

March 25, 2009—*Judge Curry order granting fees by court-appointed GAL in the amount of \$735.00.*

April 27, 2009—Betty Fisher and Lisa Fisher file motion for removal to circuit court and a verified complaint in the probate court alleging (1) Constructive trust; (2) Declaratory Judgment; (3) Undue Influence; (4) Fraud; (5) unjust enrichment; (6) promissory estoppel; (7) Removal of Bessie Huckabee as PR; and (8) appointment of Betty Fisher as PR. In addition, Lisa Fisher files motion for approval of attorney's fees in the amount of \$6,607.50, and a memo and affidavit in support.

April 29, 2009—*Lisa Fisher files a memo in opposition to petition for discharge and motion for order of termination of conservatorship and filing of accounting and distribution of estate assets to court-appointed PR, and files a motion for continuance and memo in support.*

May 1, 2009—Plaintiffs file Motion for Restraining Order in Probate Court.

May 7, 2009—*Lisa Fisher files amended motion for approval of attorney's fees in the amount of \$6,090.00 for 32.7 hours worked from November 3, 2008 – February 19, 2009, and a memo and affidavit in support.*

May 9, 2009—Plaintiffs file amended notice of motion and motion for restraining order in probate court.

May 11, 2009—*Judge Curry issues order terminating Lisa Fisher's conservatorship, ordering her to provide an accounting, and to turn over all estate assets in her possession to Personal Representative, Bessie Huckabee.*

May 13, 2009—Judge Curry issues Order of Removal to Circuit Court.

May 14, 2009—*Motion for Temporary Injunction filed by Plaintiff.*

May 19, 2009—*Plaintiff files amended notice of hearing for Motion for Temporary Injunction.*

May 21, 2009—*Lisa Fisher files pro hac vice Application and Defendant SC Deferred Compensation Program files Reply to Temporary Injunction indicating it has no position.*

May 22, 2009—*Defendant ING files Reply to Temporary Injunction indicating it has no position and Judge Hughston's form 4 Order temporarily restraining P.R. from doing anything regarding the estate is filed.*

May 26, 2009—Letter from Supreme Court filed certifying Lisa Fisher paid \$250 *pro hac vice* application fee, and *Lisa Fisher files final conservator accounting in the probate court. In addition, Judge Condon grants Lisa Fisher a 90 day extension to deliver assets to PR.*

May 28, 2009—Defendant Bessie Huckabee filed motion for reconsideration of Judge Hughston's May 22, 2009 Order granting Plaintiff's Temporary Injunction, and Defendant National Life Insurance Company files separate Answer and Counterclaim and Cross-Claim by way of Rule 22 Interpleader for insurance benefits in the amount of \$21,454.67.

May 29, 2009—Plaintiffs file Reply to National Life Insurance Company's counterclaim.

June 4, 2009—Plaintiffs file memo in opposition to Defendant Huckabee's Motion for Modification and Reconsideration of Temporary Injunction.

June 5, 2009—Defendants Bessie Huckabee, Kay Passailaigue, Sandra Byrd file Answer to Plaintiffs' Complaint.

June 8, 2009—Plaintiffs' Reply to ING Institutional Plan Services' Counterclaim.

June 10, 2009—Judge Hughston's Order granting Modification of Temporary Restraining Order is filed. The order mutually restrained both parties from disbursing or distributing assets from the estate pending a trial on the merits on all issues in controversy.

June 12, 2009—SC Deferred Compensation Commission's Answer, Counterclaim and Cross-claim by way of Rule 22 Interpleader for funds in the amount of \$74,002.33

June 15, 2009—Defendant State Budget and Control Board, SC Retirement System's Answer, Counterclaim and Cross-claim by way of Rule 22 Interpleader for funds in the amount of \$6,189.36

June 16, 2009—Judge Condon grants Defendant Bessie Huckabee's motion for 120 day extension to file inventory and appraisement in probate court.

June 18, 2009—Judge Jefferson grants Lisa Fisher's *pro hac vice* admission. Additionally, Plaintiffs appeal Judge Hughston's **interlocutory** order granting modification of the temporary injunction on the basis that the TRO is "fundamentally flawed." Effective disposition of the case was severely hindered from this point forward.

June 19, 2009—Plaintiff Beatty Fisher files Motion to set aside void order of informal appointment of Bessie Huckabee as Personal Representative and Defendant Bessie Huckabee files a Motion to reconsider *pro hac vice* application of Lisa Fisher.

June 30, 2009—Defendants ING Institutional Plans Services and SC Deferred Compensation Commission file Motion for Interpleader and to Deposit Funds into Court.

July 10, 2009—Defendant National Life Insurance Company files Motion for Interpleader and to Deposit Funds into Court.

June 16, 2009—Judge Condon grants 120 day extension for PR to file inventory and appraisalment.

July 21, 2009—*Lisa Fisher files Motion for approval of fees and Expenses in the amount of \$67,814.50 and memo in support in the Probate Court.*

July 27, 2009—*Letter from attorney Kouten stating that the most recent accounting lacks specificity.*

July 30, 2009—Defendant State Budget and Control Board, South Carolina Retirement System's Motion for Interpleader and to Deposit Funds into Court.

August 19, 2009—*Judge Curry grants 90 day extension for Lisa Fisher to turn over assets.*

August 21, 2009—Attorney General Henry Dragan McMaster Answers Plaintiffs' Complaint.

August 28, 2009—Not in any file but according to a memo filed by Plaintiff, Defendant filed a Motion for Appointment of Special Administrator.

September 4, 2009—Lisa Fisher files proof of claim in the amount of \$67,814.50 on the basis of fees and expenses owed for guardian and conservator.

September 21, 2009—Plaintiff Betty Fisher files memo in opposition to Huckabee's Motion for appointment of special administrator.

September 23, 2009—Consent Orders of Interpleader as to ING, S.C. Deferred Compensation, and National Life Insurance Company. Plaintiff also files memo in opposition to Defendants' motion for reconsideration of order granting Lisa Fisher's *pro hac vice* application.

October 12, 2009—Defendants' file Motion to Disqualify Counsel Lisa Fisher and a Consent Order of Interpleader as to State Budget and Control Board is filed.

October 22, 2009—Judge Condon grants 180 day extension for PR to file inventory and appraisalment.

October 27, 2009—Plaintiff files objection to Bessie Huckabee's Motion for an extension to file inventory and appraisalment.

November 3, 2009—Letter from probate court to Plaintiffs' attorney acknowledging receipt of the objection to Defendant's motion for extension but explaining to Plaintiffs that the extensions are necessary for the court's monthly reporting requirements to court administration despite removal of the case to circuit court.

November 20, 2009— *Judge Curry grants 90 day extension for Lisa Fisher to turn over assets.*

December 1, 2009—Plaintiff files memo in opposition to Defendant's Motion to Disqualify.

December 2, 2009—Defendant files memo in support of motion to disqualify counsel.

December 4, 2009—Defendants' Motion to Disqualify Counsel is Denied with leave granted to re-file if facts change.

December 21, 2009—Letter from Defendant's attorney to clerk requesting that the court correct the caption on the most recent notice of entry of judgment is filed.

December 29, 2009—Letter from Lisa Fisher to clerk objecting to Defendant's request to correct caption and objecting to line in Defendant's letter informing the clerk to contact his office in regard to any questions on the matter as amounting to *ex parte* communication is filed.

2010

May 7, 2010— Judge Condon grants 180 day extension for PR to file inventory and appraisement, and closing documents.

May 12, 2010— *90 day extension to turn over assets granted by Judge Curry.*

May 17, 2010—Plaintiff files objections regarding Bessie Huckabee's Motion for an Extension filed on or about May 5, 2010.

August 10, 2010—*Judge Curry grants 90 day extension for Lisa Fisher to turn over assets.*

November 1, 2010—*Probate Judge grants 90 day extension to turn over assets.*

November 10, 2010—*Judge Condon grants 90 day extension for Lisa Fisher to turn over assets.*

November 16, 2010—Judge Curry grants 120 day extension for PR to file closing documents.

2011

February 24, 2011—*Jude Curry grants 90 day extension for Lisa Fisher to turn over assets.*

March 21, 2011—*Letter from Attorney Kouten alerting court that accountings for the years 2009 or 2010 had not been filed.*

March 31, 2011—*Letter from Judge Curry requesting Lisa Fisher to furnish the probate court with a 2009 and 2010 annual accounting.*

April 7, 2011—Judge Condon grants 180 day extension for PR to file closing documents.

May 20, 2011—*Bessie Huckabee files Motion to Appoint Special Fiduciary for Conservatorship Assets.*

June 1, 2011—*Lisa Fisher files Motion to Strike and Memo in opposition to Bessie Huckabee's Motion to Appoint Special Fiduciary.*

June 2, 2011—Court of Appeals file Order dismissing Plaintiff's appeal of the appointment of Bessie Huckabee as PR of the estate of Alice Shaw-Baker and affirming Judge Hughston's order modifying prior temporary restraining order.

August 12, 2011—*Lisa Fisher files objection to Court's Consideration of Huckabee's Motion to Appoint Special Fiduciary.*

September 21, 2011—*Lisa Fisher files objection to proposed order by Bessie Huckabee.*

September 28, 2011—*Judge Curry issues Order appointing special fiduciary Heyward Harvey and denying Lisa Fisher's Motion to strike and for extension to turn over assets.*

September 29, 2011—*Lisa Fisher files objection to second, duplicate proposed order by Bessie Huckabee.*

October 7, 2011—*Lisa Fisher files Motion for reconsideration of probate court order appointing special fiduciary and denying motion to strike, and Betty Fisher files motion to set aside probate court order appointing special fiduciary and memo in support. Additionally, Lisa Fisher files a renewed motion for approval of fees and expenses of guardian and conservator.*

October 13, 2011—Judge Condon grants 120 day extension for PR to file closing documents.

October 14, 2011—*Judge Curry issues order Denying Lisa Fisher's Motions for reconsideration and renewed motion for approval of expenses of guardian and conservator. In addition, Judge Curry issues orders freezing any and all assets under the name of Alice Shaw-Baker and/or Lisa Fisher or Alice Shaw-Baker individually being held with Edward Jones Investments, Wachovia, Farmers Merchants Bank, or Bank of America until Heyward Harvey takes control as special fiduciary.*

October 20, 2011—*Certificate of appointment is filed certifying Heyward Harvey is the duly qualified special fiduciary and Lisa Fisher files a motion to alter or amend the orders freezing assets and a motion to alter or amend denial of renewed motion for approval of fees and expenses of guardian and conservator.*

October 25, 2011—*Betty Fisher appeals Judge Curry's order appointing a special fiduciary and order denying motion to set aside order and Lisa Fisher appeals order appointing special fiduciary and denying motion to strike and order denying motion for reconsideration of order appointing special fiduciary.*

November 9, 2011—*Judge Curry issued order denying motion to alter or amend denial of renewed motion for approval of fees and expenses on the basis that Lisa Fisher's role as a conservator ended by order dated May 11, 2009, and Ms. Fisher withdrew monies from the conservatorship without having the legal fiduciary authority to do so. Additionally, Judge Curry issues order denying motion to alter or amend the orders freezing assets.*

November 21, 2011—*Lisa Fisher appeals Judge Curry order denying motion to alter or amend orders freezing assets and denial of motion to alter or amend denial of renewed motion for approval of fees and expenses of guardian and conservator.*

2012

February 14, 2012—Judge Condon grants 180 day extension for PR to file closing documents.

May 6, 2012—*Judge Curry informs Bank of America that temporary restraining order freezing accounts is still in effect until further order of the court.*

July 19, 2012—Defendant Bessie Huckabee files a Motion for Hearing on validity of Alice Shaw-Baker's last will and Testament.

July 30, 2012—Supreme Court Order denying certiorari.

August 1, 2012—Plaintiffs file motion to disqualify and remove Defendants counsel and memo in support.

September 5, 2012—Judge Condon grants 180 day extension for PR to file inventory and appraisal, and closing documents.

September 13, 2012—Bessie Huckabee files inventory and appraisal.

September 14, 2012—Defendant Bessie Huckabee files copy of the Inventory and Appraisal that was filed in the probate court.

October 4, 2012—Lisa and Betty Fisher file objections to the Inventory and Appraisal filed by Bessie Huckabee in both circuit and probate case.

October 4, 2012—Betty Fisher also files objection to Inventory and Appraisal filed by Bessie Huckabee.

November 28, 2012—Defendant's attorney files memo in opposition to Plaintiff's motion for disqualification and removal of counsel.

2013

March 12, 2013—Judge Condon grants 180 day extension for PR to file closing documents.

August 6, 2013—W. Westbrook Wills III files notice of appearance.

September 3, 2013—Defendant's Motion for Summary Judgment is granted in case # 2009-CP-10-1332

September 16, 2013—Judge Condon grants 180 day extension for PR to file closing documents.

September 27, 2013—Defendant Bessie Huckabee files Motion to Bifurcate along with Affidavit by Bessie Huckabee.

October 4, 2013—Plaintiffs file objection to Westbrook Wills' Notice of Appearance and file objection to Defendant's motion to bifurcate.

October 14, 2013—Consent order filed substituting Westbrook Wills III in place of Peter Kouten as counsel for Defendants.

2014

February 4, 2014—Judge Nicholson files Order Denying Plaintiff's Motion to Disqualify.

February 6, 2014—Plaintiffs file supplemental memo in opposition to motion to bifurcate.

February 18, 2014—Plaintiffs file motion to reconsider order denying motion to disqualify, memo in support, and affidavit by Lisa Fisher.

March 24, 2014—Judge Condon grants 180 day extension for PR to file closing documents.

May 7, 2014—Judge Nicholson files order denying Plaintiffs' Motion to reconsider denial of motion to disqualify.

June 10, 2014—Plaintiffs file notice of appeal regarding Judge Nicholson's denial of Plaintiffs' Motion to Disqualify.

August 18, 2014—Defendants file Motion for hearing and *Judge Nicholson's order affirming probate court's order appointing special fiduciary, freezing assets, and denying motions to reconsider.*

September 19, 2014—*Betty Fisher files notice of intent to appeal Judge Nicholson's order.*

October 8, 2014—Judge Condon grants 180 day extension for PR to file closing documents.

2015

April 13, 2015—Judge Condon grants 120 day extension for PR to file closing documents.

August 31, 2015—Judge Condon grants 120 day extension for PR to file closing documents and accounting.

2016

January 19, 2016—Judge Condon grants 180 day extension for PR to file closing documents.

June 22, 2016—Remittitur from Supreme Court filed denying Plaintiffs petition for writ of cert.

June 27, 2016—Court of Appeals Order is filed denying plaintiffs' petition for rehearing.

August 19, 2016—Judge Condon grants 180 day extension for PR to file closing documents.

August 22, 2016—Court of Appeals Order is filed granting costs in the amount of \$500 to the Defendants.

December 21, 2016— *Court of Appeals release unpublished opinion Affirming the circuit court's affirmance of the probate court's order appointing a special fiduciary, freezing assets, and denying motions to reconsider, and remanding Lisa Fisher's request for fees to the probate court.*

2017

January 17, 2017—Consent Motion for May 15, 2017, date certain.

February 16, 2017—*Letter from Defendants attorney requesting that Lisa Fisher be required to provide annual accountings of the estate's assets for the years 2011, 2012, 2013, 2014, 2015, and 2016.*

February 24, 2017—*Betty and Lisa Fisher's petition for rehearing in the Court of Appeals is denied.*

March 21, 2017—*Fisher's attorney responds to letter asking for accounting by stating the matter is beyond the jurisdiction of the probate court due to pending appeals.*

March 28, 2017—*Lisa and Betty Fishers' petition for writ of cert regarding the Court of Appeals December 21, 2016 unpublished opinion is filed in the SC Supreme Court.*

April 4, 2017—*Bessie Huckabee files motion for accounting.*

April 25, 2017—Judge Curry signs order substituting Jessica Crowley for Peter A. Kouten and attorney for Bessie Huckabee.

April 26, 2017—Judge Condon grants 90 day extension for PR to file closing documents.

May 12, 2017—*Order from probate court is filed substituting Jessica Crowley as counsel for defendants in place of Peter Kouten.*

May 30, 2017—Supreme Court Order filed denying Defendants motion to strike portions of the petitioner's brief.

August 2, 2017—Defendants file motion for summary judgment.

August 4, 2017—Defendants file amended motion for summary judgment.

August 16, 2017—*Date of Supreme Court Order disqualifying Judge Condon and the Associate Probate Judges of Charleston County, and transferring probate case to Judge Fulp in Beaufort.*

October 2, 2017—Plaintiff's file motion to change venue to Beaufort county, vacate date certain, and for a stay of all hearings pending Supreme Court ruling on petition for cert. Lisa Fisher also files affidavit in support of motion.

October 18, 2017—affidavit by Joann Hadwin and attorney Donald Budman filed attesting to validity of will.

October 19, 2017—Defendants file memo in opposition to plaintiffs' motion to change venue, vacate date certain, and for a stay. Additionally, Judge Jefferson files Order denying motion to change venue, vacate date certain, and for a stay on the following grounds: (1) Date certain trial was set to begin in three days; (2) two weeks had already been allotted for trial; and (3) motion to stay ruling on writ of cert pertaining to another case with the same parties but was unrelated to the present case.

October 23, 2017—Plaintiffs file motion to disqualify Judge Hughston on the grounds that he granted the modified temporary restraining order which was requested by the parties, motion for reconsideration of order denying motion to change venue, vacate date certain, and for stay on all matters. Plaintiffs also file notice of appeal of order denying motion to change venue, vacate date certain, and to stay. In addition, Judge Jefferson files order denying plaintiffs motion for reconsideration.

October 26, 2017—Jury verdict finding Alice Shaw-Baker's Last Will and Testament valid.

November 3, 2017—Plaintiffs file motion for date certain to hear severed trial on other causes of action, for a new trial, and for reconsideration of denial of Plaintiffs motion to amend its complaint to conform to evidence to reform the will as well a memo and affidavit in support.

November 6, 2017—Defendants file post-trial motions for sanctions under SC Frivolous Proceedings Act and Defendants file Motion to Dissolve Temporary Restraining Order.

November 16, 2017—Court of Appeals order dismissing Plaintiffs appeal of Judge Jefferson's order denying motion to change venue, vacate date certain, and to stay, and on denial of plaintiff's motion to disqualify Judge Hughston on the grounds that such matters are not immediately appealable.

December 6, 2017—Plaintiffs file memo in opposition to Defendants' post-trial motions.

December 27, 2017—Order assigning all matters to Judge Hughston.

2018

January 2, 2018—Defendant files renewed motion for summary judgment on remaining causes of action and response to plaintiffs' memo in opposition to Defendants' post-trial motions.

January 25, 2018—Judge Hughston requiring parties to furnish him with all information regarding the most recent accounting to the Probate Court.

January 30, 2018—Judge Hughston order checking on status of updated accounting and scheduling a pre-trial hearing.

February 5, 2018—Letter from Defendants in regard to Judge Hughston's order for an updated accounting.

February 6, 2018—Judge Hughston's order requiring Plaintiffs to furnish any missing information to him at pre-trial hearing and all bank records relative to Conservator accounts.

February 8, 2018—date of letter sent to Judge Hughston from Lisa Fisher objecting to Defendants letter, furnishing requested materials, arguing prejudice, and expressing concerns over imposing on Supreme Court jurisdiction.

February 9, 2018—Judge Hughston's filed reply letter to Lisa Fisher stating that what he has requested is relevant and ordered her to provide accounting in simple form.

February 14, 2018—Accounting by Lisa Fisher is filed.

February 16, 2018—Judge Hughston email changing pretrial hearing to Beaufort for everyone's convenience.

February 22, 2018—Judge Hughston order requiring any discovery done in the present case or any corresponding case be turned over to him.

February 26, 2018—Lisa Fisher files amended accounting with attachments, motion to strike Feb. 2, 2018 letter from Defendants' counsel, affidavit of John Hughes Cooper, memo in opposition to Defendants' renewed motion for summary judgment, pre-trial brief, and an affidavit of Albert Bilbrey.

February 28, 2018—Plaintiffs file reply to Defendants' Response to Plaintiffs' Post-Trial Motions. Additionally, Judge Hughston files order confirming the parties had a pre-trial hearing as scheduled and ordering both parties to be prepared to present evidence they wish to present at Trial on March 12 concerning any legal and factual matters.

March 7, 2018—Correspondence from Defendants' attorney to Judge Hughston is filed that raises the issue of Plaintiffs' standing and cites the South Carolina Supreme Court's decision in a companion case declaring Plaintiffs did in fact lack standing to bring claims on behalf of the estate.

March 14, 2018—Judge Hughston files Order confirming his oral Order requiring Lisa Fisher to produce financial statements showing her net worth and net income for 2017, and informing her that failure to do so may result in civil contempt of court.

APPENDIX 2

Court's Summary of Expenditures and Fees

Initial Value of Estate (Family Service's Inventory and Appraisal)

Real Estate:	\$ 92,200.00
Investments:	\$ 233,788.01
Anticipated Annual Receipts:	\$ 35,308.82
Life Insurance:	\$ 9,625.56
Annuities:	\$ 17,133.24
TOTAL NET WORTH:	<u><u>\$ 388,055.63</u></u>

Family Services' Conservatorship Final Accounting (Aug. 14, 2008 – Dec. 18, 2008)

Total Receipts:	\$ 247,964.99
Total Expenditures:	\$68,341.85 [28% of Liquidated Estate]
FINAL BALANCE:	<u><u>\$ 179,623.14</u></u>

Lisa Fisher's Conservatorship Accounting (Dec. 18, 2008 – Jan. 10, 2018)

Total Receipts (Liquidated Estate):	\$ 312,046.40
Total Expenditures (credited BOA \$1000 Investment):	\$ 172,033.14 [55% of Liquidated Estate]
FINAL BALANCE:	<u><u>\$ 140,013.26</u></u> [Assumed Current Balance of Liquidated Estate]

Improper Expenditures From Estate

Monies spent after May 11, 2009 order terminating conservatorship:	\$ 39,549.43
Charitable contributions prior to May 11, 2009, without a court order (\$62-5-424(C)(9)):	\$ 105.00
Air ambulance day before death (\$62-5-424(C)(8)):	\$ 25,000.00
Unapproved legal fees:	\$ 13,941.59
Caregiver expenses more than a month after Alice-Shaw Baker death (\$62-5-424(C)(8)):	\$ 1,000.00
Charge for "Hair" after date of death (\$62-5-424(C)(8)):	\$ 200.00
TOTAL:	<u><u>\$ 79,796.02</u></u>

Credits

Lawn Care:	\$ 2,370.00
Taxes and Insurance:	\$ 7,892.85
TOTAL:	<u><u>\$ 10,262.85</u></u>
TOTAL IMPROPER EXPENDITURES:	<u><u>\$ 69,533.17</u></u> [22% of Liquidated Estate]

Sanctions on Improper Expenditures/Loss of Opportunity Costs

Total Improper Expenditures:	\$ 69,533.17
Loss Rent from One year following Date of Death:	\$7,000
TOTAL SANCTIONS ON IMPROPER EXPENDITURES:	<u><u>\$ 76,533.17</u></u>

Accumulated Attorney's Fees from February 2009 – February 2018

Plaintiffs (not including any fees from Lisa Fisher):	\$157,297.42
Defendants:	\$ 157,539.93
TOTAL:	<u><u>\$314,837.35</u></u> [81% of Estate's Initial Net Worth]

Total Sanctions

Improper Expenditures and Loss Opportunity	\$ 76,533.17
Defendants' Attorney's Fees	\$ 157,539.93
TOTAL:	<u><u>\$ 234,073.10</u></u>
Prejudgment Interest	8.50%
TOTAL SANCTIONS ON ATTORNEY'S FEES AND IMPROPER EXPENDITURES:	<u><u>\$ 253,696.31</u></u>

Other Noteworthy Figures

Outstanding Fee Request

Lisa Fisher Conservator Fees	<u><u>\$ 67,814.50</u></u>
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Total Fees to Date

Total Accumulated attorney's fees from Feb. 2009 – Feb. 2018:	\$ 314,837.35
Lisa Fisher pending request for Conservator Fees:	\$ 67,814.50
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 12,941.59
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 75.00
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 139.75
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 1,000.00
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 375.00
Payment to JH Cooper (Lisa Fisher Accounting):	\$ 44,530.00 [Approved by Feb. 27, 2009 Order for fees through Oct. 31, 2008]
Lisa Fisher Reimbursement for Legal Fees:	\$ 6,090.00
TOTAL:	<u><u>\$447,803.19</u></u> [115% of Estate's Initial Net Worth]

APPENDIX 3

Alice Shaw-Baker Death:	25-Feb-09
Order Terminating Conservatorship:	11-May-09
Total Expenditures Post Death:	\$ 99,015.29
Total Expenditures from Feb. 25-May 11, 2009:	\$ 59,465.86
Total Expenditures Post May 11, 2009:	\$ 39,549.43

(*Figures do not include funeral expenses*)

Admin expenses

3/3/2009 Betty Fisher	Postage	\$ 9.36
3/20/2009 Bety Fisher	Postage	\$ 9.36
6/2/2009 Farmers & Merchant	Check Order	\$ 23.35
5/19/2009 Lisa Fisher	Legal	\$ 75.00
5/23/2009 Lisa Fisher	Postage	\$ 210.00
10/14/2009 Bond Services of CA	Bond Fee	\$ 1,465.00
10/7/2010 Bond Services of CA	Bond fee	\$ 1,465.00
1/18/2011 Lisa Fisher	Unknown	\$ 6.59
1/18/2011 Lisa Fisher	DMV	\$ 12.15
1/18/2011 Lisa Fisher	tapa	\$ 12.90
1/24/2011 Betty Fisher	unknown	\$ 26.10
3/15/2011 Deluxe Check	Check order	\$ 20.00
4/8/2011 fee	Bank Charge	\$ 27.50
5/31/2011 Lisa Fisher	Fedex	\$ 39.09
6/6/2011 Lisa Fisher	copies	\$ 22.42
4/28/2015	Bank Charge	\$ 80.00
4/28/2015	Bank Charge	\$ 244.00
Total:		\$ 3,747.82
Before Order:		\$ 3,686.31
After Order:		\$ 61.51

Donations

3/4/2009 Catholic relief service	Charity	\$ 100.00
3/6/2009 Blessed Sacrament	Charity	\$ 100.00
3/11/2009 Missionary Obiates	Charity	\$ 150.00
3/9/2009 American Antivivesectin	Charity	\$ 150.00
3/9/2009 PCRM	Charity	\$ 150.00
3/6/2009 Chihuahua Rescue	Charity	\$ 150.00
3/11/2009 Charleston Animal	Charity	\$ 150.00
3/13/2009 Friends of Animals	Charity	\$ 150.00
3/18/2009 LCA	Charity	\$ 150.00
3/18/2009 National Antivivisection	Charity	\$ 150.00
3/16/2009 PETA	Charity	\$ 150.00

3/12/2009 Best friends of animals	Charity	\$ 150.00
3/19/2009 Chihuahua Rescue	Charity	\$ 150.00
3/12/2009 Chihuahua Rescue	Charity	\$ 150.00
3/12/2009 ASPCA	Charity	\$ 150.00
3/13/2009 Blessed Sacrament	Charity	\$ 150.00
3/26/2009 No Kill	Charity	\$ 150.00
Total:		\$ 2,450.00
Before Order:		\$ 2,450.00
After Order:		\$ -

Medical Expenses

3/23/2009 ATC Health	Medical	\$ 783.00
3/17/2009 Lifeline	Medical	\$ 76.00
5/18/2009 Lisa Fisher	Maxim Medical	\$ 255.00
5/26/2009 Lisa Fisher	Medication Reimbursment	\$ 512.30
5/23/2009 Lisa Fisher	Medical Evaluation Reimbursment	\$ 5,000.00
Total:		\$ 6,626.30
Before Order:		\$ 859.00
After Order:		\$ 5,767.30

Caregiver

3/3/2009 Mona Dayhoff	Caregiver	\$ 165.00
3/3/2009 Candace Rickborn	Caregiver	\$ 1,840.00
3/5/2009 Candace Rickborn	Caregiver	\$ 100.00
3/3/2009 Candace Rickborn	Caregiver	\$ 250.00
3/11/2009 Candace Rickborn	Caregiver	\$ 1,020.00
3/13/2009 Candace Rickborn	Caregiver	\$ 250.00
3/31/2009 Candace Rickborn	Caregiver	\$ 250.00
4/2/2009 Candace Rickborn	Caregiver	\$ 250.00
4/13/2009 Candace Rickborn	Caregiver	\$ 250.00
4/23/2009 Candace Rickborn	Caregiver	\$ 250.00
4/29/2009 Candace Rickborn	Caregiver	\$ 250.00
5/26/2009 betty fisher	Caregiver/reimbursment	\$ 500.00
5/19/2009 lisa fisher	Caregiver	\$ 165.00
5/7/2009 Candace Rickborn	Caregiver	\$ 250.00
5/12/2009 Candace Rickborn	Caregiver	\$ 250.00
5/18/2009 Candace Rickborn	Caregiver	\$ 250.00
5/19/2009 Lisa Fisher Reimbursement	Caregiver	\$ 895.00
5/18/2009 Candace Rickborn	Caregiver	\$ 250.00
5/23/2009 Candace Rickborn	Caregiver	\$ 250.00

5/23/2009 Lisa Fisher Reimbursement	Caregiver	\$ 65.00
Total:		\$ 7,750.00
Before Order:		\$ 5,125.00
After Order:		\$ 2,625.00

Personal Expenses

3/16/2009 Chase	Unknown	\$ 711.02
3/27/2009 Barbara Ann Thompson	Hair	\$ 200.00
4/30/2009 Post & Courier	Newspaper	\$ 14.25
5/19/2009 Lisa Fisher	Reimburse Purchases	\$ 62.32
5/23/2009 Lisa Fisher	Costs for Alice	\$ 450.00
6/1/2009 Post & Courier	Newspaper	\$ 14.25
6/30/2009 Post & Courier	Newspaper	\$ 14.25
7/30/2009 Post & Courier	Newspaper	\$ 14.25
8/31/2009 Post & Courier	Newspaper	\$ 14.25
9/29/2009 Post & Courier	Newspaper	\$ 14.25
10/29/2009 Post & Courier	Newspaper	\$ 14.25
12/3/2009 Post & Courier	Newspaper	\$ 14.25
12/29/2009 Post & Courier	Newspaper	\$ 14.25
1/29/2009 Post & Courier	Newspaper	\$ 16.25
3/1/2010 Post & Courier	Newspaper	\$ 16.25
Total:		\$ 1,584.09
Before Order:		\$ 925.27
After Order:		\$ 658.82

Insurance and Taxes

5/19/2009 Lisa Fisher	Reimburse State Farm Car Ins	\$ 235.21
7/21/2009 State Farm Ins	Insurance	\$ 22.49
9/19/2009 State Farm Ins	Car Insurance	\$ 244.78
9/19/2009 State Farm Ins	Homeowners	\$ 375.75
11/6/2009 Charleston Co. Treasurer	Tax	\$ 31.43
12/29/2009 State Farm Ins	Homeowners	\$ 375.75
3/23/2010 State Farm Ins	Car Insurance	\$ 250.26
4/1/2010 State Farm Ins	Homeowners	\$ 390.00
4/16/2010 Charleston Co. Treasurer	Tax	\$ 388.62
7/17/2010 State Farm Ins	Homeowners	\$ 390.00
9/21/2010 State Farm Ins	Car Insurance	\$ 270.35
9/24/2010 State Farm Ins	Homeowners	\$ 390.00
11/22/2010 Charleston Co. Treasurer	Tax	\$ 1,381.44

12/31/2010 State Farm Ins	Homeowners	\$ 390.00
3/25/2011 State Farm Ins	Car Insurance	\$ 270.35
5/3/2011 State Farm Ins	Homeowners	\$ 393.99
7/20/2011 Blueprint Ins Group	Insurance	\$ 1,737.34
9/19/2011 State Farm Ins	Insurance	\$ 15.60
10/7/2011 State Farm Ins	Insurance	\$ 339.49
Total:		\$ 7,892.85
Before Order:		\$ -
After Order:		\$ 7,892.85

Home Maintenance

4/9/2009 Village Plumbing	Repair	\$ 380.00
4/27/2009 John Gamble	Security	\$ 350.00
4/30/2009 B Smith	Lawn	\$ 60.00
5/14/2009 Hugh Haines	Lawn	\$ 60.00
5/18/2009 Hugh Haines	Lawn	\$ 60.00
5/23/2009 John Gamble	Security	\$ 200.00
6/19/2009 Hugh Haines	Lawn	\$ 60.00
8/8/2009 Hugh Haines	Lawn	\$ 60.00
9/13/2009 Hugh Haines	Lawn	\$ 75.00
10/13/2009 Hugh Haines	Lawn	\$ 60.00
11/20/2009 John Gamble	Security	\$ 500.00
1/15/2010 Hugh Haines	Lawn	\$ 60.00
1/15/2010 Hugh Haines	Lawn	\$ 60.00
2/2/2010 Village Plumbing	Repair	\$ 125.00
2/28/2010 Candace Rickborn	Carpet	\$ 40.00
3/11/2010 Charles Cooper	Lawn	\$ 60.00
3/11/2010 Village Plumbing	Maintenance	\$ 100.00
4/5/2010 Village Plumbing	Maintenance	\$ 100.00
4/13/2010 Charles Cooper	Lawn	\$ 60.00
5/1/2010 Charles Cooper	Lawn	\$ 60.00
5/21/2010 Charles Cooper	Lawn	\$ 60.00
5/21/2010 Charles Cooper	Lawn	\$ 60.00
5/19/2010 Village Plumbing	Maintenance	\$ 76.00
7/15/2010 Charles Cooper	Lawn	\$ 60.00
7/15/2010 Charles Cooper	Lawn	\$ 60.00
7/16/2010 Charles Cooper	Lawn	\$ 60.00
7/30/2010 Charles Cooper	Lawn	\$ 60.00
8/25/2010 Charles Cooper	Lawn	\$ 60.00
8/30/2010 Charles Cooper	Lawn	\$ 60.00
9/15/2010 Charles Cooper	Lawn	\$ 60.00

9/30/2010 Charles Cooper	Lawn	\$ 60.00
8/12/2010 John Gamble	Security	\$ 900.00
9/14/2010 John Gamble	Security	\$ 100.00
10/15/2010 Charles Cooper	Lawn	\$ 60.00
10/15/2010 Charles Cooper	Lawn	\$ 60.00
11/15/2010 Charles Cooper	Lawn	\$ 60.00
11/1/2010 Charles Cooper	Lawn	\$ 80.00
12/27/2010 Village Plumbing	Repair	\$ 280.00
12/16/2010 John Gamble	Security	\$ 100.00
1/7/2011 John Gamble	Security	\$ 300.00
2/25/2011 John Gamble	Security	\$ 200.00
4/1/2011 Charles Cooper	lawn	\$ 60.00
4/1/2011 Charles Cooper	lawn	\$ 60.00
4/1/2011 Charles Cooper	lawn	\$ 60.00
4/21/2011 Charles Cooper	lawn	\$ 60.00
5/2/2011 Charles Cooper	lawn	\$ 60.00
5/6/2011 John Gamble	Security	\$ 100.00
5/9/2011 Charles Cooper	Lawn	\$ 60.00
5/2/2011 Charles Cooper	Lawn	\$ 60.00
4/21/2011 Charles Cooper	Lawn	\$ 60.00
5/6/2011 John Gamble	Security	\$ 100.00
5/31/2011 Charles Cooper	Lawn	\$ 60.00
6/2/2011 Charles Cooper	Lawn	\$ 60.00
7/1/2011 Charles Cooper	Lawn	\$ 60.00
6/28/2011 Charles Cooper	Lawn	\$ 60.00
7/18/2011 Charles Cooper	Lawn	\$ 60.00
7/26/2011 John Gamble	Security	\$ 100.00
7/12/2011 Charles Cooper	Lawn	\$ 75.00
8/1/2011 Charles Cooper	Lawn	\$ 60.00
8/1/2011 Charles Cooper	Lawn	\$ 100.00
8/17/2011 Charles Cooper	Lawn	\$ 60.00
8/17/2011 John Gamble	Security	\$ 200.00
9/7/2011 Charles Cooper	Lawn	\$ 60.00
9/26/2011 Charles Cooper	Lawn	\$ 60.00
10/6/2011 Charles Cooper	Lawn	\$ 60.00

Total:		\$ 7,101.00
Before Order:		\$ 790.00
After Order:		\$ 6,311.00

Utilities

4/1/2009 AT&T	Utility	\$ 129.77
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4/15/2009 SCE&G	Utility	\$ 211.58
4/30/2009 AT&T	Utility	\$ 53.83
4/16/2009 Charleston Water	Utility	\$ 39.22
5/13/2009 SCE&G	Utility	\$ 105.00
5/1/2009 Lisa Fisher Water Reimburse	Utility	\$ 215.88
5/19/2009 Lisa Fisher Comcast Reimburse	Utility	\$ 204.40
5/18/2009 Charleston Water	Utility	\$ 36.30
6/16/2009 SCE&G	Utility	\$ 56.14
6/16/2009 Charleston Water	Utility	\$ 40.69
7/9/2009 AT&T	Utility	\$ 84.27
7/16/2009 SCE&G	Utility	\$ 115.00
7/10/2009 Charleston Water	Utility	\$ 42.52
7/21/2009 Lisa Fisher Comcast Reimburse	Utility	\$ 201.12
8/17/2009 SCE&G	Utility	\$ 115.00
8/25/2009 AT&T	Utility	\$ 42.23
9/3/2009 AT&T	Utility	\$ 124.13
8/11/2009 Charleston Water	Utility	\$ 39.98
8/20/2009 Comcast	Utility	\$ 64.71
10/6/2009 SCE&G	Utility	\$ 115.00
9/10/2009 Charleston Water	Utility	\$ 49.83
9/9/2009 Comcast	Utility	\$ 64.71
10/14/2009 AT&T	Utility	\$ 8.13
10/30/2009 SCE&G	Utility	\$ 115.00
10/16/2009 Charleston Water	Utility	\$ 52.38
11/13/2009 SCE&G	Utility	\$ 115.00
11/10/2009 Comcast	Utility	\$ 64.71
11/6/2009 Charleston Water	Utility	\$ 40.37
11/20/2009 Comcast	Utility	\$ 64.71
12/14/2009 AT&T	Utility	\$ 88.46
12/15/2009 Charleston Water	Utility	\$ 32.95
12/15/2009 AT&T	Utility	\$ 88.46
12/16/2009 SCE&G	Utility	\$ 115.00
12/15/2009 Comcast	Utility	\$ 64.71
2010 SCE&G	Utility	\$ 115.00
2010 Charleston Water	Utility	\$ 36.88
2010 Comcast	Utility	\$ 64.71
2010 AT&T	Utility	\$ 42.40
2010 SCE&G	Utility	\$ 115.00
2010 AT&T	Utility	\$ 66.36
2010 Charleston Water	Utility	\$ 52.00
2010 Comcast	Utility	\$ 68.06

2010 SCE&G	Utility	\$ 115.00
2010 AT&T	Utility	\$ 44.87
2010 Charleston Water	Utility	\$ 44.02
2010 Comcast	Utility	\$ 68.06
2010 SCE&G	Utility	\$ 115.00
2010 Charleston Water	Utility	\$ 62.46
2010 Comcast	Utility	\$ 68.06
2010 SCE&G	Utility	\$ 115.00
2010 AT&T	Utility	\$ 107.73
2010 Charleston Water	Utility	\$ 61.19
2010 Comcast	Utility	\$ 68.08
2010 SCE&G	Utility	\$ 115.00
2010 AT&T	Utility	\$ 55.87
2010 Charleston Water	Utility	\$ 63.03
2010 Comcast	Utility	\$ 68.07
2010 SCE&G	Utility	\$ 152.00
2010 AT&T	Utility	\$ 55.23
2010 Charleston Water	Utility	\$ 50.63
2010 Comcast	Utility	\$ 68.07
2010 SCE&G	Utility	\$ 152.00
2010 Charleston Water	Utility	\$ 44.02
2010 SCE&G	Utility	\$ 152.00
2010 AT&T	Utility	\$ 45.59
2010 Charleston Water	Utility	\$ 45.11
2010 Comcast	Utility	\$ 136.14
2010 SCE&G	Utility	\$ 152.00
2010 AT&T	Utility	\$ 86.65
2010 Comcast	Utility	\$ 68.06
2010 SCE&G	Utility	\$ 152.00
2010 Charleston Water	Utility	\$ 34.87
2010 Charleston Water	Utility	\$ 38.35
2010 Comcast	Utility	\$ 68.06
2010 SCE&G	Utility	\$ 152.00
2010 AT&T	Utility	\$ 42.24
2010 Charleston Water	Utility	\$ 45.49
2010 Comcast	Utility	\$ 68.06
2011 SCE&G	Utility	\$ 152.00
2011 AT&T	Utility	\$ 42.31
2011 Charleston Water	Utility	\$ 44.94
2011 Comcast	Utility	\$ 68.06
2011 SCE&G	Utility	\$ 152.00

2011 AT&T	Utility	\$ 87.86
2011 SCE&G	Utility	\$ 152.00
2011 Charleston Water	Utility	\$ 42.43
2011 Comcast	Utility	\$ 136.69
2011 AT&T	Utility	\$ 44.05
2011 SCE&G	Utility	\$ 152.00
2011 Charleston Water	Utility	\$ 99.52
2011 Comcast	Utility	\$ 71.66
2011 Charleston Water	Utility	\$ 74.27
2011 SCE&G	Utility	\$ 152.00
2011 AT&T	Utility	\$ 88.04
2011 AT&T	Utility	\$ 43.83
2011 Comcast	Utility	\$ 71.67
2011 Comcast	Utility	\$ 71.67
2011 Charleston Water	Utility	\$ 78.01
2011 AT&T	Utility	\$ 105.00
2011 Comcast	Utility	\$ 42.41
2011 Charleston Water	Utility	\$ 71.67
2011 Charleston Water	Utility	\$ 37.96
2011 SCE&G	Utility	\$ 105.00
2011 AT&T	Utility	\$ 43.16
2011 Charleston Water	Utility	\$ 37.96
2011 Comcast	Utility	\$ 71.67
2011 Charleston Water	Utility	\$ 19.38
2011 SCE&G	Utility	\$ 105.00
2011 Charleston Water	Utility	\$ 19.38
2011 AT&T	Utility	\$ 43.09
2011 Comcast	Utility	\$ 71.67
2011 Charleston Water	Utility	\$ 17.35
2015 Charleston Water	Utility	\$ 47.40
2016 Charleston Water	Utility	\$ 55.25
2017 Charleston Water	Utility	\$ 58.26

Total:		\$ 9,318.23
Before Order:		\$ 650.28
After Order:		\$ 8,667.95

Professional Services

3/9/2009 JH Copper	Legal	\$44,530.00
4/29/2009 W Triggs	Accountant	\$ 450.00
5/23/2009 Lisa Fisher	Reimburse legal fees	\$ 6,090.00
5/9/2010 William Triggs	Accountant	\$ 940.00

6/16/2011 Triggs & Reese	Accountant	\$ 325.00
8/11/2011 Triggs & Reese	Accountant	\$ 210.00
Total:		\$52,545.00
Before Order:		\$44,980.00
After Order:		\$ 7,565.00

Final thoughts about this case:

“...When a festive occasion our spirit unbends,

We should never forget the profession's best friends.

So we'll pass round the wine,

And a light bumper fill,

To the jolly testator who makes his own will.”

~Lord Charles Neaves

Sadly, if Alice Shaw-Baker had spent a little more time with her attorney, she would have accomplished her goal as stated to her friend, Kay Passailague Slade, “I don't want lawyers involved.” Tragic outcome. No self-respecting lawyer would toast this.

I close with “A Prayer for Lawyers” by Samuel Johnson:

Almighty God, the Giver of wisdom, without whose help resolutions are vain, without whose help study is ineffectual, enable me if it be Thy will to attain such knowledge as may qualify me to direct the doubtful and instruct the ignorant; to prevent wrongs and terminate contentions; and grant that I may use that knowledge which I shall attain to Thy glory and my own salvation for Jesus Christ's sake. Amen.

12 Sheriff
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.: 2009-CP-10-3010

BETTY FISHER and LISA FISHER,
Plaintiffs,

vs.

BESSIE HUCKABEE, KAY
PASSAILAGUE SLADE, and SANDRA
BYRD,
Defendants.

In the Matter of the Estate of Alice Shaw-
Baker. Charleston County Probate No.:
2009-ES-10-0378

ORDER

FILED
2010 APR -3 PM 2:32
JULIE J. ARMSTRONG
CLERK OF COURT

THIS MATTER is before me following a jury trial that resulted in a Verdict upholding the Will of Alice Shaw-Baker, and rejecting the Plaintiffs claim that she had revoked the Will by her words and acts. I denied Plaintiffs' post-trial motions regarding this, and confirmed the Verdict. Plaintiffs also made equitable claims regarding the Estate. I denied all these claims based on my findings as to the credibility of the witnesses, and totality of the evidence. In addition, I imposed sanctions against John Hughes Cooper, Lisa Fisher, and Betty Fisher. I now Order the following:

1. The Charleston County Clerk of Court, Julie J. Armstrong, is to deliver all monies being held by her in trust from National Life Insurance Company in the amount of \$22,642.76, S.C. Budget and Control Board in the amount of \$2,189.36 and \$4,000.00, and South Carolina Deferred Compensation Program in the amount of \$75,246.24, including interest in the amount of \$935.86, totaling \$105,014.22 to Defendant Kay Passailaigue Slade.

#1
T.L.H. Jr.

Ex C

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- #2
2. Farmers and Merchants Bank of Long Beach California is to make payable all monies held in a savings account and a checking account, both in the name of Alice Shaw-Baker Conservatorship, Lisa Fisher Conservator, to Bessie Huckabee, Personal Representative of the Estate of Alice Shaw-Baker. Additionally, Edward Jones on 1124 Sam Rittenberg Boulevard in Charleston, SC, is to make payable all monies held in the name of Alice Shaw-Baker, Lisa Fisher Conservator, to Bessie Huckabee, Personal Representative of the Estate of Alice Shaw-Baker. The monies shall be delivered to Bessie Huckabee's attorney, W. Westbrook Wills, III at P.O. Box 822, Folly Beach, SC 29439.
 3. Ejectment of the occupant of the house located at 306 Cassina Road, Parkwood Estates, Charleston, South Carolina, within seven (7) days of the date of service of this Order. The occupant must turn the keys over to the Charleston County sheriff's deputy, or deliver them to the attorney for the Defendants, W. Westbrook Wills, III.
 4. I grant the Motion of John Hughes Cooper, his partner John Townsend Cooper, and his law firm John Hughes Cooper, P.C. to withdrawal as counsel for Plaintiffs. Plaintiffs are granted reasonable time to seek another South Carolina attorney, but nothing herein enlarges the time for Plaintiffs to file an appeal.
 5. As Additional sanctions for Plaintiffs and their attorneys, they are enjoined and restrained from filing any motions in the Circuit Court. Any future filings in this case must be filed with the Supreme Court of South Carolina.

AND IT IS SO ORDERED.

April 3, 2018

Charleston, South Carolina
ATTEST & TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

By [Signature]
DEPUTY CLERK

Thomas L. Hughston, Jr.
Thomas L. Hughston, Jr., Presiding Judge

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THE STATE OF SOUTH CAROLINA

In the Supreme Court of South Carolina

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Case No. 2009-CP-10-3010

RECEIVED

APR 05 2018

S.C. SUPREME COURT

Betty Fisher and Lisa Fisher.....Appellants

v.

Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd.....Respondents

NOTICE OF APPEAL

Betty Fisher and Lisa Fisher appeal the following orders of the Honorable Thomas L.

Hughston, Jr. :

- 1) Order /Jury Verdict dated October 26, 2017 received on November 3, 2017.
- 2) Order dated March 21, 2018 and received on March 26, 2018, including form 4 order and formal 9 page order, with Appendix 1, Appendix 2, and Appendix 3 (46 page order in total.
- 3) Order dated April 3, 2018 and received by email on April 3, 2018. Said order enjoins and restrains the filing of any motions in the Circuit Court and mandates

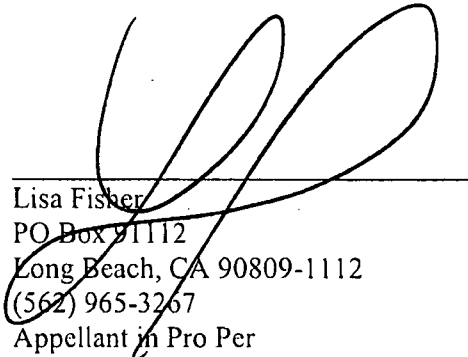
Ex D

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the filing of any motions and future filings in the Supreme Court as an
"additional" sanction.

Appellants received written notice of the above Orders via email or by mail as stated.

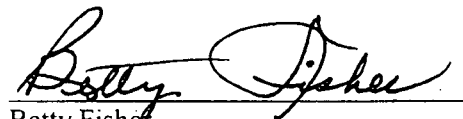
April 4, 2018



Lisa Fisher
PO Box 91112
Long Beach, CA 90809-1112
(562) 965-3267
Appellant in Pro Per

Joining in Notice of Appeal:

April 4, 2018



Betty Fisher
PO Box 91112
Long Beach, CA 90809-1112
(562) 965-3267
Appellant in Pro Per

Other Counsel of Record:

John Hughes Cooper, Esquire
1476 Ben Sawyer Blvd. Ste. 11
Mt. Pleasant, SC 29464
Attorney in Pro Se/Interested Party

W. Westbrook Wills III, Esquire

PO Box 822

Folly Beach, SC 29439

843-805-6300

Attorney for Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd (deceased)

Jessica L. Crowley, Esquire

PO Box 30189

Charleston, SC 29417

843-789-9614

Attorney for Bessie Huckabee, as Personal Representative

Hon. Mary France Jowers

Assistant Attorney General

PO Box 11549

Columbia, SC 29211

803-734-0274

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

APR 05 2018

S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Case No. 2009-CP-10-3010

Betty Fisher and Lisa Fisher.....Appellants

v.

Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd.....Respondents

PROOF OF SERVICE

I certify that I have served **NOTICE OF APPEAL** and **PROOF OF SERVICE** upon
Interested Party John Hughes Cooper, Respondents and upon the Attorney General by
depositing a copy of it in the United States Mail, postage prepaid, on April 4, 2018 addressed as
follows:

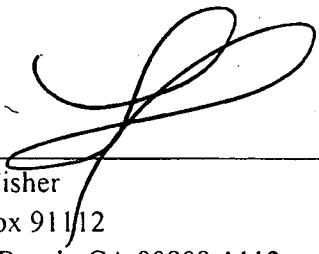
John Hughes Cooper, Esquire
1476 Ben Sawyer Blvd. Ste. 11
Mt. Pleasant, SC 29464
Attorney in Pro Se/Interested Party

W. Westbrook Wills III, Esquire
PO Box 822
Folly Beach, SC 29439

Jessica L. Crowley, Esquire
PO Box 30189
Charleston, SC 29417

Hon. Mary France Jowers, Esquire
Assistant Attorney General
PO Box 11549
Columbia, SC 29211

April 4, 2018



Lisa Fisher
PO Box 91112
Long Beach, CA 90809-1112
562-965-3267

The Supreme Court of South Carolina

Betty Fisher and Lisa Fisher, Appellants,

v.

Bessie Huckabee, Kay Passailaigue Slade and Sandra
Byrd, Respondents.

In the Matter of the Estate of Alice Shaw-Baker.

Appellate Case No. 2018-000604

The Honorable Thomas L. Hughston, Jr.
Charleston County
Trial Court Case No. 2009CP1003010

ORDER

Pursuant to Rule 204(a) of the South Carolina Appellate Court Rules, the appeal in the above entitled matter is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

April 6, 2018

EX 9

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cc:

Ms. Betty Fisher

Ms. Lisa Fisher

Warren W. Wills, III, Esquire

Jessica Lynn Crowley, Esquire

Mary Frances G. Jowers, Esquire

John Hughes Cooper, Esquire

The Honorable Jenny Abbott Kitchings

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 2 COUNTY OF CHARLESTON) CASE NO. 2009-CP-10-3010
 3
 4 ALICE SHAW BAKER, ET.)
 AL.,)
 5 Plaintiffs,) Transcript of Record
 6 vs.)
 7 BESSIE HUCKABEE,) Date: October 23, 2017 -
 ET. AL,) October 26, 2017
 8 Defendants.)

9 * * * * *

10

11

B E F O R E:

12

The Honorable Thomas Hughston

13

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15

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20

21

Denise J. Lauder, RPR

22

Ninth Judicial Circuit

23

24

25

Ex F

1 with it --

2 MR. WILLS: Your Honor, it may be in
3 the very bottom of the file.

4 THE COURT: I tell you what, actually,
5 what I was looking at was actually the copy of the
6 verified complaint, and everything, that I think
7 that was attached to. Yeah. Actually, that's what
8 I was looking at in the file, and all, was the copy
9 of the will that's the subject of this that was
10 attached to the -- to the other side's pleadings.
11 That's all I have in here.

12 THE CLERK: Judge, what you have is a
13 copy of the file. The original file is at the
14 warehouse, and that has been ordered.

15 THE COURT: Okay. Well, anyway, is
16 there any way we can find out where the original
17 is?

18 MR. WILLS: Well, Your Honor, I'll tell
19 you this. We are the Defendants here. We have a
20 will that we have submitted, and the Plaintiffs
21 have brought a case challenging that will.

22 THE COURT: I understand that. I
23 understand that. What does that help us as far as
24 things are concerned? We have to have a will put
25 in somewhere into evidence in this case.

1 there's been reference to an order that was entered
2 by the probate court.

3 You can look at it and see exactly what
4 Judge Curry said on that occasion as far as what
5 she found to be what she should do on that
6 occasion, based on what was before her at that
7 time.

8 Which I'm not sure of the date of it, I
9 believe it's in November, or whatever; you will
10 have that and you can look at it and see when it
11 was. You can see what she said in that order, and
12 you can presume that she had good reason to say
13 that. She had good reason to do what she did when
14 she put it in writing and filed in the probate
15 court. You can presume that, that she was not able
16 to make a will at that time.

17 Now, the law does provide that if a
18 person can prove by the greater weight or
19 preponderance of the evidence -- and I'll talk
20 about that later -- that after that she regained
21 her sound mind, she got better, she knew what she
22 was doing, she knew what her estate was, she knew
23 how she wanted it to be distributed, that she tore
24 up the other will because of that; the burden of
25 proof on that is on the party making that claim.

1 is it still your verdict here in open court?

2 A JUROR: Yes, sir.

3 THE COURT: Chris Snipe; was that your
4 verdict when you last voted in the jury room, and
5 is it still your verdict here in open court?

6 A JUROR: Yes, sir.

7 THE COURT: All right. I believe that
8 I have polled all the members of the jury. Anybody
9 on the jury whose name I did not call, if you
10 would, raise your hand.

11 Completed the polling of the jury.
12 Anything prior to discharge of the jury from the
13 Defendant?

14 MR. WILLIS: Not from the Defendants,
15 Your Honor.

16 THE COURT: Thank you very much. I
17 want to thank you for all your services on this
18 jury. Appreciate your service and everybody
19 appreciates your service. As I said, you are the
20 sole judges of the facts of this case and this will
21 put an end, we hope, to any factual dispute as far
22 as anything about this matter is concerned.

23 That's what your role is going to be.
24 This thing has been going on for over eight years,
25 and it's entirely too long for a case like this

1 take -- get to be tried. We have the goal of
2 trying cases to get cases disposed of within two
3 years and all.

4 I'm not going to go into all the ins
5 and outs as far as this thing is concerned, but
6 it's been going on for entirely too long, and I
7 want to thank you very much for hoping to bring an
8 end to this case with the verdict that you rendered
9 here today. You have done a great service in doing
10 that. I want to thank you for that. This is the
11 last case, right.

12 THE CLERK: Yes, sir.

13 THE COURT: That will be tried this
14 week, so that should bring a smile to your face, I
15 would think. You do get paid for serving on the
16 jury. It's not very much. The Clerk of Court will
17 be sending you a paycheck. You won't have any
18 trouble spending it all in one place.

19 Thank you very much. If you have not
20 done so, tear out any notes that you may have made.
21 Tear them up, whatever you want to do with them.
22 You are free to discuss the case with family,
23 friends, or anyone else.

24 If anybody wants to contact you about
25 it and ask you your opinion about this, that, and

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-10-3010

BETTY FISHER and)
LISA FISHER,)

Plaintiffs,)

v.)

BESSIE HUCKABEE, et al.,)

Defendants.)

In the Matter of the Estate of)
Alice Shaw-Baker.)
Charleston County Probate No.:)
2009-ES-10-0378)

ORDER GRANTING MODIFICATION
OF TEMPORARY RESTRAINING
ORDER

Date of Hearing:
Presiding Judge:
Defendant's Attorney:
Attorneys for Plaintiffs:

Court Reporter:

June 8, 2009
Honorable Thomas L. Hughston, Jr.
Peter A. Kouten, Esquire
Cain Denny, Esquire
John Cooper, Esquire
Brenda Cooley

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2009 JUN 10 PM 1:58

FILED

This matter comes before the Court on June 8, 2009 on Defendant Huckabee's Motion for Reconsideration and Modification of a prior Temporary Order from this Court, filed May 22, 2009, which restrained the Personal Representative of the Estate of Alice Shaw-Baker from performing any acts with regard to the estate. Present for the hearing was Cain Denny representing Plaintiffs Betty and Lisa Fisher. Attorney Peter Kouten represented Defendant Bessie Huckabee. Having considered the Defendant's Motion, counsel's argument and memoranda, applicable statutory and case law, as well as the various interests balanced by the Court at the time of the ruling, the Defendant's Motion to Reconsider is hereby GRANTED.

Although Plaintiffs have not detailed with specificity the immediate and/or irreparable harm that would occur if the Personal Representative was not temporarily restrained as required by Rule 65(b), the South Carolina Probate Code allows for restrictions on disbursements and distributions. In granting such restraint pursuant to South Carolina Probate Code § 62-3-607, the Court is bound by SCRCP, Rule 65 requiring the Court to specify reasons for the issuance and the duration of restraint. The Court requires the Plaintiff to provide a bond in the event the Defendant's sustain harm from a finding that the restraint was improperly issued. Associate Probate Judge Tamara Curry informally appointed Defendant Bessie Wyndham Huckabee as Personal Representative of the Estate of Alice Shaw-Baker on March 11, 2009. Plaintiffs filed a Complaint alleging Undue Influence and Fraud as well as various other causes of action on April 27, 2009. This case was removed from the Probate Court to the Circuit Court pursuant to S.C. Code § 62-1-302(d)(5) by an Order signed by the Honorable Tamara Curry and filed on May 13, 2009. The Court finds that, in balancing the equities, restraining the Personal Representative from making any disbursements or distributions from the estate is the least restrictive way of preserving the estate until a trial on the merits¹.

The Personal Representative shall continue to administer and preserve the estate pending a trial on the merits. This includes: (1) filing necessary documents (2) receiving and marshaling assets into the estate account, and (3) accounting for estate assets provided the authority does not include any disbursements or distributions from the estate.

SCRCP, Rule 65(c) states that no temporary injunction shall issue without the giving of security by the applicant. The Court finds that bond must be given before the Restraining Order shall issue. The Court finds that the Personal Representative shall procure a bond pursuant to South Carolina Probate Code §§ 62-3-603- 606 in the amount of one and one half times the value of the liquid assets in the estate. The Court further finds that the Plaintiff must be required to post a bond equivalent to one and

¹ This case was removed from the Probate Court to the Circuit Court pursuant to S.C. Code § 62-1-302(d)(5) by Order signed by the Honorable Tamara Curry and filed on May 13, 2009. According to the Charleston Clerk of Court staff, this case will be transferred to the trial roster and is likely be called on or about June 13, 2010.

one half time the assets of the estate to satisfy the bond issuance requirement of SCRCP, Rule 65(c). This bond may be a modification of that which was previously required of the Conservator by the Probate Court; however, that bond must be clearly modified to specify the reason for the bond as stated in Rule 65, SCRCP.

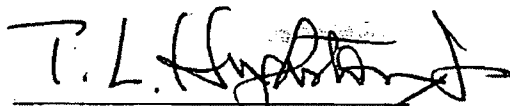
THEREFORE, based on the forgoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED, ADJUDGED AND DECREED that Defendant's Reconsideration and Modification of the prior Order is GRANTED and the restraint of the Personal Representative is limited to disbursing or distributing any estate assets pending a trial on the merits on all issues in controversy; and it is further

ORDERED, ADJUDGED AND DECREED that the Personal Representative may continue to administer and preserve the estate, including filing necessary documents, receiving and marshaling assets into the estate account, and accounting for estate assets provided the authority does not include any disbursements or distributions from the estate; and it is further

ORDERED, ADJUDGED AND DECREED that the Personal Representative and Plaintiff shall both maintain a bond in the amount of one and one half times the liquid assets of the estate, pursuant to SCRCP, Rule 65.

AND IT IS SO ORDERED!


~~Thomas L. Hughston~~ Thomas L. Hughston Jr.
Presiding Circuit Court Judge
Ninth Judicial Circuit

This 9th day of June, 2009
Charleston, South Carolina

Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

Date	Payee	Description	Amount
House Maintenance			
2/1/2010	The Village Plumbing and Electric Co.	replace washers in shower	\$ 125.00
3/12/2010	The Village Plumbing and Electric Co.	repair storm door	\$ 100.00
4/2/2010	The Village Plumbing and Electric Co.	gutter maintenance	\$ 100.00
5/16/2010	The Village Plumbing and Electric Co.	replace sprayer hose	\$ 76.00
11/1/2011		gardener	\$ 120.00
11/1/2011		Maintenance	\$ 100.00
11/4/2011	Charleston Water	Utilities	\$ 45.80
12/1/2011		gardener	\$ 120.00
12/1/2011		Maintenance	\$ 100.00
12/5/2011	Charleston Water	Utilities	\$ 46.51
1/1/2012		gardener	\$ 120.00
1/1/2012		Maintenance	\$ 100.00
1/5/2012	Charleston Water	Utilities	\$ 41.11
2/1/2012		gardener	\$ 120.00
2/1/2012		Maintenance	\$ 100.00
2/3/2012	Charleston Water	Utilities	\$ 43.16
3/1/2012		gardener	\$ 120.00
3/1/2012		Maintenance	\$ 100.00
3/5/2012	Charleston Water	Utilities	\$ 55.24
4/1/2012		gardener	\$ 120.00
4/1/2012		Maintenance	\$ 100.00
4/4/2012	Charleston Water	Utilities	\$ 42.75
5/1/2012		gardener	\$ 120.00
5/1/2012		Maintenance	\$ 100.00
5/3/2012	Charleston Water	Utilities	\$ 118.74
6/1/2012		gardener	\$ 120.00
6/1/2012		Maintenance	\$ 100.00
6/5/2012	Charleston Water	Utilities	\$ 39.05
7/1/2012		gardener	\$ 120.00
7/1/2012		Maintenance	\$ 100.00
7/5/2012	Charleston Water	Utilities	\$ 37.50
8/1/2012		gardener	\$ 120.00
8/1/2012		Maintenance	\$ 100.00
8/3/2012	Charleston Water	Utilities	\$ 40.78
9/1/2012		gardener	\$ 120.00
9/1/2012		Maintenance	\$ 100.00
9/6/2012	Charleston Water	Utilities	\$ 37.50
10/1/2012		gardener	\$ 120.00
10/1/2012		Maintenance	\$ 100.00
10/3/2012	Charleston Water	Utilities	\$ 37.50
11/1/2012		gardener	\$ 120.00

EX H

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Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

11/1/2012	Maintenance	\$	100.00
11/5/2012 Charleston Water	Utilities	\$	37.50
12/1/2012	gardener	\$	120.00
12/1/2012	Maintenance	\$	100.00
12/5/2012 Charleston Water	Utilities	\$	80.00
1/1/2013	gardener	\$	120.00
1/1/2013	Maintenance	\$	100.00
1/4/2013 Charleston Water	Utilities	\$	39.39
2/1/2013	gardener	\$	120.00
2/1/2013	Maintenance	\$	100.00
2/5/2013 Charleston Water	Utilities	\$	0.06
3/1/2013	gardener	\$	120.00
3/1/2013	Maintenance	\$	100.00
3/5/2013 Charleston Water	Utilities	\$	39.45
4/1/2013	gardener	\$	120.00
4/1/2013	Maintenance	\$	100.00
4/3/2013 Charleston Water	Utilities	\$	39.45
5/1/2013	gardener	\$	120.00
5/1/2013	Maintenance	\$	100.00
5/3/2013 Charleston Water	Utilities	\$	39.45
6/1/2013	gardener	\$	120.00
6/1/2013	Maintenance	\$	100.00
6/5/2013 Charleston Water	Utilities	\$	39.45
7/1/2013	gardener	\$	120.00
7/1/2013	Maintenance	\$	100.00
7/3/2013 Charleston Water	Utilities	\$	39.45
8/1/2013	gardener	\$	120.00
8/1/2013	Maintenance	\$	100.00
8/5/2013 Charleston Water	Utilities	\$	39.45
9/1/2013	gardener	\$	120.00
9/1/2013	Maintenance	\$	100.00
9/5/2013 Charleston Water	Utilities	\$	84.54
10/1/2013	gardener	\$	120.00
10/1/2013	Maintenance	\$	100.00
10/3/2013 Charleston Water	Utilities	\$	39.45
11/1/2013	gardener	\$	120.00
11/1/2013	Maintenance	\$	100.00
11/5/2013 Charleston Water	Utilities	\$	39.45
12/1/2013	gardener	\$	120.00
12/1/2013	Maintenance	\$	100.00
12/4/2013 Charleston Water	Utilities	\$	83.90
1/1/2014	gardener	\$	120.00
1/1/2014	Maintenance	\$	100.00

Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

1/6/2014	Charleston Water	Utilities	\$	39.45
2/1/2014		gardener	\$	120.00
2/1/2014		Maintenance	\$	100.00
2/5/2014	Charleston Water	Utilities	\$	40.23
3/1/2014		gardener	\$	120.00
3/1/2014		Maintenance	\$	100.00
3/5/2014	Charleston Water	Utilities	\$	38.05
4/1/2014		gardener	\$	120.00
4/1/2014		Maintenance	\$	100.00
4/3/2014	Charleston Water	Utilities	\$	38.05
5/1/2014		gardener	\$	120.00
5/1/2014		Maintenance	\$	100.00
5/5/2014	Charleston Water	Utilities	\$	81.10
6/1/2014		gardener	\$	120.00
6/1/2014		Maintenance	\$	100.00
6/4/2014	Charleston Water	Utilities	\$	38.05
7/1/2014		gardener	\$	120.00
7/1/2014		Maintenance	\$	100.00
7/3/2014	Charleston Water	Utilities	\$	38.05
8/1/2014		gardener	\$	120.00
8/1/2014		Maintenance	\$	100.00
8/5/2014	Charleston Water	Utilities	\$	38.05
9/1/2014		gardener	\$	120.00
9/1/2014		Maintenance	\$	100.00
9/4/2014	Charleston Water	Utilities	\$	44.86
10/1/2014		gardener	\$	120.00
10/1/2014		Maintenance	\$	100.00
10/3/2014	Charleston Water	Utilities	\$	134.71
11/1/2014		gardener	\$	120.00
11/1/2014		Maintenance	\$	100.00
11/5/2014	Charleston Water	Utilities	\$	47.32
12/1/2014		gardener	\$	120.00
12/1/2014		Maintenance	\$	100.00
12/3/2014	Charleston Water	Utilities	\$	38.05
1/1/2015		gardener	\$	120.00
1/1/2015		Maintenance	\$	100.00
1/6/2015	Charleston Water	Utilities	\$	42.33
2/1/2015		gardener	\$	120.00
2/1/2015		Maintenance	\$	100.00
2/4/2015	Charleston Water	Utilities	\$	60.08
3/1/2015		gardener	\$	120.00
3/1/2015		Maintenance	\$	100.00
3/4/2015	Charleston Water	Utilities	\$	42.32

Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

4/1/2015	gardener	\$	120.00
4/1/2015	Maintenance	\$	100.00
4/6/2015 Charleston Water	Utilities	\$	47.40
5/1/2015	gardener	\$	120.00
5/1/2015	Maintenance	\$	100.00
5/5/2015 Charleston Water	Utilities	\$	48.66
6/1/2015	gardener	\$	120.00
6/1/2015	Maintenance	\$	100.00
6/3/2015 Charleston Water	Utilities	\$	39.65
7/1/2015	gardener	\$	120.00
7/1/2015	Maintenance	\$	100.00
7/6/2015 Charleston Water	Utilities	\$	90.80
8/1/2015	gardener	\$	120.00
8/1/2015	Maintenance	\$	100.00
8/5/2015 Charleston Water	Utilities	\$	144.90
9/1/2015	gardener	\$	120.00
9/1/2015	Maintenance	\$	100.00
9/3/2015 Charleston Water	Utilities	\$	202.39
10/1/2015	gardener	\$	120.00
10/1/2015	Maintenance	\$	100.00
10/5/2015 Charleston Water	Utilities	\$	49.98
11/1/2015	gardener	\$	120.00
11/1/2015	Maintenance	\$	100.00
11/4/2015 Charleston Water	Utilities	\$	44.46
12/1/2015	gardener	\$	120.00
12/1/2015	Maintenance	\$	100.00
12/3/2015 Charleston Water	Utilities	\$	47.40
1/1/2016	gardener	\$	120.00
1/1/2016	Maintenance	\$	100.00
1/6/2016 Charleston Water	Utilities	\$	53.37
2/1/2016	gardener	\$	120.00
2/1/2016	Maintenance	\$	100.00
2/3/2016 Charleston Water	Utilities	\$	54.29
3/1/2016	gardener	\$	120.00
3/1/2016	Maintenance	\$	100.00
3/3/2016 Charleston Water	Utilities	\$	53.08
4/1/2016	gardener	\$	120.00
4/1/2016	Maintenance	\$	100.00
4/5/2016 Charleston Water	Utilities	\$	104.33
5/1/2016	gardener	\$	120.00
5/1/2016	Maintenance	\$	100.00
5/4/2016 Charleston Water	Utilities	\$	55.25
6/1/2016	gardener	\$	120.00

Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

6/1/2016	Maintenance	\$	100.00
6/3/2016 Charleston Water	Utilities	\$	51.79
7/1/2016	gardener	\$	120.00
7/1/2016	Maintenance	\$	100.00
7/6/2016 Charleston Water	Utilities	\$	103.04
8/1/2016	gardener	\$	120.00
8/1/2016	Maintenance	\$	100.00
8/3/2016 Charleston Water	Utilities	\$	158.75
9/1/2016	gardener	\$	120.00
9/1/2016	Maintenance	\$	100.00
9/6/2016 Charleston Water	Utilities	\$	51.35
10/1/2016	gardener	\$	120.00
10/1/2016	Maintenance	\$	100.00
10/5/2016 Charleston Water	Utilities	\$	41.25
11/1/2016	gardener	\$	120.00
11/1/2016	Maintenance	\$	100.00
11/3/2016 Charleston Water	Utilities	\$	46.61
12/1/2016	gardener	\$	120.00
12/1/2016	Maintenance	\$	100.00
12/5/2016 Charleston Water	Utilities	\$	41.25
1/1/2017	gardener	\$	120.00
1/1/2017	Maintenance	\$	100.00
1/5/2017 Charleston Water	Utilities	\$	41.25
2/1/2017	gardener	\$	120.00
2/1/2017	Maintenance	\$	100.00
2/3/2017 Charleston Water	Utilities	\$	45.71
3/1/2017	gardener	\$	120.00
3/1/2017	Maintenance	\$	100.00
3/3/2017 Charleston Water	Utilities	\$	52.18
4/1/2017	gardener	\$	120.00
4/1/2017	Maintenance	\$	100.00
4/5/2017 Charleston Water	Utilities	\$	43.15
5/1/2017	gardener	\$	120.00
5/1/2017	Maintenance	\$	100.00
5/3/2017 Charleston Water	Utilities	\$	55.25
6/1/2017	gardener	\$	120.00
6/1/2017	Maintenance	\$	100.00
6/5/2017 Charleston Water	Utilities	\$	60.82
7/1/2017	gardener	\$	120.00
7/1/2017	Maintenance	\$	100.00
7/6/2017 Charleston Water	Utilities	\$	126.07
8/1/2017	gardener	\$	120.00
8/1/2017	Maintenance	\$	100.00

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Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

8/3/2017	Charleston Water	Utilities	\$	178.32
9/1/2017		gardener	\$	120.00
9/1/2017		Maintenance	\$	100.00
9/6/2017	Charleston Water	Utilities	\$	53.08
10/1/2017		gardener	\$	120.00
10/1/2017		Maintenance	\$	100.00
10/5/2017	Charleston Water	Utilities	\$	41.80
11/1/2017		gardener	\$	120.00
11/1/2017		Maintenance	\$	100.00
11/3/2017	Charleston Water	Utilities	\$	58.26
12/1/2017		gardener	\$	120.00
12/1/2017		Maintenance	\$	100.00
12/5/2017	Charleston Water	Utilities	\$	59.99
1/1/2018		gardener	\$	120.00
1/1/2018		Maintenance	\$	100.00
1/9/2018	Charleston Water	Utilities	\$	126.97
Total			\$	21,361.18

Property Taxes

1/1/2011	Property Taxes	\$	1,640.11
1/1/2012	Property Taxes	\$	1,584.69
1/1/2013	Property Taxes	\$	1,601.45
1/1/2014	Property Taxes	\$	1,598.27
1/1/2015	Property Taxes	\$	1,674.73
1/1/2016	Property Taxes	\$	1,751.18
1/1/2017	Property Taxes	\$	1,807.63
Total		\$	11,658.06

Insurance

7/19/2011	Lloyd's London	insurance 07.19.11-07.19.12	\$	371.00
7/16/2012	Lloyd's London	insurance 07/19/12-07/19/13	\$	371.00
7/19/2013	Lloyd's London	insurance 07/19/13-07/19/14	\$	371.00
7/19/2014	Lloyd's London	insurance 07.19.14-07.19.15	\$	371.00
7/16/2015	Lloyd's London	insurance 07.19.15-07.19.16	\$	371.00
7/19/2016	Lloyd's London	insurance 07.19.16-07.19.17	\$	371.00
7/19/2017	Lloyd's London	insurance 07.19.17-07.19.18	\$	381.60
Total			\$	2,607.60

Fiduciary Administration Expenses

12/6/2011	Bond Services of California	bond	\$	1,465.00
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Conservatorship Alice Shaw-Baker

Appendix Fiduciary Expenses

11/15/2013 Bond Services of California	bond	\$	1,465.00
11/21/2013 Bond Services of California	bond	\$	1,465.00
12/2/2014 Bond Services of California	bond	\$	1,465.00
11/4/2015 Bond Services of California	bond	\$	1,465.00
11/15/2016 Bond Services of California	bond	\$	1,465.00
7/28/2017 Colleen Sundberg	Accounting	\$	905.00
11/6/2017 Bond Services of California	bond	\$	1,465.00
1/31/2018 Colleen Sundberg	Accounting	\$	320.00
Total		\$	11,480.00

Total	\$	47,106.84
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STATE OF SOUTH CAROLINA
COUNTY OF: CHARLESTON
IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

CASE NUMBER: 2009-ES-10- 378
09 MAR 10 AM 9:30

APPLICATION FOR

INFORMAL

- ☒ PROBATE OF WILL
☒ APPOINTMENT

(check any that apply)

PETITION FOR

FORMAL

- ☐ TESTACY
☒ APPOINTMENT

Applicant/Petitioner: Bessie Wyndham Huckabee
Address: 5319 McRoy St, North Charleston, SC 29418
Telephone: cell 709-6860

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Give your relationship to the decedent, if any, and your interest in this proceeding.

Nominated Personal Representative for Decedent's Will

2. Decedent Information

Name: Alice Shaw-Baker
Social Security Number: [REDACTED]
Date of Birth: [REDACTED]
Date of Death: February 25, 2009
Age at date of death: 79
Domicile at date of death: CHARLESTON SC
(county) (state)

3. Venue for this proceeding is proper in this county because:

- ☒ Decedent was domiciled in this county at date of death.
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.
☐ Decedent has a right to take legal action in this county because:

- 4.a. Names and addresses of devisees in the will including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Decedent
Bessie Huckabee	not a minor	5319 McRoy St, N Chas, SC 29418	friend
Sandra Byrd	not a minor	Goose Creek, SC	friend
Kay Passailaigue	not a minor	Charleston, SC	friend

(use additional sheet if necessary)

EX I

3

90

- 4.b. Names and addresses of intestate heirs who are not devisees, including dates of birth of minors. If there are no minors, so state. Intestate heirs are the persons who would inherit if the decedent left no will.

Name	Date of Birth	Address	Relationship to Decedent
Betty Fisher	not a minor	PO Box 91112, Long Beach, CA 90809	niece
Lisa Fisher	not a minor	PO Box 91112, Long Beach, CA 90809	grand niece

(use additional sheet if necessary)

5. Did decedent have any change of marital status or the birth or adoption of any children after execution of this will, if one exists, or has any child of the decedent been born since his death, or is any birth of a child of the decedent anticipated? (This includes illegitimate children.)
- ☒ NO ☐ YES If yes, please explain, on page 3.
6. To the best of your knowledge, was the decedent a patient in a South Carolina Mental Health facility during his/her lifetime?
- ☒ NO ☐ YES If yes, please explain, on page 3.
7. Has a guardian or conservator ever been appointed for this person?
- ☐ NO ☒ YES If yes, please explain on page 3.
8. Has a personal representative of the decedent been appointed prior to this date by a Court in this state or elsewhere?
- ☐ NO ☒ YES If yes, please state details, including name and address of such Personal Representative on page 3.
9. Have you received or are you aware of any demands for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere?
- ☒ NO ☐ YES If yes, please state details, including names and addresses of such Personal Representative, on page 3.
10. Have more than ten years passed since the decedent's death?
- ☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.
11. The decedent died with a personal estate of about the value of TBD and real estate of about the value of TBD. (A full inventory and appraisal, Form #350PC, must be filed within 90 days.) If decedent was non-resident, please attach South Carolina Commission form ET 101.
12. After the exercise of reasonable diligence, are you aware of any unrevoked will and/or codicil(s), other than the one(s) attached hereto, relating to property in this State?
- ☒ NO ☐ YES If yes, please explain on page 3 and then proceed to Section II.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the decedent's will:

- ☒ The original is attached
☐ The original is in the Court's possession
☐ An authenticated copy of a will probated in another jurisdiction is attached
☐ An authenticated copy of a will not probated in another jurisdiction is attached
☐ The will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached

2. Do you believe, to the best of your knowledge, the will described above was validly executed?

- ☒ Yes ☐ NO If no, please explain on page 3.

3. The date of execution of the will was: May 21, 2001

codicil(s):

4. Are you aware of any instrument or document amending or revoking the will?

- ☒ NO ☐ YES If yes, please explain on page 3.

5. Have you exercised reasonable diligence to determine there is no instrument or document revoking the will?

- ☒ YES ☐ NO If no, please explain on page 3.

6. Do you believe the will defined in "1" above is the decedent's last will?

- ☒ YES ☐ NO If no, please explain on page 3.

COMPLETE EXPLANATION (S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheet.)

Section I, Part 7- Lisa Fisher was appoint guardian and conservator for Ms. Shaw-Baker by Order of CC Probate Court on Nove
Section I, Part - This court has appointed Lisa Fisher based on her presentation of an alleged Last Will and Testament presente
is
dated

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. The name(s) and address(es) of the proposed Personal Representative(s) is/are:

Bessie Wyndham Huckabee, 5319 McRoy St, North Charleston, SC 29418

2. Priority for this appointment is:

- ☒ named as Primary Personal Representative in will or nominee of Primary Personal Representative
☐ named as Alternate Personal Representative in will or nominee of Alternate Personal Representative
☐ named as nominee of Primary and/or Alternate Personal Representative
☐ other devisee of decedent, or nominee (describe): _____ or nominee of said devisee
☐ surviving spouse of decedent, or nominee of said spouse
☐ other heir of decedent (describe): _____
☐ creditor (Forty-five days after death must have passed), or nominee of creditor
☐ other (describe): _____
☐ nominee of any of the above

3. List below the names of any other persons, if any, having a prior or equal right of appointment (see priority above).

none

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 2nd day of March, 2014

Notary Public for South Carolina
My Commission Expires: 12/15/2018

Signature: Bessie Huckabee
Name: Bessie Huckabee
Address: 5319 McRoy St, North Charleston, SC
29418
E-mail: _____
Telephone (O): _____
(H): 843-552-2096

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☒ GRANTED ☐ DENIED informally
this 11th day of March, 2014

Danial Cherry
9506, Probate Court Judge

ORDER FOR HEARING ON FORMAL PETITION

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____

TIME: _____

PLACE: _____

Pursuant to Section 62-1-401, the petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this _____ day of _____, 20____

_____, Probate Court Judge

ORDER OF FORMAL TESTACY

On hearing of the above petition, this Court finds that the person is deceased, venue is proper, and the proceeding was commenced within appropriate time limits.

The Court further finds that

☐ the decedent died intestate. The heirs are:

☐ the decedent died testate. IT IS HEREBY ORDERED that the Last Will and Testament of the above-named decedent, dated, _____, be admitted formally to probate.

Executed this _____ day of _____, 20____

_____, Probate Court Judge

SEE ATTACHED ORDER

ORDER OF APPOINTMENT

IT IS HEREBY ORDERED that the above application/petition for appointment be granted upon the filing of a bond as appropriate, qualification and acceptance.

Executed this

day of

20____

_____, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate.

Signature: Bessie Huckabee

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Attorney: _____

Address: _____

E-mail: _____

Telephone (O): _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

)
)
)

LAST WILL AND TESTAMENT
OF
ALICE SHAW-BAKER

I, ALICE SHAW-BAKER, of the County of Charleston, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all wills and codicils by me heretofore made.

ITEM I: I direct that all my funeral expenses and legally enforceable debts be paid as soon after my death as is practicable.

ITEM II: I give and devise unto Bessie Huckabee, a friend, of North Charleston, South Carolina, the sum of Eighteen Thousand (\$18,000.00) dollars.

ITEM III: I give and devise unto Sandra Byrd, a friend, of Goose Creek, South Carolina, the sum of Four Thousand (\$4,000.00) dollars.

ITEM IV: I hereby give notice of my intention to leave a separate writing which shall contain a list of items of tangible personal property and statements as to my desire for the disposition of such property upon my death. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

ITEM V: I give and devise unto Kay Passailaigue, all the rest, residue and remainder of my estate, real, personal and mixed, of whatever kind and nature, wherever the same may be situate, to be hers in fee simple absolute, to include the care of my dogs, except for those items in the separate list left by me at the time of my death as referred to in Item IV herein.

ITEM VI: I nominate, constitute and appoint Bessie Huckabee, as Personal Representative of this my Last Will and Testament. In the event that Bessie Huckabee shall predecease me or other wise be unable to qualify, or if having qualified, becomes incapacitated or resigns, then in that event, I nominate, constitute and appoint Kay Passailaigue, as Personal Representative. I give unto my Personal Representative or successor, full power and authority to sell,

Maria C. Waters
Jordan L. Hudson

Alice Shaw - Baker
Alice Shaw-Baker

page one

alien, mortgage or convey any part or all of my property whenever she, in her sole discretion, may deem best for the disposition of such property upon my death. My Personal Representative or successor, shall serve without bond, or if a bond is required, no surety shall be required thereon. This writing shall be signed and dated by me, and in accordance with the laws of South Carolina, is intended by me to be final and binding as to the dispositions of property described therein. Should more than one such separate writing be left by me, it is my intention that the writing bearing the latest date be recognized as binding, and the other writing(s) be disregarded.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this 21 day of May, 2001.

Alice Shaw-Baker
Alice Shaw-Baker

SIGNED, SEALED, PUBLISHED AND DECLARED by the Testatrix as and for her Last Will and Testament, in our presence, who, in her presence, and in the presence of each other, and at her request, have hereunto subscribed our names as witnessed.

Marie C Waters

1 Poston Road, Suite 395
Charleston, SC 29407

Debra E. Hudson

1 Poston Road, Suite 395
Charleston, SC 29407

Marie C Waters Alice Shaw-Baker
Debra E. Hudson Alice Shaw-Baker
page two

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
)
)

I, ALICE SHAW-BAKER, the Testatrix, sign my name to this instrument this 21 day of May, 2001, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament, and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

Alice Shaw-Baker
Alice Shaw-Baker, Testatrix

We, the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and Testament, and that she signs it willingly, and that each of undersigned witnesses, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that of the best of our knowledge, the Testatrix is eighteen (18) years or older, of sound mind, and under no constraint or undue influence.

Marie C. Waters
James L. Hudson

Subscribed, sworn to and acknowledged before me by Alice Shaw-Baker, the Testatrix, and subscribed and sworn to before me by the above subscribing witnesses, this 21st day of May, 2001.

A. Reed Solomon
Notary Public for South Carolina

My commission expires: 9/4/2008

STATE OF SOUTH CAROLINA

CERTIFICATION OF VITAL RECORD

09 MAR 10 AM 9:30

State File Number

State of South Carolina
Department of Health and Environmental Control
CERTIFICATE OF DEATH

State File Number
09 006237

1. DECEDENT'S LEGAL NAME (Include AKA's, if any) (First, Middle, Last) Alice E Shaw-Baker		2. SEX Female	3. SOCIAL SECURITY NUMBER ██████████
4a. AGE Last Birthday (Years) 79	4b. UNDER 1 YEAR Months: 0 Days: 0	4c. UNDER 1 DAY Hours: 0 Minutes: 0	5. DATE OF BIRTH (MM/DD/YYYY) 11/01/1930
6. BIRTHPLACE (City and State or Foreign Country) San Francisco, CA		7a. COUNTY Charleston	
7b. CITY OR TOWN Charleston		7c. QTY OR TOWN Charleston	
7d. STREET AND NUMBER 306 Cassina Road		7e. APT NO. 	7f. ZIP CODE 29407
7g. INSIDE CITY LIMITS? ☐ Yes ☒ No		8. EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No	
9. MARITAL STATUS AT TIME OF DEATH ☐ Married ☒ Single ☐ Divorced ☐ Widowed ☐ Never Married ☐ Unknown		10. SURVIVING SPOUSE'S NAME (If WfW, give name prior to first marriage) Bertha Marie Boulanger	
11. FATHER'S NAME (First, Middle, Last) John Gus Lucas		12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last) Bertha Marie Boulanger	
13a. INFORMANT'S NAME Lisa Fisher		13b. RELATIONSHIP TO DECEDENT Great-Niece	
13c. MAILING ADDRESS (Street and Number, City, State, Zip Code) PO Box 91112 Long Beach, California 90809		14. PLACE OF DEATH (Check only one, see instructions) ☐ If death occurred in hospital: ☐ If death occurred somewhere other than a hospital: ☐ Hospice facility	
15. FACILITY NAME (If not registered, give street and number) Roper Hospital, Inc.		16. CITY OR TOWN, STATE AND ZIP CODE Charleston, South Carolina 29401	
17. COUNTY OF DEATH Charleston		18. METHOD OF DISPOSITION ☐ Burial ☒ Cremation ☐ Donation ☐ Entombment ☐ Removal from state ☐ Other (Specify): Palmetto Cremation Society	
19. PLACE OF DISPOSITION (Name of Cemetery, crematory, other place) Palmetto Cremation Society		20. LOCATION-CITY, TOWN AND STATE Charleston, South Carolina	
21. NAME AND ADDRESS OF FUNERAL FACILITY Palmetto Cremation Society, Inc.		22. SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER AGENT Mark M. Smith (Electronically Verified)	
23. LICENSE NUMBER (Of Licensee) 2342		24. DATE PRONOUNCED DEAD (MM/DD/YYYY) February - 25, 2009	
25. SIGNATURE OF PERSON PRONOUNCING DEATH (Only when applicable) 		26. LICENSE NUMBER 	
27. DATE SIGNED (MM/DD/YYYY) 		28. TIME PRONOUNCED DEAD 1513 p.m.	
29. ACTUAL OR PRESUMED DATE OF DEATH (Specify Month) February - 25, 2009		30. ACTUAL OR PRESUMED TIME OF DEATH 1513 p.m.	
31. WAS CORONER OR MEDICAL EXAMINER CONTACTED? ☐ Yes ☒ No		32. PART 1: Enter the chain of events - disease, injuries or complications - that directly caused the death. DO NOT enter terminal events (cardiac arrest, respiratory arrest, or ventricular fibrillation) without showing the etiology. DO NOT ABBREVIATE. Enter only one cause on a line. Add additional lines if necessary. END Stage Chronic Obstructive Pulmonary Disease	
33. IMMEDIATE CAUSE (Final disease or condition resulting in death) END Stage Chronic Obstructive Pulmonary Disease		34. SEQUENTIAL CAUSE (List conditions, if any, leading to the cause listed on line 33. Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST) moderate small cell cancer of lung, metastatic	
35. DID TOBACCO USE CONTRIBUTE TO DEATH? ☒ Yes ☐ Probably ☐ No ☐ Unknown		36. IF FEMALE: ☐ Not pregnant within past year ☐ Pregnant at time of death ☐ Not pregnant, but pregnant within 42 days of death ☐ Not pregnant, but pregnant 43 days to one year before death ☐ Unknown if pregnant within the past year	
37. MANNER OF DEATH ☒ Natural ☐ Accidental ☐ Suicide ☐ Homicide ☐ Pending investigation ☐ Could not be determined		38. DATE OF INJURY (Specify Month) 	
39. TIME OF INJURY 		40. PLACE OF INJURY (e.g. Decedent's home, construction site, restaurant, wooded area) 	
41. INJURY AT WORK? ☐ Yes ☒ No		42. LOCATION OF INJURY Site 	
43. STREET & NUMBER 		44. IF TRANSPORTATION INJURY SPECIFY ☐ Driver/Operator ☐ Passenger ☐ Other (Specify): 	
45. DESCRIBE HOW INJURY OCCURRED 		46. CERTIFIER (Check only one): ☒ Certifying physician - To the best of my knowledge, death occurred due to the cause(s) and manner stated. ☐ Prior examining and certifying physician - To the best of my knowledge, death occurred at the time, place, and date, and due to the cause(s) and manner stated. ☐ Coroner/Medical Examiner - On the basis of examination and/or investigation, in my opinion, death occurred at the time, place, and date, and due to the cause(s) and manner stated.	
47. NAME, ADDRESS AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH (Item 32) Donna Schmitt (644 IV) 6700 Fitch Rd, Charleston, SC 29405		48. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER 	
49. LICENSE NUMBER MD - SC 1394		50. DATE CERTIFIED (MM/DD/YYYY) 2/27/09	
51. FOR REGISTRAR ONLY - DATE FILED (MM/DD/YYYY) Mar 05 2009		52. SIGNATURE OF REGISTRAR 	

SC 00335188

ISSUED MAR 10 2009

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

C. Earl Hunter
C. Earl Hunter
Commissioner and State Registrar

Guang Zhao
Guang Zhao
Assistant State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and issuing agency logo.

Revision Date: 05/01/2008



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

99

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE PROBATE COURT

CASE NO. 2009-ES-10-0378

(On motion for Removal
to the Circuit Court)

Betty Fisher, and)
Lisa Fisher,)
as Conservator for)
Alice Shaw-Baker,)
Plaintiffs,)

**ADDENDUM TO PETITION FOR
FORMAL TESTACY AND APPOINTMENT**

vs.)

VERIFIED COMPLAINT

Bessie Huckabee,)
Kay Passailaigue Slade,)
Sandra Byrd,)
Henry McMaster,)
in his capacity as)
Attorney General)
of South Carolina,)
State Budget and)
Control Board, South)
Carolina Retirement)

(JURY TRIAL DEMANDED)

System, ING, South)
Carolina Deferred)
Compensation Program,)
and National Life)
Insurance Company,)

Defendants.)

(Jury Trial Demanded)

IN THE MATTER OF:)
ALICE SHAW-BAKER)

COME NOW Betty Fisher and Lisa Fisher, as Conservator for
Alice Shaw-Baker, Plaintiffs in the above-captioned action, and
complaining of Defendants, show this honorable Court as follows:

Parties

1. This matter regards Alice Shaw-Baker ("Ms. Shaw-Baker"),
who died February 25, 2009, in Charleston County, South

EX J

Carolina. At her death, Ms. Shaw-Baker was a citizen of South Carolina and a resident of Charleston County.

2. Plaintiff Betty Fisher is Ms. Shaw-Baker's niece, her next-of-kin, an heir at law, and is petitioning for appointment as Personal Representative of Ms. Shaw-Baker's estate. Betty Fisher is a California resident.
3. Plaintiff Lisa Fisher is Ms. Shaw-Baker's great-niece and was appointed by the Probate Court on November 19, 2008 as Ms. Shaw-Baker's Conservator and Guardian. Lisa Fisher is not an heir at law of Ms. Shaw-Baker. Lisa Fisher is Plaintiff in this action in her current capacity as Conservator of the Estate of Alice Shaw-Baker, requesting declaratory relief as to proper disposition of Estate assets. Lisa Fisher is a California resident.
4. Bessie Huckabee ("Huckabee") is a devisee under Ms. Shaw-Baker's contested May 21, 2001 will and, pursuant to it, on or about March 10, 2009, was appointed Personal Representative of Ms. Shaw-Baker's Estate in informal probate without bond. On information and belief, she is a resident of Charleston County, South Carolina.
5. Kay Passailaigue Slade ("Slade") is a devisee under Ms. Shaw-Baker's contested May 21, 2001 will, and is the contested sole beneficiary of Ms. Shaw-Baker's South Carolina Retirement System pension plan, the contested sole

beneficiary of Ms. Shaw-Baker's South Carolina Deferred Compensation plan, and the contested sole beneficiary of Ms. Shaw-Baker's National Life Insurance Company life insurance policy. On information and belief, Slade is a resident of Charleston County, South Carolina.

6. Sandra Byrd is a devisee under Ms. Shaw-Baker's contested May 21, 2001 will. On information and belief, she is a resident of Berkeley County, South Carolina.
7. Henry McMaster, in his capacity as the Attorney General of South Carolina, is the appropriate representative to protect the interests of a charitable organization, the John Ancrum Society for the Prevention of Cruelty to Animals, a devisee under Ms. Shaw-Baker's April 5, 1996 will.
8. On information and belief at all time material the State Budget and Control Board and the South Carolina Retirement System administer one or more retirement plans to which Ms. Shaw-Baker contributed in the name "Alice E Shaw Baker" and from which pension benefits are now payable to the estate of Ms. Shaw Baker. Although said benefits are also claimed by contested sole beneficiary Kay Passailaigue Slade, the said pension benefits are properly a probate asset.
9. On information and belief at all times material ING and the South Carolina Deferred Compensation Program administer one

or more 457 Plans to which Ms. Shaw-Baker contributed in the name "Alice E. Shaw-Baker" and from which deferred compensation benefits are now payable to the estate of Ms. Shaw-Baker. Although said benefits are also claimed by contested sole beneficiary Kay Passailaigue Slade, the said deferred compensation benefits are properly a probate asset.

10. The National Life Insurance Company is the issuer of Ms. Shaw-Baker's life insurance policy, number 1424341, with contested sole beneficiary Kay Passailaigue Slade. The proceeds of said policy are properly a probate asset.

Jurisdiction and Venue

11. This Court has jurisdiction and venue to hear and determine this matter which relates to the Estate of a decedent who died a resident of Charleston County, South Carolina, who left property in Charleston County, South Carolina, and whose Estate is being administered under the jurisdiction of the Probate Court for Charleston County, South Carolina. Plaintiffs file herewith a Motion for Removal of this matter to the Circuit Court.

Background

12. Ms. Shaw-Baker was born August 14, 1929 in San Francisco, California.

13. Ms. Shaw-Baker's most closely related family member is her niece, Plaintiff Betty Fisher, a resident of Long Beach, California.
14. Twice, Ms. Shaw-Baker married briefly then divorced.
15. Ms. Shaw-Baker had no children.
16. Ms. Shaw-Baker was enlisted in the United States Navy for four years and, during her enlistment, stationed in Charleston, South Carolina.
17. After her Navy enlistment, Ms. Shaw-Baker did accounting-related work in Charleston, SC, for various employers.
18. Ms. Shaw-Baker did accounting-related work for Charleston Memorial Hospital for approximately twenty years until her retirement.
19. While working at Charleston Memorial Hospital, Ms. Shaw-Baker contributed to a pension plan as set forth above ("pension").
20. While working at Charleston Memorial Hospital, Ms. Shaw-Baker contributed to a 457 deferred compensation plan as set forth above ("deferred compensation").
21. Ms. Shaw-Baker obtained a life insurance policy through National Life, policy number 1424341 ("life insurance").
22. Ms. Shaw-Baker owned at least three Chihuahuas, which were show dogs. She cared for, trained, and loved them for many

years prior to their deaths within the last few years of her life.

23. Ms. Shaw-Baker's home was decorated with collectibles, figurines, stuffed animals, clocks, furnishings, and art of extraordinary variety, all featuring Chihuahua themes.
24. Ms. Shaw-Baker was involved with animal rescue projects, animal welfare, and other activities for the protection of animals.
25. During her years working at Charleston Memorial Hospital, Ms. Shaw-Baker began to place considerable trust and confidence in two co-workers, Bessie Huckabee ("Huckabee") and Kay Passailaigue Slade ("Slade").
26. Slade was involved with various animal protection and rescue charities.
27. Huckabee and Slade developed relationships with Ms. Shaw-Baker in which she placed trust and confidence in them.
28. On January 7, 1993, Ms. Shaw-Baker executed a will leaving the majority of her estate to Pet Helpers, Inc., or, if it no longer existed, the John Ancrum Chapter of the Society for Prevention of Cruelty to Animals ("1993 Will").
29. Ms. Shaw-Baker's 1993 Will made certain bequests of her personal property and left \$8,000 to Huckabee, \$12,000 to Slade conditioned on Slade's caring for Ms. Shaw-Baker's dogs, \$1 devises to her ex-husband and each of her

siblings, and the remainder of her estate to Pet Helpers, Inc., or, if it no longer existed, to the John Ancrum Chapter of the Society for Prevention of Cruelty to Animals ("John Ancrum SPCA").

30. On April 5, 1996, Ms. Shaw-Baker executed another will leaving the majority of her estate to the John Ancrum SPCA ("1996 Will").

31. Ms. Shaw-Baker's 1996 Will made certain bequests of personal property and left \$12,000 to Slade for the care of Ms. Shaw-Baker's pets, but, if Ms. Shaw-Baker no longer had pets, then \$12,000 to Slade regardless, \$8,000 to Huckabee, a life estate in her residence to Slade and her husband, and the remainder interest in her residence and the remainder of her estate to the John Ancrum SPCA.

32. Ms. Shaw-Baker originally made the John Ancrum SPCA the beneficiary of her deferred compensation and pension plans.

33. Ms. Shaw-Baker originally made the John Ancrum SPCA the beneficiary of her life insurance.

34. Ms. Shaw-Baker was concerned about what would happen to her as she aged and in the event that she was unable to take care of herself.

35. On April 5, 1996, the same day she executed her 1996 will, Ms. Shaw-Baker executed a General Durable Power of Attorney making Huckabee her attorney-in-fact.

36. Ms. Shaw-Baker's 1996 Durable Power of Attorney expressly created a fiduciary relationship between herself and Huckabee and prohibited Huckabee from using its powers to benefit herself.
37. Also on April 5, 1996, Ms. Shaw-Baker executed a Health Care Power of Attorney making Huckabee her health care attorney-in-fact with Slade as the alternate.
38. Among other provisions, the Health Care Power of Attorney authorized hiring and firing of medical, social service, and other support personnel for Ms. Shaw-Baker's care.
39. Huckabee and Slade, having developed relationships with Ms. Shaw-Baker in which Ms. Shaw-Baker placed trust and confidence in them, exerted undue influence on her to change her will, and her deferred compensation, pension, and life insurance beneficiary designations to remove the animal charities and make Huckabee and Slade the primary beneficiaries.
40. To induce Ms. Shaw-Baker to change her will and her deferred compensation, pension, and life insurance beneficiary designations, Huckabee and Slade represented to Ms. Shaw-Baker that, as Ms. Shaw-Baker aged, if she became unable to provide care for herself, they would provide care for her and help Ms. Shaw-Baker stay in her home and avoid placement in an assisted living facility.

41. However, at the time Huckabee and Slade made said representations, they had no intention of performing them.
42. As further inducement, Slade further represented to Ms. Shaw-Baker that, if Ms. Shaw-Baker willed money to her and left money to her from her deferred compensation, pension, and life insurance, Slade would ensure that her monies went directly to animal welfare and rescue projects only.
43. However, at the time Slade made said representation, she had no intention of performing them.
44. In reliance on the aforesaid false representations of Huckabee and Slade, and under the undue influence of them, Ms. Shaw-Baker executed a will on May 21, 2001 making Huckabee and Slade, other than a \$4,000 devise to Sandra Byrd, her sole beneficiaries.
45. Huckabee and Slade substituted their own wishes for Ms. Shaw-Baker's in her May 21, 2001 will.
46. In further reliance on the aforesaid false representations, and under the undue influence of Huckabee and Slade, Ms. Shaw-Baker purportedly made Slade the sole beneficiary of her deferred compensation and pension plans.
47. In further reliance on the aforesaid false representations and under the undue influence of Huckabee and Slade, Ms. Shaw-Baker purportedly made Slade the sole beneficiary of her life insurance.

48. By late 2007, Ms. Shaw-Baker's residence had become cluttered, she was hording junk mail and small items associated with Chihuahua dogs, and she likely was not maintaining adequate hygiene or nutrition.
49. Despite their representations on which Ms. Shaw-Baker relied in executing her contested May 21, 2001 Will, and in changing her beneficiary designations for her deferred ompensation, pension, and life insurance, Huckabee and Slade did not provide care for Ms. Shaw-Baker to ensure that she had a livable home, adequate food, or proper hygiene.
50. On information and belief, in 2007, Ms. Shaw-Baker requested beneficiary designation forms for her deferred compensation and pension in an attempt to remove Slade as her beneficiary.
51. On July 31, 2008, a representative of the Charleston Police Department's Elder Support Line, Elisabeth Spencer, filed a Petition for a Finding of Incapacity and for Appointment of a Guardian and Conservator for Ms. Shaw-Baker.
52. On August 4, 2008, the Probate Court appointed as Temporary Guardian Walter R. Kaufman, Esquire.
53. On August 18, 2008, the Probate Court appointed Walter R. Kaufman, Esquire, and Jane Orenstein as Temporary Co-Guardians.

54. Temporary Co-Guardian Orenstein stated her intention to remove Ms. Shaw-Baker from her home and place her in an assisted living facility.
55. Despite the representations Huckabee and Slade made to induce Ms. Shaw-Baker to execute her contested May 21, 2001 Will and to change the beneficiary designations for her deferred compensation, pension, and life insurance, they refused to provide assistance to ensure that that Ms. Shaw-Baker received adequate care when she became incapacitated and they refused to assist her with staying in her home and with avoiding placement in an assisted-living facility.
56. Ms. Shaw-Baker's niece, Plaintiff Betty Fisher, and her great-niece, Plaintiff Lisa Fisher, traveled to Charleston, South Carolina, from California on several occasions to assist Ms. Shaw-Baker.
57. Ms. Shaw-Baker's family members requested that Huckabee and Slade assist Ms. Shaw-Baker, but they refused.
58. On information and belief, during this period, Huckabee and Slade refused to visit Ms. Shaw-Baker.
59. Both Huckabee and Slade had failed to disclose Ms. Shaw-Baker's condition to her family or authorities prior to the intervention of the Charleston Police Department's Elder Support office.

60. On September 8, 2008, Plaintiff Lisa Fisher filed a Motion for Injunctive Relief to prevent Ms. Shaw-Baker from being removed from her home.
61. On September 16, 2008, Lisa Fisher was appointed Ms. Shaw-Baker's Temporary Co-Guardian.
62. While Temporary Co-Guardian, Lisa Fisher, with the assistance of Temporary Co-Guardian Orenstein, fulfilled the Probate Court's directives to have Ms. Shaw-Baker's house cleaned, organized, and renovated and to make arrangements for caretakers to supervise Ms. Shaw-Baker's daily meals, hygiene, and medical needs.
63. On information and belief, despite their aforesaid representations, Huckabee and Slade promoted Ms. Shaw-Baker's placement in an assisted living facility and took no efforts to help her stay in her home.
64. On October 29, 2008, Lisa Fisher was appointed Ms. Shaw-Baker's Guardian and Conservator.
65. Among other determinations, in its November 19, 2008 Order, the Probate Court found that Ms. Shaw-Baker had capacity to nominate Lisa Fisher as her Guardian and Conservator, to consent to conservatorship, to make purchases up to \$50, and to vote.
66. Among other provisions, in its November 19, 2008 Order, the Probate Court ordered that a Court Order would be required

for Ms. Shaw-Baker or someone on her behalf to revoke her will.

67. On information and belief, Ms. Shaw-Baker executed a will subsequent to the May 21, 2001 will revoking the May 21, 2001 will ("Subsequent Will").
68. The location of the Subsequent Will was and is not known to Plaintiffs.
69. Ms. Shaw-Baker instructed Lisa Fisher, as her Guardian and Conservator, to revoke Ms. Shaw-Baker's May 21, 2001 Will.
70. Ms. Shaw-Baker became hospitalized while suffering from cancer and related medical problems.
71. On February 25, 2009, Ms. Shaw-Baker died.
72. Within minutes of Ms. Shaw-Baker's death, Huckabee sent her representatives to Ms. Shaw-Baker's house and obtained the keys to Ms. Shaw-Baker's house by falsely representing to the caretaker that Huckabee was entitled to the keys. This occurred before arrangements had been made for the proper care of Ms. Shaw-Baker's remains.
73. On information and belief, shortly after Ms. Shaw-Baker's death, Huckabee entered Ms. Shaw-Baker's house.
74. On information and belief, Huckabee sought to locate the Subsequent Will.
75. Huckabee and Slade had a motive and an opportunity to remove or destroy the Subsequent Will.

76. After Ms. Shaw-Baker's death, on information and belief, a partially-preserved digital draft of will was found on a computer at the same law firm that drafted Ms. Shaw-Baker's contested May 21, 2001 will. Based on information from a law firm employee, it was saved in 2001, and it named beneficiaries other than Huckabee and Slade, including family members such as Plaintiff Betty Fisher.

FOR A FIRST CAUSE OF ACTION

(Constructive Trust)

77. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
78. Plaintiff Lisa Fisher is the Court-appointed Conservator for Ms. Shaw-Baker to whom the assets of Ms. Shaw-Baker's estate are currently entrusted.
79. Plaintiffs challenge Ms. Shaw-Baker's May 21, 2001 Will.
80. Plaintiff Betty Fisher petitions herein for appointment as the Personal Representative of Ms. Shaw-Baker's estate.
81. Plaintiffs seek a Constructive Trust over the assets of Ms. Shaw-Baker's estate and the proceeds of her deferred compensation, pension, and life insurance pending a determination of the validity of her various wills and pending resolution of Betty Fisher's Petition to be appointed as Personal Representative.

FOR A SECOND CAUSE OF ACTION

(Declaratory Judgment Regarding Revocation)

82. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
83. Ms. Shaw-Baker instructed her Conservator and Guardian, Lisa Fisher, to revoke Ms. Shaw-Baker's May 21, 2001 Will.
84. Plaintiffs seek a Declaratory Judgment that Ms. Shaw-Baker's said instruction revoked her May 21, 2001 Will.
85. Because Ms. Shaw-Baker's May 21, 2001 Will had revoked her April 5, 1996 Will, and it, in turn, had revoked her January 7, 1993 Will, Ms. Shaw-Baker died intestate.
86. Plaintiffs seek a declaratory judgment that Ms. Shaw-Baker revoked her May 21, 2001 Will and died intestate.

FOR A THIRD CAUSE OF ACTION

(Undue Influence)

87. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
88. At all material times, Huckabee and Slade had formed fiduciary relationships with Ms. Shaw-Baker in which she placed trust and confidence in them, and they had fiduciary duties to her.
89. At all material times, Huckabee had an express fiduciary relationship to Ms. Shaw-Baker per Ms. Shaw-Baker's April 5, 1996 General Durable Power of Attorney.

90. At all material times, Slade had a confidential relationship with Ms. Shaw-Baker.
91. Huckabee and Slade coerced Ms. Shaw-Baker by undue influence to execute her May 21, 2001 Will, substituting their wishes for hers.
92. Due to Huckabee and Slade's said coercion and undue influence, Ms. Shaw-Baker's May 21, 2001 Will was void *ab initio*.
93. Plaintiff Lisa Fisher, Ms. Shaw-Baker's Conservator, to whom the assets of Ms. Shaw-Baker's estate are currently entrusted, seeks a Declaratory Judgment regarding the validity of the May 21, 2001 Will.
94. Plaintiffs further seek to set aside the latest beneficiary designations of Ms. Shaw-Baker's deferred compensation, pension, and life insurance based on Undue Influence.
95. Plaintiffs seek a declaration that the proceeds of Ms. Shaw-Baker's deferred compensation, pension, and life insurance are properly probate assets.

FOR A FOURTH CAUSE OF ACTION
(Fraud)

96. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
97. Huckabee and Slade induced Ms. Shaw-Baker to execute the May 21, 2001 will making them, except for a \$4,000.00 devise to Sandra Byrd, the sole beneficiaries.

98. At all material times, Huckabee and Slade had fiduciary relationships with Ms. Shaw-Baker arising from the trust and confidence she had placed in them.
99. At all material times, Huckabee had an express fiduciary relationship with Ms. Shaw-Baker per Ms. Shaw-Baker's April 5, 1996 General Durable Power of Attorney.
100. Huckabee and Slade represented to Ms. Shaw-Baker that if she changed her will to make them the primary beneficiaries and if she changed the beneficiary designations for her deferred compensation, pension, and life insurance to make Slade the sole beneficiary, they would take care of her if she became unable to take care for herself and that they would assist her with staying in her home and avoiding placement in an assisted living facility.
101. At the time Huckabee and Slade made said representations, they had no intention of performing them.
102. Slade further represented to Ms. Shaw-Baker that if Ms. Shaw-Baker changed her will and the beneficiary designations for her deferred compensation, pension, and life insurance, then Slade would insure that the money left to her under Ms. Shaw-Baker's will, deferred compensation, pension, and life insurance would go directly to animal welfare and rescue projects only.

103. At the time Slade made said representations, she had no intention of performing them.
104. Huckabee and Slade's said representations were false.
105. Huckabee and Slade's said representations were material to Ms. Shaw-Baker's execution of her May 21, 2001 Will and to her making Slade sole beneficiary of her deferred compensation, pension, and life insurance.
106. Huckabee and Slade knew that their said representations were false and disregarded that falsity.
107. Huckabee and Slade intended that Ms. Shaw-Baker act upon their said false representations by changing her will to make them the primary beneficiaries and by changing her deferred compensation, pension, and life insurance to make Slade the sole beneficiary.
108. Ms. Shaw-Baker was ignorant as to the falsity of Huckabee and Slade's said representations.
109. Ms. Shaw-Baker reasonably relied on Huckabee and Slade's said representations in changing her will to make them the primary beneficiaries and in changing her deferred compensation, pension, and life insurance to make Slade sole beneficiary.
110. As a direct and proximate result of Huckabee and Slade's said fraud, Ms. Shaw-Baker was injured by suffering lack of assistance from Huckabee and Slade as she became unable to

care for herself and she suffered the circumvention of her intent to benefit animal charities with her estate.

111. While Ms. Shaw-Baker suffered, Huckabee and Slade intentionally concealed Ms. Shaw-Baker's condition to avoid exposure of their fraud, neglect, and undue influence.

112. Due to Huckabee and Slade's said fraud, Ms. Shaw-Baker's May 21, 2001 Will and her beneficiary designations of Slade for her deferred compensation, pension, and life insurance were *void ab initio*.

113. Plaintiffs seek a declaration that the proceeds of Ms. Shaw-Baker's deferred compensation, pension, and life insurance are properly probate assets.

FOR A FIFTH CAUSE OF ACTION

(Declaratory Judgment Regarding Improper Execution)

114. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.

115. Ms. Shaw-Baker's May 21, 2001 will was improperly executed.

116. There is no evidence that the persons who signed as witnesses to her May 21, 2001 Will observed Ms. Shaw-Baker execute it or observed her acknowledge her signature.

117. Plaintiffs seek a Declaratory Judgment that Ms. Shaw-Baker's May 21, 2001 will was invalid.

FOR A SIXTH CAUSE OF ACTION

(Declaratory Judgment Regarding Subsequent Will)

118. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.

119. Ms. Shaw-Baker revoked her May 21, 2001 will with the Subsequent Will.

120. Plaintiffs seek a declaratory judgment that Ms. Shaw-Baker's Subsequent Will revoked her May 21, 2001 will.

FOR A SEVENTH CAUSE OF ACTION

(Unjust Enrichment)

121. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.

122. Huckabee and Slade induced Ms. Shaw-Baker to change her will to make them the primary beneficiaries and to change her beneficiary designations to make Slade the sole beneficiary of her deferred compensation, pension, and life insurance based on their representations that they would care for her if she became unable to care for herself and in reliance on Slade's representation that she would ensure that the money left to her under the Will, deferred compensation, pension, and life insurance would go directly to animal welfare and rescue projects only.

123. At the time Huckabee and Slade made said representations, they had no intention of performing them.

124. Ms. Shaw-Baker conferred the benefit on Huckabee and Slade of making them her primary beneficiary under her contested May 21, 2001 Will, and she made Slade the sole beneficiary under the contested beneficiary designations of her deferred compensation, pension, and life insurance.
125. Huckabee and Slade stand to be unjustly enriched by distribution to them under the contested May 21, 2001 will, and Slade stands to be unjustly enriched by distribution under contested deferred compensation, pension, and life insurance beneficiary designations.
126. It would be inequitable to allow Huckabee and Slade to obtain disbursements from Ms. Shaw-Baker's Estate and to allow Slade to obtain disbursements from Ms. Shaw-Baker's deferred compensation, pension, and life insurance not having performed the representations for which Ms. Shaw-Baker made them beneficiaries.
127. Plaintiffs seek equitable relief restoring any devises to Huckabee or Slade to Ms. Shaw-Baker's Estate.

FOR AN EIGHTH CAUSE OF ACTION

(Promissory Estoppel)

128. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
129. Slade made an unambiguous representation to Ms. Shaw-Baker that she would ensure that the money left to her under the

Will, deferred compensation, pension, and life insurance would go directly to animal welfare and rescue projects only.

130. Ms. Shaw-Baker reasonably relied on Slade's said representations in executing her contested May 21, 2001 will and in making the contested beneficiary designations with Slade as sole beneficiary of her deferred compensation, pension, and life insurance.

131. Ms. Shaw-Baker's reliance on Slade's said representations was foreseeable and intended by Slade.

132. On information and belief, Slade does not intend to perform said representations and Ms. Shaw-Baker's estate has been harmed by Ms. Slade's circumvention of her wishes that her estate and the proceeds of her deferred compensation, pension, and life insurance would go directly to animal welfare and rescue projects only.

133. As alternative relief, specific performance should be awarded and Slade enjoined to use the money left to her under Ms. Shaw-Baker's May 21, 2001 will, and the proceeds left to her from Ms. Shaw-Baker's deferred compensation, pension, and life insurance directly for animal welfare and rescue projects only.

FOR A NINTH CAUSE OF ACTION

(Petition for Removal of Huckabee as Personal Representative)

134. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.
135. Huckabee and Slade undertook to care for Ms. Shaw-Baker when she became unable to care for herself by representing to Ms. Shaw-Baker that they would provide or arrange for such care, but, at the time of said representations, they had no intention of fulfilling them.
136. When Ms. Shaw-Baker became unable to care for herself, Huckabee and Slade failed to ensure that she had adequate daily care, nutrition, hygiene, a suitable living environment, or health care.
137. Ms. Shaw-Baker relied on Huckabee and Slade for care in the event she became unable to care for herself, and, based on their representations, did not make alternative arrangements.
138. Ms. Shaw-Baker's estate has a survival action against Huckabee and Slade for neglect of Ms. Shaw-Baker as a vulnerable adult.
139. Ms. Shaw-Baker's estate has a survival action against Huckabee for breach of her express fiduciary duties as attorney-in-fact for Ms. Shaw-Baker to hire medical, social service, and other support personnel for Ms. Shaw-Baker's care during the time Ms. Shaw-Baker was mentally incompetent.

140. Ms. Huckabee cannot equitably both serve as Personal Representative of Ms. Shaw-Baker's estate and adequately prosecute the Estate's survival action against herself.

141. Plaintiffs seek removal of Huckabee as Personal Representative of Ms. Shaw-Baker's Estate.

FOR A TENTH CAUSE OF ACTION
(Petition for Appointment of Betty Fisher as
Personal Representative)

142. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.

143. Plaintiff Betty Fisher is Ms. Shaw-Baker's next-of-kin.

144. Betty Fisher seeks appointment as the Personal Representative of Ms. Shaw-Baker's estate.

FOR AN ELEVENTH CAUSE OF ACTION
(Attorneys' Fees and Costs)

145. Plaintiffs reassert the foregoing allegations as if set forth herein verbatim.

146. Plaintiffs brought this action on behalf of Ms. Shaw-Baker's estate and all costs of this action, including reasonable attorneys' fees, are properly paid therefrom, and should be approved.

Prayer for Relief

WHEREFORE, Plaintiffs pray that the Court inquire into this matter and issue the following:

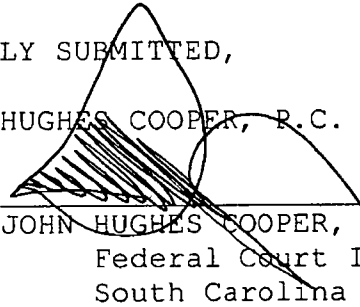
1. a Constructive Trust over the assets of Ms. Shaw-Baker's estate and the proceeds of her deferred compensation, her pension, and her life insurance pending determination of the validity of Ms. Shaw-Baker's various wills and pending resolution of Betty Fisher's Petition for Appointment as Personal Representative;
2. a Declaratory Judgment that Ms. Shaw-Baker revoked her May 21, 2001 Will and died intestate;
3. Alternatively or additionally, an Order setting aside Ms. Shaw-Baker's May 21, 2001 will and her designations of Slade as beneficiary of her deferred compensation, pension, and life insurance based on Undue Influence and Fraud;
4. an order declaring the proceeds of Ms. Shaw-Baker's deferred compensation, pension, and life insurance are properly probate assets;
5. a Declaratory Judgment that Ms. Shaw-Baker's May 21, 2001 will was invalid for improper execution;
6. In the alternative or additionally, a Constructive Trust over any devises to Huckabee and Slade for the benefit of Ms. Shaw-Baker's Estate;
7. In the alternative or additionally, Specific Performance requiring Slade to use the money left to her under Ms. Shaw-Baker's May 21, 2001 will, her deferred compensation, her pension, and her life insurance for animal charities;

8. Removal of Huckabee as Personal Representative of Ms. Shaw-Baker's Estate;
9. Appointment of Betty Fisher as Personal Representative of Ms. Shaw-Baker's Estate;
10. An Order awarding costs of this action, including reasonable attorneys fees to Plaintiffs, who brought this action for the benefit of Ms. Shaw-Baker's Estate;
11. Such other or further relief as justice may require.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:


JOHN HUGHES COOPER, ESQUIRE
Federal Court ID 298
South Carolina Bar 1387
State Bar of Georgia 185986
1808 Middle Street
Post Office Box 395
Sullivan's Island, SC 29482
shiplaw@jhcooper.com
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and

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Charleston, S.C. 29402
cain@intercoastproperties.com
843-965-5400; fax 843-883-9335

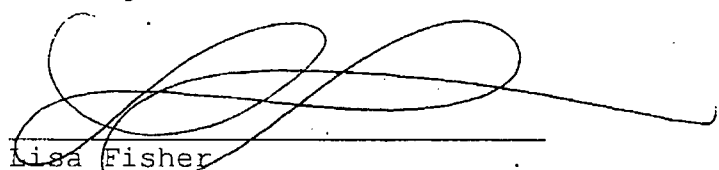
ATTORNEYS FOR PLAINTIFFS,
BETTY FISHER AND
LISA FISHER, AS CONSERVATOR FOR
ALICE SHAW-BAKER

Sullivan's Island, South Carolina
April 21, 2009

V E R I F I C A T I O N

COMES NOW Lisa Fisher who deposes and says:

1. My name is Lisa Fisher.
2. I am a citizen of the United States, over 18 years of age, and of sound mind.
3. I have read the foregoing VERIFIED COMPLAINT and know the contents of thereof and the same are true to the best of my knowledge, except as to the matters therein stated to be on information and belief; and as to those matters I believe them to be true.
4. The sources of my information and the grounds of my belief are my personal knowledge and documents in my possession.
5. Further affiant sayeth naught.



Lisa Fisher

Long Beach California
April 21, 2009

[See Attached Notarization]

ACKNOWLEDGMENT

State of California
County of Los Angeles

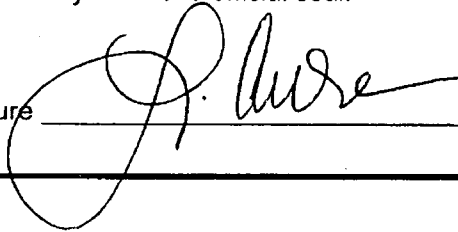
On April 21, 2009 before me, Leena M. Aure, Notary Public
(insert name and title of the officer)

personally appeared Lisa Fisher
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

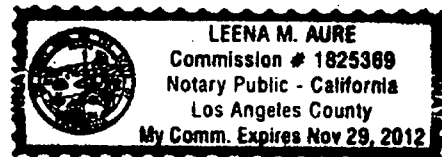
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature



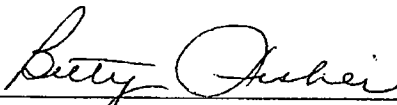
(Seal)

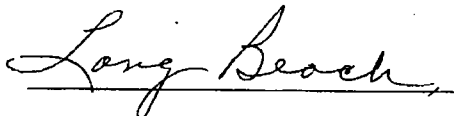


V E R I F I C A T I O N

COMES NOW Betty Fisher who deposes and says:

1. My name is Betty Fisher.
2. I am a citizen of the United States, over 18 years of age, and of sound mind.
3. I have read the foregoing VERIFIED COMPLAINT and know the contents of thereof and the same are true to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters I believe them to be true.
4. The sources of my information and the grounds of my belief are my personal knowledge and documents in my possession.
5. Further affiant sayeth naught.


Betty Fisher

 , California

April 21 , 2009

[See Attached Notarization]

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-10-3010

BETTY FISHER, etal.,)
Plaintiffs,)

v.)

BESSIE HUCKABEE, etal.,)
Defendants.)

In the Matter of the Estate of)
Alice Shaw-Baker.)
Charleston County Probate No.:)
2009-ES-10-0378)

ANSWER OF DEFENDANTS
BESSIE HUCKABEE, KAY PASSAILAIGUE
AND SANDRA BYRD
(Jury Trial Demanded)

2009 JUN -5 PM 2:38
JULIE J. ARNOLD
CLERK OF COURT
BY BJ

FILED

Defendants Bessie Huckabee, Kay Passailaigue and Sandra Byrd answer the complaint of the Plaintiffs as follows:

**FOR A FIRST DEFENSE
(General Denial)**

1. Defendants admit the allegations of Paragraph 1.
2. Defendants admit the allegations of Paragraph 2 upon information and belief.
3. Defendants admit the allegations of Paragraph 3 upon information and belief excepting the allegation that Lisa Fisher is currently the Conservator of Alice Shaw-Baker.
4. Defendants admit the allegations of Paragraph 4.
5. Defendants admit the allegations of Paragraph 5 to the extent that Kay Passailaigue ("Kay") is a devisee under the May 21, 2001 submitted to the Probate Court by attorney for Plaintiff and that she is the sole beneficiary of the National Life Insurance policy and that she is a resident of Charleston County.

Gx K

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Defendants lack sufficient information to affirm or deny the remaining allegations of Paragraph 5.

6. Defendants admit the allegations of Paragraph 6.
7. Defendants deny the allegations in Paragraph 7.
8. On information and belief, Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 8 regarding the State Budget and Control Board and the South Carolina Retirement System and therefore deny those allegations and demand strict proof thereof.
9. On information and belief, Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 9 regarding ING and the South Carolina Deferred Compensation Program and therefore deny those allegations and demand strict proof thereof.
10. Defendants admit the allegations of Paragraph 10 to the extent that Kay is the sole beneficiary of the National Life Insurance policy and deny the remaining allegations of Paragraph 10 and demand strict proof thereof.
11. Defendants admit the allegations of Paragraph 11.
12. Defendants admit the allegations of Paragraph 12.
13. Defendants admit the allegations of Paragraph 13.
14. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 14.
15. Defendants admit the allegations of Paragraph 15.
16. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 16.

17. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 17.
18. Defendants admit the allegations of Paragraph 18.
19. Defendants admit the allegations of Paragraph 19.
20. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 20.
21. Defendants admit the allegations of Paragraph 21.
22. Defendants admit the allegations of Paragraph 22 to the extent that Alice Shaw-Baker ("Alice") owned at least three Chihuahuas that she cared for and loved and deny the remaining allegations of Paragraph 22 and demand strict proof thereof.
23. Defendants deny that all of Alice's home decor "featured" Chihuahua themes.
24. Defendants deny the allegations of Paragraph 24 and demand strict proof thereof.
25. Defendants admit the allegations of Paragraph 25.
26. Defendants admit the allegations of Paragraph 26.
27. Defendants admit the allegations of Paragraph 27.
28. Defendants admit the allegations of Paragraph 28.
29. Defendants admit the allegations of Paragraph 29.
30. Defendants admit the allegations of Paragraph 30.
31. Defendants admit the allegations of Paragraph 31.
32. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 32 and therefore deny the allegations and demand strict proof thereof.

33. Defendants are currently without sufficient information as to the truth or falsity of the allegations of Paragraph 33 and therefore deny the allegations and demand strict proof thereof.
34. Defendants admit the allegations of Paragraph 34.
35. Defendants admit the allegations of Paragraph 35.
36. Defendants admit the allegations of Paragraph 36 to the extent that Alice executed the Durable Power of Attorney but deny knowledge of the existence of said document and therefore deny the existence of a fiduciary relationship as would exist had Bessie known and accepted the powers and duties of a Durable Power of Attorney.
37. Defendants admit the allegations of Paragraph 37.
38. Defendants admit the allegations of Paragraph 38, to the extent that the Health Care Power of Attorney provided for such in the event that Alice was incapable of acting for herself, an eventuality that never occurred prior to the Court's revocation of said Health Care Power of Attorney.
39. Defendants admit that Alice placed trust and confidence in Bessie and Kay as friends and deny the remaining allegations of Paragraph 39 and demand strict proof thereof.
40. Defendants deny the allegations of Paragraph 40 and demand strict proof thereof.
41. Defendants deny the allegations of Paragraph 41 and demand strict proof thereof.
42. Defendants deny the allegations of Paragraph 42 and demand strict proof thereof.
43. Defendants deny the allegations of Paragraph 43 and demand strict proof thereof.
44. Defendants deny the allegations of Paragraph 44 and demand strict proof thereof.

45. Defendants deny the allegations of Paragraph 45 and demand strict proof thereof.
46. Defendants deny the allegations of Paragraph 46 and demand strict proof thereof.
47. Although Kay is the sole beneficiary of Alice's life insurance, Defendants deny the allegations of Paragraph 47 and demand strict proof thereof.
48. Defendants deny the allegations of Paragraph 48 and demand strict proof thereof.
49. Defendants deny the allegations of Paragraph 49 and demand strict proof thereof.
50. Defendants deny the allegations of Paragraph 50 and demand strict proof thereof.
51. Defendants admit the allegations of Paragraph 51 and that the Petition was resultant from repeated telephone calls regarding Alice, including calls and conversations with Bessie and Kay.
52. Defendants admit the allegations of Paragraph 52.
53. Defendants admit the allegations of Paragraph 53.
54. Upon information and belief, Defendants admit the allegations of Paragraph 54.
55. Defendants deny the allegations of Paragraph 55 that representations were made to induce Alice and that Alice was incapacitated at the timeframe referenced and demand strict proof thereof.
56. Defendants deny the allegations of Paragraph 5 that Plaintiffs Betty Fisher and Lisa Fisher assisted Alice and demand strict proof thereof.
57. Defendants deny the allegations of Paragraph 57 and demand strict proof thereof.
58. Defendants deny the allegations of Paragraph 58 and demand strict proof thereof.
59. Defendants deny the allegations of Paragraph 59 and demand strict proof thereof.
60. Defendants admit the allegations of Paragraph 60.
61. Defendants admit the allegations of Paragraph 61.

62. Defendants admit the allegations of Paragraph 62 to the extent the Lisa Fisher did her duties, for the most part, through agents while she was in California and that attorney John Cooper assisted in the performance of the allegations aforementioned.
63. Defendants deny the allegations of Paragraph 63 and demand strict proof thereof.
64. Defendants admit the allegations of Paragraph 64.
65. Defendants admit the allegations of Paragraph 65.
66. Defendants deny the allegations of Paragraph 66 to the extent that the Court Order states that "Alice Shaw-Baker nor anyone on her behalf may revise or revoke her will" unless specifically ordered by the Court.
67. Defendants deny the allegations of Paragraph 67 and demand strict proof thereof.
68. Defendants deny the allegations of Paragraph 68 and demand strict proof of the existence of a subsequent will.
69. Defendants deny the allegations of Paragraph 69 and demand strict proof thereof.
70. Defendants admit the allegations of Paragraph 70.
71. Defendants admit the allegations of Paragraph 71.
72. Defendants deny the allegations of Paragraph 72 and demand strict proof thereof.
73. Defendants deny the allegations of Paragraph 73 and demand strict proof thereof.
74. Defendants deny the allegations of Paragraph 74 and demand strict proof thereof.
75. Defendants deny the allegations of Paragraph 75 and demand strict proof thereof.
76. Defendants deny the allegations of Paragraph 76 and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S FIRST CAUSE OF ACTION
(Constructive Trust)
(Denial)**

77. Each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim

78. Defendants admit the allegations of Paragraph 78 to the extent the Lisa Fisher holds the estate assets. She has been removed as Conservator of Alice's estate by Court Order.

79. Defendants admit the allegations of Paragraph 79.

80. Defendants admit the allegations of Paragraph 80.

81. Defendants deny the allegations of Paragraph 81 and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S SECOND CAUSE OF ACTION
(Declaratory Judgment Regarding Revocation)
(Denial)**

82. Each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim

83. Answering Paragraphs 83, 84, 85, and 86 Defendant's deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S THIRD CAUSE OF ACTION
(Undue Influence)
(Denial)**

84. Answering Paragraph 87, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim

85. Answering Paragraphs 88, 89, 90, 91, 92, 93, 94 and 95 Defendant's deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S FOURTH CAUSE OF ACTION
(Fraud)
(Denial)**

86. Answering Paragraph 96, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
87. Answering Paragraphs 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, and 113, Defendant's deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S FIFTH CAUSE OF ACTION
(Declaratory Judgment Regarding Improper Execution)
(Denial)**

88. Answering Paragraph 114, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
89. Answering Paragraphs 115, 116, and 117, Defendant's deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S SIXTH CAUSE OF ACTION
(Declaratory Judgment Regarding Subsequent Will)
(Denial)**

90. Answering Paragraph 118, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
91. Answering Paragraphs 119, and 120, Defendant's deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S SEVENTH CAUSE OF ACTION
(Unjust Enrichment)
(Denial)**

92. Answering Paragraph 121, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
93. Answering Paragraphs 122, 123, 124, 125, 126 and 127, Defendants deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S EIGHTH CAUSE OF ACTION
(Promissory Estoppel)
(Denial)**

94. Answering Paragraph 128, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
95. Answering Paragraphs 129, 130, 131, 132, and 133, Defendants deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S NINTH CAUSE OF ACTION
(Petition for Removal of Bessie as Personal Representative)
(Denial)**

96. Answering Paragraph 134, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim
97. Answering Paragraphs 135, 136, 137, 138, 139, 140, and 141, Defendants deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S TENTH CAUSE OF ACTION
(Petition for Appointment of Betty Fisher as Personal Representative)**

(Denial)

98. Answering Paragraph 142, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim.

99. Defendants admit the allegations of Paragraph 143.

100. Answering Paragraph 144, Defendants deny and demand strict proof thereof.

**FOR A FIRST DEFENSE TO
PLAINTIFF'S ELEVENTH CAUSE OF ACTION
(Attorneys' Fees and Costs)
(Denial)**

101. Answering Paragraph 145, each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim.

102. Answering Paragraph 146, Defendant's deny and demand strict proof thereof.

**FOR A SECOND DEFENSE TO
ALL CAUSES OF ACTION**

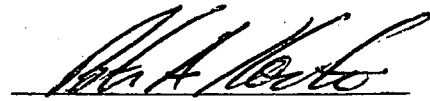
103. Each and every of these Defendant's answers are incorporated herein to the same extent as if set forth verbatim.

104. Plaintiff's Complaint should be dismissed for failure to state claims with sufficient facts to constitute causes of actions against Defendants pursuant to Rule 12(B)(6) of the South Carolina Rules of Civil Procedure.

WHEREFORE, Defendants Bessie Huckabee, Kay Passailaigue and Sandra Byrd pray that

a. the Complaint of the Plaintiffs be dismissed with costs;

- b. that the Defendants seek a jury trial in the event the actions are not dismissed; and
- c. any such other relief as the Court may deem just and proper.



Peter A. Kouten, Esquire
Kouten Law Firm, LLC
7013 Dorchester Road, Suite E
North Charleston, SC 29418
843-767-5284

Attorney for Defendants
Bessie Huckabee, Kay Passailaigue
And Sandra Byrd

May 28, 2009
Charleston, S.C.

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2009 the foregoing Answer were served on the following by U. S. mail with sufficient postage affixed:

John Hughes Cooper, Esquire
1808 Middle Street
Sullivan's Island, SC 29482
Attorney for Plaintiffs

Hon. David K. Avant
Managing Legal Counsel
State Budget and Control Board
P.O. Box 11960
Columbia, SC 29211-1960

B. Allen Bullard, Esquire
Montgomery Willard, LLC
P.O. Box 11886
Columbia, S.C. 29211

South Carolina Deferred Compensation Program
P.O. Box 5182
Boston, MA 02206

National Life Insurance Company
One National Life Drive
Montpelier, VT 05604

Hon. Henry McMaster
Attorney General
P. O. Box 11549
Columbia, SC 29211

2009 JUN -5 PM 2:38
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

FILED



Peter A. Kouten, Esquire
Kouten Law Firm, LLC
7013 Dorchester Road, Suite E
North Charleston, SC 29418
Attorney for Defendants

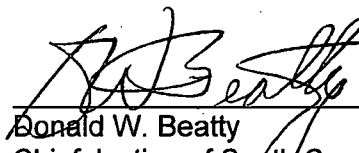
The Supreme Court of South Carolina

ORDER

I find that the Honorable Irvin G. Condon, Judge of Probate for Charleston County, and the Associate Probate Judges of Charleston County are disqualified from any further hearings In the Matter of Alice Shaw-Baker (Case No. 2008-GC-10-00088 and 2009-ES-10-378) and therefore are unable to sit as judge of probate in this matter in its entirety.

Pursuant to the provisions of S.C. Const. Art. V, §4, S.C. Code Ann. § 14-23-1030 (Supp. 2015), and S.C. Code Ann. §14-23-1080 (Supp. 2015),

IT IS ORDERED that the Honorable Kenneth E. Fulp, Jr., Judge of Probate for Beaufort County, or, in the alternative, an Associate Probate Judge for Beaufort County be, and hereby is, appointed as special probate court judge to sit in the above matter in its entirety. As such special probate court judge, the Honorable Kenneth E. Fulp, Jr., or, in the alternative, an Associate Probate Judge for Beaufort County shall have all the powers and duties appertaining to a probate court judge for Charleston County in the handling of the above matter.


Donald W. Beatty
Chief Justice of South Carolina

August 16, 2017
Columbia, South Carolina

EX L

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) COURT OF COMMON PLEAS
) C/A No. 2008-GC-10-088

In the Conservatorship of)
Alice Shaw-Baker)

Bessie Huckabee, as Personal)
Representative,)

Petitioner,)

v.)

Lisa Fisher, Discharged Conservator)
In Possession of Estate Assets,)

Respondent.)
-----)

HEARING

Tuesday, February 27, 2018

9:59 a.m. - 11:20 a.m.

The hearing before the Honorable Kenneth E. Fulp, Jr., Master-In-Equity for Charleston County, was taken at 102 Ribaut Road, Beaufort, South Carolina on the 27th day of February, 2018, before Cortney N. Glover, Court Reporter and Notary Public in and for the State of South Carolina.

EX M



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1 forward that.

2 **THE COURT:** Absolutely. And, of course, none of
3 this -- if in my review I feel like something
4 is needed more immediately, then I may -- I
5 certainly reserve the right to request it.

6 **MS. CROWLEY:** Okay.

7 **THE COURT:** But I'm gon' be reviewing this while
8 y'all are getting ready that are that -- for
9 your trial.

10 **MS. CROWLEY:** Thank you, your Honor.

11 **THE COURT:** Okay. And the other thing I would like
12 to point out, Ms. Crowley, the other section
13 62-3-614, appointment of special administrator.
14 There's a couple of instructive provisions
15 there. Of course, the Court may appoint the
16 special administrator informally. That's
17 without summons, petition, service, and a
18 hearing. There would be the necessity of an
19 application to protect the estate of a decedent
20 prior to the appointment of a general personal
21 representative or if a prior appointment has
22 been terminated.

23 Okay. Also and they threw this amendment in in
24 2013, effective 2014, to take appropriate
25 actions involving estate assets. And there are



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1 many cases in which we might have to appoint a
2 special administrator even while a general
3 personal representative appointment is still in
4 place to handle certain specific assets that it
5 may not be appropriate for the general personal
6 representative to handle at that time.

7 So when I was indicating that there is -- a
8 certain amount of your argument was expended on
9 the subject, but nothing was ever turned over
10 to the special fiduciary -- well, of course
11 he's dead. And if the Court is being asked to
12 appoint someone to replace him, then a proper
13 application would have to be made. I think the
14 proper section to proceed under, if one is
15 going to be made, is the one I just mentioned.

16 **MS. CROWLEY:** Thank you, your Honor.

17 **THE COURT:** Okay. Just to let you know what our
18 preferences are, if such a request is made, not
19 just a simple request that the Court somebody.
20 We want to see the application and know that
21 somebody is ready, willing, and able to serve
22 if appointed. Okay.

23 **MS. CROWLEY:** Thank you, your Honor.

24 **THE COURT:** I think we've covered everything we need
25 to.



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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) FOR THE NINTH JUDICIAL CIRCUIT
CIVIL ACTION 2009-CP-10-3010

Betty Fisher, and
Lisa Fisher,
as Conservator for
Alice Shaw-Baker,

Plaintiffs,

vs.

PLAINTIFFS' PRE-TRIAL BRIEF

Bessie Huckabee,
Kay Passailaigue Slade,
Sandra Byrd,
Henry McMaster,
in his capacity as
Attorney General
of South Carolina,
State Budget and
Control Board, South
Carolina Retirement
System, ING, South
Carolina Deferred
Compensation Program,
And National Life
Insurance Company,

Defendants.

IN THE MATTER OF:
ALICE SHAW-BAKER

COME NOW Betty Fisher and Lisa Fisher, as Conservator for Alice Shaw-Baker, Plaintiffs in the above captioned action, and, pursuant to Rule 16(c) of the South Carolina Rules of Civil Procedure, submit the Plaintiffs' Pre-Trial Brief:

(1) A concise, non-argumentative statement of the facts of the case.

EX A

During her lifetime Alice Shaw-Baker was devoted to animals and especially to dogs. Alice Shaw-Baker often expressed her intent to leave her worldly goods to benefit animal charities. Before her death, Alice Shaw-Baker executed a number of wills and made other arrangements for the care of her canine pets and for the disposition of her property for the benefit of animal charities or rescue. Alice Shaw-Baker died February 25, 2009.

It is admitted in the pleadings that Plaintiff Betty Fisher was Ms. Shaw-Baker's niece, her closest relative, and her heir at law (Cpt & Ans ¶¶ 2,13), that Plaintiff Lisa Fisher was Ms. Shaw-Baker's great-niece and was not an heir at law (Cpt & Ans ¶ 3), that during her years working at Charleston Memorial Hospital, Ms. Shaw-Baker began to place considerable trust and confidence in two co-workers, Bessie Huckabee and Kay Passailaigue Slade (Cpt & Ans ¶ 25), that Slade was involved with various animal protection and rescue charities (Cpt & Ans ¶26), that Huckabee and Slade developed relationships with Ms. Shaw-Baker in which she placed trust and confidence in them (Cpt & Ans ¶ 27), that On January 7, 1993, Ms. Shaw-Baker executed a will leaving the majority of her estate to Pet Helpers, Inc., or, if it no longer existed, to the John Ancrum Chapter of the Society for Prevention of Cruelty to Animals (Cpt & Ans ¶ 28), that Ms. Shaw-Baker's 1993 Will made certain bequests of her personal property and left \$8,000 to Huckabee, \$12,000 to Slade

conditioned on Slade's caring for Ms. Shaw-Baker's dogs, \$1 devises to her ex-husband and each of her siblings, and the remainder of her estate to Pet Helpers, Inc., or, if it no longer existed, to the John Ancrum Chapter of the SPCA (Cpt & Ans P 29), that on April 5, 1996, Ms. Shaw-Baker executed another will leaving the majority of her estate to the John Ancrum SPCA (Cpt and Ans ¶ 30), that Ms. Shaw-Baker's 1996 Will made certain bequests of personal property and left \$12,000 to Slade for the care of Ms. Shaw-Baker's pets, but, if Ms. Shaw-Baker no longer had pets, the \$12,000 to Slade regardless, \$8,000 to Huckabee, a life estate in her residence to Slade and her husband, and the remainder interest in her residence and the remainder of her estate to the John Ancrum SPCA (Cpt & Ans ¶ 31), that Ms. Shaw-Baker was concerned about what would happen to her as she aged and in the event that she was unable to take care of herself (Cpt & Ans ¶ 34), that on April 5, 1996, the same day she executed her 1996 Will, Ms. Shaw-Baker executed a General Durable Power of Attorney making Huckabee her attorney-in-fact (Cpt & Ans ¶ 35), and that also on April 5, 1996, Ms. Shaw-Baker executed a Health Care Power of Attorney making Huckabee her health care attorney-in-fact with Slade as the alternate (Cpt & Ans ¶ 37).

Ms. Shaw-Baker's General Durable Power of Attorney expressly created a fiduciary relationship between Ms. Shaw-Baker and Huckabee.

By her handwritten notes Ms. Shaw-Baker indicated her intention to change the beneficiary of her life insurance from her mother and brother, to Ms. Shaw-Baker's Estate, then to the John Ancrum SPCA, and then to Slade.

By her handwritten notes to ING Ms. Shaw-Baker indicated her intention that "upon death my estate is all going to charity" and indicated her intention to change her deferred compensation plan beneficiary to "Kay Passailaigue - Custodian of Pets and Rescue governed by will."

By the business records of the South Carolina Retirement System (now PEBA) Ms. Shaw-Baker indicated her intention that in making Slade the beneficiary of her retirement pension plan, that Ms. Shaw-Baker intended Slade to use the money for the benefit of dog rescue.

In October, 2017 a Charleston County jury found that Alice Shaw-Baker's 2001 Will was her valid unrevoked Will. Post-Trial Motions are pending in this Court. There are two appeals pending before the South Carolina Supreme Court (Appellate Cases: *Fisher v. Huckabee* 2016-000320 and *Fisher v. Huckabee* 2017-000743) which may impact issues in the instant case and over which this Court has no jurisdiction.

(2) An objective statement of the facts in controversy.

The facts in controversy include:

1. Whether Huckabee breached her confidential relationship with or her fiduciary duties to Ms. Shaw-Baker;
2. Whether Slade breached her confidential relationship with or her fiduciary duties to Ms. Shaw-Baker;
3. Whether the 2001 will contains one or more ambiguities, including the ambiguity in ITEM V;
4. Whether considering the wording of her will and the relevant extrinsic evidence, Ms. Shaw-Baker's actual intention was to leave her property to Slade, as Trustee for the sole use and benefit of animal charities;
5. Whether Slade breached Ms. Shaw-Baker's trust;
6. Whether misrepresentation by Slade played a part in Ms. Shaw-Baker's estate plan and beneficiary designations;
7. Whether misrepresentation by Huckabee played a part in Ms. Shaw-Baker's estate plan and beneficiary designations;
8. Whether Slade's interactions with Ms. Shaw-Baker were characterized by good faith and fair dealing;
9. Whether Slade misrepresented to Ms. Shaw-Baker that Slade was the owner of an animal charity;
10. Whether Slade informed Ms. Shaw-Baker that Slade was no longer affiliated with certain animal charities;

11. Whether Ms. Shaw-Baker's general intention was to leave her estate assets, life insurance, pension plan, and deferred compensation, upon her death, to benefit animal charities;

12. Whether Slade, in agreeing to accept Ms. Shaw-Baker's estate, including her residence, life insurance, retirement funds, and deferred compensation plan benefits, made promises to Ms. Shaw-Baker such that a constructive trust should be declared in favor of animal charities.

(3) The legal Issues involved.

(a) Breach of Fiduciary Duty

Plaintiffs' claim for breach of fiduciary duty is an action at law. *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 538 S.E.2d 15 (Ct.App. 2000). Plaintiffs have requested trial by jury on their legal claims. When a court orders bifurcation, it must insure that a party will not lose its right to a full jury trial on all legal issues. *Johnson v. South Carolina Nat'l Bank*, 292 S.C. 51, 55, 354 S.E.2d 895,897 (1987). "Where legal and equitable issues or rights are asserted in the same complaint, the legal issues are for determination by a jury and the equitable issues are to be decided by the court. The trial judge may either hear the equity case himself or issue a compulsory order of reference (internal citations omitted)." *Floyd v. Floyd*, 306 S.C. 376, 412 S.E.2d 397 (1991).

(b) Constructive trust

"In general, a constructive trust may be imposed when a party obtains a benefit 'which does not equitably belong to [her] and which [she] cannot in good conscience retain or withhold from another who is beneficially entitled to it, as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty (internal citation omitted).'" *Smith v. South Carolina Retirement System*, 336 S.C. 505, 520 S.E.2d 339 (Ct. App. 1999).

"A constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution. Fraud is an essential element, although it need not be actual fraud. *McDaniel v. Kendrick*, 386 S.C. 437, 688 S.E.2d 852 (Ct. App. 2009).

The evidence must be clear and convincing to support imposition of a constructive trust. *Smith v. South Carolina Retirement System*, 336 S.C. 505, 520 S.E.2d 339 (Ct. App. 1999).

(c) Unjust Enrichment

Recovery for unjust enrichment is proper where it is proved that there was a benefit conferred by plaintiff upon the defendant, realization of that benefit by the defendant, and retention of the benefit by the defendant under circumstances

that make it inequitable for [her] to retain it without paying its value. *Myrtle Beach Hosp., Inc. v. City of Myrtle Beach*, 341 S.C. 1, 8, 532 S.E.2d 868, 872 (2000).

(d) Promissory Estoppel

Our courts recognize a remedy in equity if the claimant can prove: (1) the presence of a promise unambiguous in its terms; (2) reasonable reliance upon the promise by the party to whom the promise is made; (3) the reliance is expected and foreseeable by the party who makes the promise; and (4) the party to whom the promise is made must sustain injury in reliance on the promise. *Satcher v. Satcher*, 351 S.C. 477 570 S.E.2d 535 (Ct. App. 2002); *Craft v. South Carolina Com'n for Blind*, 385 S.C. 560, 685 S.E.2d 625 (Ct. App. 2009).

The applicability of the doctrine of promissory estoppel depends on whether the refusal to apply it would virtually sanction the perpetration of fraud or would result in other injustice. *Satcher v. Satcher*, 351 S.C. 477 570 S.E.2d 535 (Ct. App. 2002); *Craft v. South Carolina Com'n for Blind*, 385 S.C. 560, 685 S.E.2d 625 (Ct. App. 2009).

(e) Equitable Deviation

Charitable trusts are entitled to peculiar favor; the courts will construe them to give them effect, if possible, and to carry out the general intention of the donor. *Colin Mck.*

Grant Home v. Medlock, 292 S.C. 466, 349 S.E.2d 655 (Ct. App. 1986).

"A charitable trust is defined as: [A] fiduciary relationship with respect to property arising as a result of a manifestation of an intention to create it and subjecting the person by whom the property is held to equitable duties to deal with property for a charitable purpose." . . . "The settlor must manifest an intention to create a charitable trust. It is not necessary that any particular words or conduct be manifest to create a trust, and it is possible to create a trust without using the words 'trust' or 'trustee.'" *South Carolina Dept. of Mental Health v. McMaster*, 372 S.C. 175, 642 S.E.2d 175 (2007).

Where there is a latent ambiguity in a will, extrinsic evidence is admissible to determine the testator's intent. *Colin McK. Grant Home v. Medlock*, 292 S.C. 466, 349 S.E.2d 655 (Ct. App. 1986).

The doctrine of equitable deviation requires that proceeds from any sale of charitable trust property remain in trust for the intended charitable purpose. *South Carolina Dept. of Mental Health v. McMaster*, 372 S.C. 175, 642 S.E.2d 175 (2007).

(f) Undue Influence

A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and

with due regard to the interest of the one imposing the confidence. When a confidential relationship exists between testator and beneficiary, a presumption of invalidity of the will on the basis of undue influence arises. The existence of the confidential relationship shifts the burden of proof to [defendants] to show the absence of undue influence. *Howard v. Nasser*, 364 S.C. 279, 613 S.E.2d 64 (Ct. App. 2005).

Generally, in cases where a will has been set aside for undue influence, there has been evidence either of threats, force, and/or restricted visitation, or of ***an existing fiduciary relationship (emphasis added)***. *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 578 S.E.2d 329 (2003).

Likewise, in contested deed cases a presumption of invalidity arises if the contestants of the deed present evidence that a confidential or fiduciary relationship existed between the grantor and the grantee, and the burden then shifts to the grantee to affirmatively show the absence of undue influence. *Bullard v. Crawley*, 294 S.C. 276, 363 S.E.2d 897 (1987); *Hudson v. Leopold*, 288 S.C. 194, 341 S.E.2d 137 (1986).

(4) A listing of exhibits and a listing of witnesses.

Plaintiffs' exhibits:

1. 1993 Will of Alice Shaw-Baker
2. 1996 Will of Alice Shaw-Baker

3. 1996 Health Care POA
4. 1996 General Durable POA
5. 2001 Will of Alice Shaw-Baker
6. ING documents (ING 1-34)
7. SCRS (PEBA) documents (SCRS 1-156)
8. NLIC documents (NLIC 1-142)
9. Transcript of testimony Kay Passalaigue Slade
10. Transcript of testimony of Bessie Huckabee
10. Photographs
11. Depositions or excerpts offered in will contest trial
12. Exhibits offered in will contest trial
13. Exhibits necessary for impeachment
14. Exhibits from Probate files
15. Exhibits listed by any other party

Plaintiffs' witnesses:

- a. Kay Slade
- b. Carol Linville
- c. Bessie Huckabee
- d. Lisa Fisher
- e. Betty Fisher
- f. Peter Kouten
- g. Candace Rickborn
- h. Randolph Waid, Ph.D.

- i. Records Custodian Voya (formerly ING) (via telephone or videoconference)
- j. John Smoak (deposition)
- k. SPCA
- l. Records Custodian NLIC (via telephone or videoconference)
- m. Lucy Parker (deposition)
- n. Jennie Jacobs (deposition)

(5) Any unusual problems relating to evidence to be introduced.

(a) Plaintiffs' claim for breach of fiduciary duty is an action at law. *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 538 S.E.2d 15 (Ct.App. 2000). Plaintiffs have requested trial by jury on their legal claims.

Plaintiffs' claims for constructive trust, unjust enrichment, promissory estoppel, and equitable deviation are equitable claims.

(b) Counsel have discussed a Stipulation to the authenticity of the following business records, produced by the interpleading defendants:

SCRS (PEBA) records

ING records

NLIC records

(c) South Carolina Rule of Evidence 803(3), which is identical to the federal rule, provides an exception to the

hearsay rule for "A statement of the declarant's then existing state of mind . . . such as intent, plan, motive, [or] design . . . , but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will." This exception was applied to admit statements made by ex-husband as to his intent to retain ex-wife as beneficiary on ex-husband's 401k account in *Staelens ex rel. Estate of Staelens v. Staelens*, 677 F.Supp.2d 499 (D.Mass. 2010). In the instant case there are hand written statements of her intent, plan, motive, or design made by Ms. Shaw-Baker in the records of ING, SCRS, and NLIC. In the instant case there is relevant evidence of oral statements of her intent, plan, motive, or design made by Ms. Shaw-Baker to John Smoak, Carol Linville, Lisa Fisher, and others.

(d) South Carolina Rule of Evidence 803(15) provides an exception to the hearsay rule for "A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document. . . . "

(e) South Carolina Rule of Evidence 803(6) provides an exception to the hearsay rule for business records. Plaintiffs have deposition testimony regarding the SCRS records. However

telephone or videoconference testimony may be necessary for NLIC and ING documents.

(f) The South Carolina Dead Man's Statute, S.C. Code Ann. S 19-11-20 does not apply to bar testimony from a witness who has no interest other than in a representative capacity and that interest is not subject to change by the outcome. *Havird v. Schissel*, 252 S.C. 404, 166 S.E.2d 801 (1969); *Ex Parte Newton*, 183 S.C. 379, 191 S.E. 59 (1937). A witness can avoid disqualification by denouncing or disclaiming in good faith any interest he or she may have in the outcome. *Long v. Conroy*, 246 S.C. 225, 143 S.E.2d 459 (1965).

(g) With regard to any further jury trial, Plaintiffs hereby move *in limine* for an order excluding evidence of estate accountings and prohibiting mention before the jury of estate accountings or expenditures. These matters are not relevant to the present case, are currently before the South Carolina Supreme Court, and will in due time be considered by Judge Fulp in the Probate Court.

(h) With regard to any further jury trial, Plaintiffs hereby move *in limine* for an order prohibiting mention before the jury of the delay in bringing this matter to trial. This will unfairly prejudice Plaintiffs, who brought lawful appeals. The delay is part of the appellate procedure and must not be used against Plaintiffs.

(i) With the greatest respect, Plaintiffs object to the Court's independent investigation of facts in this action and Plaintiffs object to the Court's orders which potentially require Plaintiffs to divulge impeachment evidence. Plaintiffs' objections are based upon Plaintiffs' due process clause, confrontation clause, and other fundamental rights.

(6) Any unusual question or matter which should be brought to the attention of the Court.

(a) As set forth above Plaintiffs have remaining legal and equitable claims. Plaintiffs have requested a jury trial on the legal claims.

(b) The transcript of the will contest is needed to properly prepare for this trial, but is not yet available from the Court Reporter, Denise Lauder.

(c) Plaintiffs have asserted claims for attorneys' fees and costs from Ms. Shaw-Baker's estate. Defendants contest Plaintiffs' claims for attorneys' fees. Plaintiffs ask that the Court decide Plaintiffs' entitlement to attorneys' fees and costs at the upcoming bench trial, and that quantum of attorneys' fees, if any, be reserved for decision on motion post trial.

(d) There are two appeals pending before the South Carolina Supreme Court (Appellate Cases: *Fisher v. Huckabee* 2016-000320

and *Fisher v. Huckabee* 2017-000743) which may impact issues in the instant case and over which this Court has no jurisdiction.

(7) A statement that settlement negotiations were attempted and the status of settlement negotiations.

Settlement negotiations were attempted several times between counsel for Plaintiffs and counsel for Defendants Huckabee, Slade and Byrd. Plaintiffs seek enforcement of Ms. Shaw-Baker's actual intention that her probate estate, life insurance, pension, and deferred compensation (net estate assets) to go to benefit animal charities. Defendants Huckabee, Slade and Byrd seek to receive the net estate assets for their own benefit.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:

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South Carolina Bar 1387
State Bar of Georgia 185986
shiplaw@jhcooper.com

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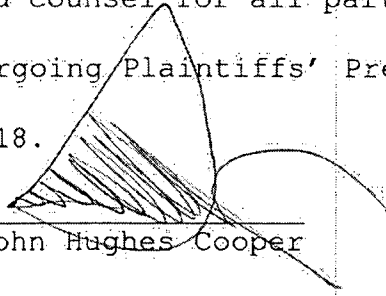
and

LISA FISHER, ESQUIRE (*Pro Hac Vice*)
P.O. Box 91112
Long Beach, CA 90809-1112
562-965-3267
lfisher6736@yahoo.com

ATTORNEYS FOR PLAINTIFFS,
BETTY FISHER AND
LISA FISHER, AS CONSERVATOR FOR
ALICE SHAW-BAKER

CERTIFICATE OF SERVICE

I hereby certify that we served Hon. Thomas L. Hughston, Jr. and counsel for all parties in this action with a copy of the forgoing Plaintiffs' Pre-Trial Brief by email on February 23, 2018.


John Hughes Cooper

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BETTY FISHER and LISA FISHER,

Plaintiffs,

vs.

BESSIE HUCKABEE, KAY
PASSAILAGUE SLADE, and SANDRA
BYRD,

Defendants.

In the Matter of the Estate of Alice Shaw-
Baker. Charleston County Probate No.:
2009-ES-10-0378

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2009-CP-10-3010

ORDER
AND
RULE TO SHOW CAUSE

FILED
2018 APR -4 PM 3:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY 2

I have previously Ordered Lisa Fisher to deliver all assets belonging to the Estate of Alice Shaw-Baker to the Charleston County Clerk of Court. To date, Lisa Fisher has failed to do this. That has forced me to Order Farmers and Merchants bank and Edward Jones to deliver to the Personal Representative, Bessie Huckabee, the monies that Lisa Fisher should have delivered to her. Additionally, Lisa Fisher has failed to deliver the keys to the house at 306 Cassina Road to the Clerk of Court forcing me to take other steps to get the non-rent paying occupant out of the house and into the possession of the Estate. Lisa Fisher has also failed to deliver the five pieces of jewelry and savings bonds held by her.

Now, therefore, Lisa Fisher is Ordered to appear before me and SHOW CAUSE, IF ANY SHE CAN, why she should not be held in CONTEMPT OF COURT and Ordered to be confined to the Charleston County Detention Center and/or fined in a substantial amount of money. Lisa Fisher is hereby Ordered to appear before me on April 20, 2018, at 10:00 a.m. at the Charleston

Ex 0

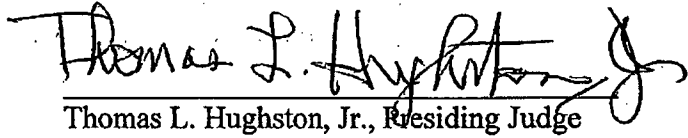
162

County Courthouse. Of course, she can avoid this by immediately delivering the keys, the jewelry, and the savings bonds to the Charleston County Clerk of Court via the fastest postal service available. Also, she still needs to supply the Ordered financial information. Lisa Fisher can file any written response to this Order and Rule with the Circuit Court Clerk of Court.

AND IT IS SO ORDERED.

#2

April 4, 2018
Charleston, South Carolina


Thomas L. Hughston, Jr., Presiding Judge

**LISA FISHER
BETTY FISHER**

*P.O. Box 91112
Long Beach, CA 90809-1112
(866) 206-9066 Ext. 9861 [Toll-free]
cell: (562) 965-3267
fax: (866) 6 10-4371
lfisher6736@yahoo.com*

April 7, 2018

Via Fed Ex:

South Carolina Court of Appeals
Calhoun State Office Building
1220 Senate St.
Columbia, SC 29201

Re: *Fisher v. Huckabee*
Appellate Case no. 2018-000604

RECEIVED

APR 09 2018

SC Court of Appeals

Dear Filing Clerk,

Please file the following documents immediately:

- 1) Petition for Writ of Supersedeas and for Emergency Interim Relief;
Joinder by Betty Fisher in Petition (and attached Exhibits and Proof of Service)
- 2) Affidavit of Lisa Fisher
- 3) Affidavit of Betty Fisher

Enclosed please find \$25.00 filing fee. Please send a clocked copy of the face page in the Self Addressed Stamped Envelope.

Thank you for your assistance. Please feel free to call me at (562) 965-3267 if you have any questions.

Sincerely,

Lisa Fisher, Esq.

Betty Fisher