

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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AUG 14 2018

APPEAL FROM LAURENS COUNTY S.C. SUPREME COURT
Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge
2016-002337

In the Matter of the Estate of Marion M. Kay

Edward D. Sullivan, as Personal Representative
of the Estate of Marion M. Kay, Petitioner/Respondent

v.

Martha Brown and Mary Moses, Respondents/Petitioners

Appellate Case No. 2016-002337

RETURN TO PETITIONER/RESPONDENT'S MOTION FOR COSTS

JRZ
Petitioner/Respondent (hereinafter Petitioner) has filed a Motion for Costs pursuant to Rule 242(j), SCACR. He is not entitled to that relief.

This appeal was launched by Mr. Sullivan for the primary purpose of recovering the \$ 42,475 he was ordered to return to the Estate. He failed to accomplish this. To the extent the PR found success, it was in the realm of attorney fees in that Respondents were denied their attorney fee based on grounds not argued by Petitioner, and the Court found that the Estate should pay the PR's necessary expenses for the settlement hearing in the probate court. The latter was obviously not a benefit to the Estate which Petitioner claims to represent.

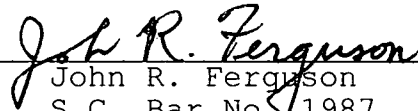
Petitioner has obscured the extent of his ultimate success by focusing on random fact findings instead of

ultimate conclusions, and even the fact findings he cites were insufficient to overturn the conclusion of four courts that he overcharged the Estate and must return to it a substantial sum of money.

Respondents have borne the burden of battle, and it is they who have provided the greatest benefit to the Estate. The Court has ruled that they are providing this benefit at their own cost, so it would be extremely unfair if they were additionally required to pay the costs and attorney fees of Petitioner's unsuccessful effort to benefit himself by keeping from the Estate the money he was ordered to return and by making the Estate pay him even more for his services. He has already been well rewarded and will receive an extra fee on remand under this Court's ruling. He is not entitled to more.

CONCLUSION

The Respondents respectfully request this Court to deny Petitioner's Motion for Costs as unwarranted under the facts and the law. To be consistent in their position that a such a partial win does not justify an award of costs, Respondents, who had large attorney fees and benefitted the Estate by \$ 42,475, are not seeking costs for themselves.



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August 10, 2018

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CERTIFICATE OF SERVICE

The undersigned certifies that she is an employee at Cox Ferguson and Wham LLC and that on the 10th day of August, 2018 she served the Return to Petitioner/Respondent's Motion for Costs herein by depositing a copy of it in the United States Mail, postage prepaid and addressed to:

Daryl G. Hawkins, Esq.
Attorney at Law
P.O. Box 11906
Columbia, SC 29211.

August 10th, 2018

