

THE STATE OF SOUTH CAROLINA

In the Supreme Court

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. 2018-000566

RECEIVED

OCT 17 2018

S.C. SUPREME COURT

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.

RECORD ON APPEAL

VOLUME 2 OF 4

**CERTIFICATION;
JOINDER BY APPELLANT BETTY FISHER**

LISA FISHER, ESQUIRE (*Pro Se*)
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Long Beach, CA 90809-1112
562-965-3267
lfisher6736@yahoo.com

(Appellant)

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

(Appellant requesting Joinder)

THE LAW OFFICE OF
W. WESTBROOK WILLS III

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FORTLY BEACH, SC 29439

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February 2, 2018

VIA ELECTRONIC MAIL
Hon. Thomas L. Hughston
100 Broad Street, Suite 368
Charleston, SC 29401-2284

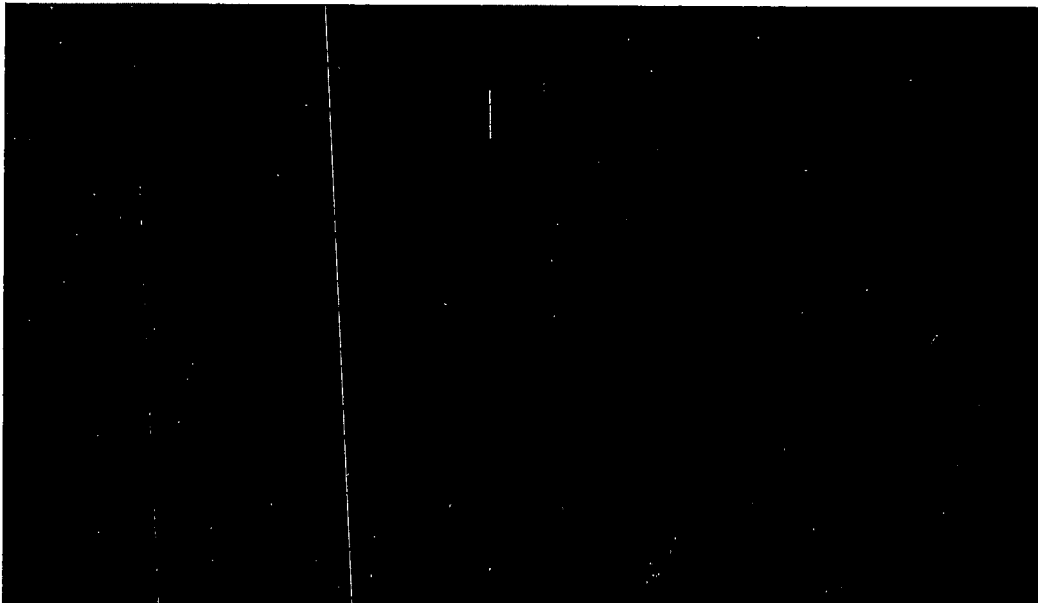
2018 FEB -5 AM 10:24
U.S. DISTRICT COURT
SOUTH DISTRICT OF SOUTH CAROLINA
CHARLESTON, SOUTH CAROLINA

RE: **Fisher v. Huckabee, et al.; Civil Action No.: 2009-CP-10-³⁰¹⁰~~0310~~. Defendants'**
response to Judge Hughston's January 25, 2018 Order requesting
information on accountings.

Dear Judge Hughston:

This letter is to provide the combined response of counsel for the Defendants to your January 25, 2018 Order requesting the parties furnish the Court information regarding any and all accounting that has been done, or which should have been done, in relation to the above-referenced case and in the closely-tied Conservator/Guardianship case (Probate Case No. 2008-GC-10-088) ("Conservatorship case").

The accounting issues in these matters date back to before the inception of this will contest action in April of 2009. To this day, nearly nine years after her discharge as Conservator, Plaintiff Lisa Fisher continues in her refusal both to release and account for the assets of Alice Shaw-Baker's Estate in her and her counsel's possession, despite several Court orders to do so, and a jury verdict upholding Ms. Shaw-Baker's will. Incredibly this is the case even though Lisa Fisher has absolutely no interest in Ms. Shaw-Baker's Estate, and the last accountings Ms. Fisher did file in June of 2011 (which included no account statements or itemization) clearly revealed she had been manipulating Estate accounts and spending Estate funds well after her discharge as Conservator, without authorization from the Court. Defendants believe Ms. Fisher has been attempting to hide the extent of her unauthorized spending of Estate funds by refusing to make the mandatory annual accountings for the assets she has retained in her possession, and by employing any and all means possible to delay turning over those Estate assets and funds to anyone.



Lisa Fisher and her counsel refuse to acknowledge the jurisdiction of the Probate Court to make and enforce orders in the Conservatorship case, because they claim that Court is divested of jurisdiction by virtue of her appeals of totally different issues, in totally different cases. Such is not the case, and Defendants currently have a motion pending in the Probate Court to compel Lisa Fisher to provide annual accountings for the Estate assets which are now 7 years delinquent.

The following condensed timeline summary will provide some context for the Court with regard to those accountings for Estate assets that have been provided, and the circumstances related to those that have not:

- **November 19, 2008** - the Charleston County Probate Court appointed Lisa Fisher as Guardian and Conservator for Alice Shaw Baker in the Conservatorship case. At that time, Family Services, as temporary conservator, had made an initial Inventory and Appraisement for Ms. Shaw-Baker's assets listing her total net worth at **\$388,055.13**. [*A copy of Family Services Inventory and Appraisement (filed October 16, 2008) is attached as Annex 1*].
- **December 19, 2008** – Family Services, temporary conservator for Alice Shaw-Baker between August 14, 2008 and December 18, 2008, filed its Final Accounting with the Probate Court for that period showing [*A copy of Family Services Final Accounting (filed December 19, 2008) is attached as Annex 2*]
- **January 30, 2009** – Lisa Fisher filed an annual accounting of the assets of the Estate of Alice Shaw-Baker for the period indicated as October 29, 2008 through December 31, 2008, showing receipts of \$179,216.10, and an ending balance of \$158,522.01. **Note:** this accounting covers much of the same period as that already accounted for in Family Services' December 19, 2008 Final Accounting. [*A copy of Lisa Fisher's Conservator Annual Accounting for 2008 (filed January 30, 2008) is attached as Annex 3*].
- **February 25, 2009** - Alice Shaw-Baker passed away leaving a valid will naming Bessie Huckabee as Personal Representative.
- **March 11, 2009** - the Probate Court opened the Estate and appointed Bessie Huckabee as duly qualified Personal Representative of Ms. Shaw-Baker's Estate in accordance with Ms. Shaw-Baker's will (Probate Case No.: 2009-ES-10-00378) ("Estate case").
- **April 27, 2009** - Lisa and Betty Fisher filed the present action challenging Alice Shaw-Baker's will and the appointment of Bessie Huckabee as Personal Representative in the Estate case, and removed it to the Circuit Court.
- **May 11, 2009** – Probate Court entered an Order in the Conservatorship case terminating the Conservatorship, immediately terminating Lisa Fisher's duties as Alice Shaw-Baker's Conservator, and **ordering her to file a final accounting and turn over the Estate assets to Bessie Huckabee within 15 days of the order.**

- **May 27, 2009** – Pursuant to the Probate Court’s May 11, 2009 Order, Lisa Fisher filed what is marked as Final Conservator Annual Accounting, purportedly for the period of January 1, 2009 through May 26, 2009. Originally, the accounting indicated it was for the period of January 1, 2009 through Alice Shaw-Baker’s death on February 25, 2009, but looks to have been amended to include an accounting of spending through May 26, 2009. [*A copy of Lisa Fisher’s Final Conservator Annual Accounting (filed May 27, 2009) is attached as Annex 4*].
- **June 10, 2009** – Your Honor issued an Order (modifying an earlier May 22, 2009 Order) restraining Bessie Huckabee as Personal Representative for the Estate of Alice Shaw-Baker from making any disbursements or distributions from the Estate but authorizing her to continue to administer the Estate in all other aspects, including receiving and marshalling assets into the Estate account. Importantly, the Court mandated that Plaintiffs obtain a special bond before the restraint would issue, which it appears Plaintiffs never did.
- **May 26, 2009 through May 13, 2011** – Over the course of these two years, Lisa Fisher refused to turn over the assets of Alice Shaw-Baker’s Estate to Personal Representative Bessie Huckabee and to make annual accountings, despite the Probate Court’s orders to do so, because she refused to recognize Ms. Huckabee as the duly appointed Personal Representative. On that basis, during that time period, she filed 8 motions for extensions of time to turn over the Estate assets. [*Copies of Lisa Fisher’s 8 Motions for Extensions (filed between May 26, 2009 and May 13, 2011) are attached as Annex 5*].
- **October 12, 2010** – As Lisa Fisher had not filed any sort of accounting for Estate assets and funds she retained and refused to release to the Personal Representative since May 26, 2009, and also refused to provide any such accounting to Peter Kouten, counsel for the Estate, **Mr. Kouten sent counsel for Lisa Fisher a subpoena to produce accountings for the Estate assets, which subpoena Lisa Fisher ignored.** [*A copy of attorney Peter Kouten’s Subpoena to Lisa Fisher (served October 12, 2010) is attached as Annex 6*].
- **March 31, 2011** – The Probate Court sent Lisa Fisher a fax instructing her to furnish the Court with 2009 and 2010 Annual Accountings for the assets of Ms. Shaw-Baker’s Estate and to include 2009 and 2010 bank statements with the accountings. [*A copy of the Probate Court’s March 31, 2011 fax instruction to Lisa Fisher is attached as Annex 7*].
- **June 1, 2011** – In response to the Probate Court’s instruction to file annual accountings for 2009 and 2010, Lisa Fisher filed what is captioned as 1) Amended Conservator Annual Accounting for the period of December 23, 2008 through December 31, 2009 now showing receipts of \$381,394.30 and an ending balance of \$148,015.31 [*a copy of which is attached as Annex 8*], and 2) Conservator Annual Accounting for the period of January 1, 2010 through December 31, 2010, showing a beginning balance of \$148,015.31 and an ending balance of \$135,799.61 [*a copy of which is attached as Annex 9*]. Importantly, while Ms. Fisher failed to include complete bank statements

reflecting transactions, as the Probate Court requested, the accountings, nevertheless, reflect inconsistencies from the original accountings, and that Ms. Fisher continued to spend and dispose of Estate funds, without authority, after such time as she had been discharged as Conservator.

- **September 28, 2011** - Because Lisa Fisher refused to recognize Bessie Huckabee as Personal Representative for the Shaw-Baker Estate and to release Estate assets to her pending trial on the merits of Fisher's will contest action, on May 20, 2011, Huckabee filed a motion in the Probate Court for the appointment of a special fiduciary to receive the Estate assets and administer the Estate until the will contest was decided. Lisa Fisher opposed Huckabee's motion for appointment of a special fiduciary, and asked the Court to grant her yet another extension to turn over Estate assets and provide the required accountings.

On September 28, 2011, after a hearing on the matter, the Probate Court entered an Order appointing Heyward Harvey as Special Fiduciary and **ordered Lisa Fisher to turn over all estate assets and accounts to Mr. Harvey within 15 days of the Order.** Instead of turning over the Estate assets to Mr. Harvey, as ordered, Lisa Fisher appealed the Probate Court's Order claiming the Court lacked jurisdiction to enter it. Since September of 2011, Fisher has lost her appeal of the issue to the Circuit Court, lost on further review by the Court of Appeals, and has now petitioned the Supreme Court for Certiorari, which the Supreme Court has not granted. Mr. Harvey is now deceased.

- **October 14, 2011** – Subsequent to appointing Heyward Harvey as special fiduciary, the Probate Court entered **orders Freezing Assets** of Ms. Shaw-Bakers Estate retained by Lisa Fisher after it determined **Lisa Fisher continued to spend a significant amount of Estate funds and close Estate accounts, without authorization, after her discharge as Conservator.** Again, instead of turning over the assets to the Court Appointed Special Fiduciary, Ms. Fisher appealed the Probate Court's Orders freezing assets, claiming the Probate Court lack jurisdiction to enter the orders.
- **October 14, 2011 – Present** – Since October 14, 2011, despite numerous requests to counsel for Lisa Fisher, and a subpoena for the accountings, Ms. Fisher has continued in her refusal both to turn over the Estate assets in her possession and make the required annual accountings to the Court.
 - **February 16, 2017** – Letter from Peter Kouten, the attorney for the Personal Representative of the Shaw-Baker Estate, to counsel for Lisa Fisher formally requesting Ms. Fisher file and provide the delinquent annual accountings for the Estate assets within 30 days. The letter was ignored. *[A copy of Peter Kouten's Feb 16, 2017 correspondence is attached as Annex 10].*
 - **May 10, 2017** – Letter from Jessica Crowley, substitute counsel for the Personal Representative in place of Peter Kouten, to counsel for Lisa Fisher announcing her appearance, reminding counsel Mr. Kouten had filed another **motion to compel the accountings**, on which she planned on seeking a

hearing. *[A copy of Jessica Crowley's May 10, 2017 correspondence is attached as Annex 11]*. By return correspondence of May 18, 2017, counsel for Lisa Fisher refuses to provide the accountings, and **threatens Ms. Crowley that any further requests for the accountings would be “considered harassment”**. *[A copy of John Hughes Cooper's May 18, 2017 letter is attached as Annex 12]*

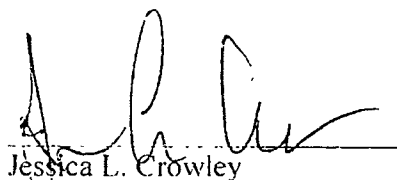
- **May 24, 2017** – Second letter from Jessica Crowley to counsel for Lisa Fisher informing him that his appeals in other matters have no bearing on Lisa Fisher's duty to file the mandatory accountings of Estate assets with the Court, and asking again for Ms. Fisher's cooperation in providing them. *[A copy of Jessica Crowley's May 24, 2017 correspondence is attached as Annex 13]*. Lisa Fisher and her counsel ignored the letter and the request. A motion to compel the production and filing of the accountings is currently pending before the Probate Court in the Conservatorship matter.
- **October 31, 2017** – E-mail correspondence from Jessica Crowley to counsel for Lisa Fisher following the jury verdict on October 26, 2017 upholding Ms. Shaw-Baker's will again requesting Lisa Fisher and John Hughes Cooper release all Estate assets, real and personal, in their possession within 48 hours, and seeking access to the Ms. Shaw-Baker's residence for the purpose of making an inventory. *[A copy of Jessica Crowley's October 31, 2017 e-mail correspondence is attached as Annex 14]*. Counsel for Lisa Fisher responded with a letter of the same date again refusing to turn over the Estate assets and to allow access to Ms. Shaw-Baker's residence. Mr. Cooper's admonished Ms. Crowley **“not to contact Ms. Rickborn [unauthorized tenant permitted by Lisa Fisher to live in Ms. Shaw-Baker's residence, rent-free, for the past 9 years] nor trespass on the property pending final determination of this case”**. *[A copy of John Hughes Cooper's October 31, 2017 correspondence is attached as Annex 15]*.
- **December 13, 2017** – Letter from counsel for Lisa Fisher to Judge Fulp, Probate Judge for Beaufort County sitting as Special Probate Judge in the Conservatorship case, attempting to explain and justify Lisa Fisher's continued refusal to turn over Estate assets and provide accountings. *[A copy of John Hughes Cooper's December 13, 2017 correspondence is attached as Annex 16]*.
- **October 26, 2017** – Jury trial on the merits in the will contest action in Circuit Court. The jury returned a verdict upholding Alice Shaw-Baker's will. *[A copy of the Jury's verdict and Order of Verdict entered on October 26, 2017 is attached as Annex 17]*.

Because Lisa Fisher has obstinately refused to provide the Court or Defendants any current accountings for the assets of Ms. Shaw-Baker's Estate, and has threatened the Personal Representative Bessie Huckabee with trespass if she attempts to access Ms. Shaw-Baker's

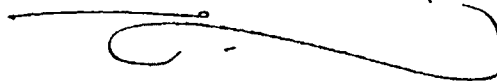
residence to make an inventory of the personal property therein. Ms. Fisher has obstructed Ms. Huckabee, and prevented her from performing her duties as Personal Representative, including that of making an accounting of the assets to the Court. Ms. Huckabee cannot account for that of which she has no knowledge. That said, Ms. Huckabee is in possession of one Wells Fargo Estate account consisting of funds disbursed from Ms. Shaw-Baker's retirement plan directly to the Estate, care of Bessie Huckabee, in the amount of \$16,557.73. That amount has not changed since the account was opened in June of 2009. Attached hereto as **Annex 18** is an accounting and bank statements for the account.

Defendants hope this letter and accompanying documentation provide the Court all of the information it has requested, and we remain at its disposal to provide any further or different information or documentation the Court may require. Thank you, Judge Hughston.

Very truly yours,



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*Attorney for Beneficiaries
Bessie Huckabee, Kay Passailaigue, and
Sandra Byrd*

Annexes (as stated)

cc: Hon. Kenneth E. Fulp, Jr.
John Hughes Cooper, Esq.
Lisa Fisher c/o John Hughes Cooper, Esq.

ANNEX INDEX

Annex	DESCRIPTION
1	October 16, 2008 Family Services Inventory and Appraisement
2	December 19, 2008 Family Services Final Accounting
3	Lisa Fisher's January 30, 2008 Annual Conservator Final Accounting
4	Lisa Fisher's May 27, 2009 Final Conservator Annual Accounting
5	Lisa Fisher's 8 Motions for Extensions to Turn over Estate Assets 5/2008 - 5/2011
6	Peter Kouten's October 12, 2010 subpoena to Lisa Fisher for Accountings
7	Probate Court's March 31, 2011 faxed instruction to Lisa Fisher for accountings
8	Lisa Fisher's June 11, 2001 Amended Conservator Annual Accounting for period December 23, 2008 through December 21, 2009.
9	Lisa Fisher's June 11, 2001 Conservator Annual Accounting for period January 1, 2010 through December 31, 2010.
10	February 16, 2017 Correspondence between counsel for Personal Representative and counsel for Lisa Fisher requesting accountings
11	May 10, 2017 correspondence from Jessica Crowley, attorney for Personal Representative to John Hughes Cooper, counsel for Lisa Fisher
12	John Hughes Cooper's May 18, 2017 correspondence in response to Annex 11
13	May 24, 2017 correspondence from Jessica Crowley to John Hughes Cooper
14	October 31, 2017 e-mail correspondence from Jessica Crowley to John Hughes Cooper
15	John Hughes Cooper's October 31, 2017 response to Annex 14
16	December 13, 2017 correspondence from John Hughes Cooper to Judge Fulp
17	October 26, 2017 Jury Verdict upholding Will of Alice Shaw-Baker
18	Bessie Huckabee, Personal Representative for Estate of Alice Shaw-Baker's accounting of Estate account containing retirement account disbursement to Estate

ANNEX

1

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF Charleston

TOD
PROBATE COURT

THE MATTER OF Alice Shaw-Baker

08 OCT 16 PM 3:11

CASE NUMBER 2008GC10-088

INVENTORY AND APPRAISEMENT

☒ ORIGINAL☐ SUPPLEMENTAL # _____Conservator: Family Services, Inc.

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

Copies of this inventory have been sent to the following persons: _____

SWORN to before me this 13 day of October, 2008
John McElwaine
 Notary Public for South Carolina
 My Commission Expires: 9-8-2009

Signature: [Signature]
 Name: Ed Jellison
 Address: 4925 Lacross Rd, Suite 215
North Charleston, Sc 29406
 Telephone (O): 843-744-1348 ext 19
 (H): _____

The gross fair market valuation of all assets, regardless of situs, should be given as of the date of appointment. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting, or adding to an original inventory.

The type and amount of any encumbrances that may exist with reference to any item should be disclosed.

RECAPITULATION	
Schedule A - Real Estate	92,200
Schedule B - Investments	233,788.01
Schedule C - Anticipated Annual Receipts	35,308.82
Schedule D - Life Insurance	9,625.66
Schedule E - Jointly Owned Property	0.00
Schedule F - Other Miscellaneous	0.00
Schedule G - Transfers prior to incapacity	0.00
Schedule H - Powers of Appointment	0.00
Schedule I - Annuities	17,133.24
TOTAL GROSS VALUE	\$ 388,055.13
ENCUMBRANCES	(0.00)
TOTAL NET WORTH	\$ 388,055.13

*Within thirty (30) days following appointment, the original inventory shall be filed with the Probate Court. A copy must be provided to the protected person, if he/she has attained the age of 14 years; and to any parent or guardian with whom the protected person resides and to other interested persons as directed by the Court.

Investments (con't.)

6. Bank of America	Certificate of Deposit Acct # 910 000 3385 0100	\$27,207.67
7. Bank of America	Certificate of Deposit Acct # 910 000 3385 0113	\$31,057.88
8. Bank of America	Certificate of Deposit Acct # 910 000 4497 0011	\$7,469.71
Total		\$233,788.01

SCHEDULE D - Life Insurance owned by the Protected Person. (If none, so state.) Specify type of insurance, e.g., "whole life," "universal life," or "term." If there are loans against the policy, so indicate.

Item No.	Description - type, company, name, policy number, premium amount	Insured	Beneficiary	Face Value	Cash Value
1	National Life Insurance	Alice Shaw-Baker	None	18,179.10	9,625.56

TOTAL CASH VALUE

(also enter under recapitulation, page 1)

\$ 9,625.56

Other Insurance - Health, Disability, Supplement, Long Term Care

Item No.	Description - type provided	Company Name	Policy Number	Coverage	Premium Amount	When Payable
1.	Health	Medicare	562-32-9423A	Full		
2.	Health	BC/BS	ZCN05736883743	GAP	213.17	Monthly
3.	Prescriptions	Instil health	056873176987	Medicine		
4	Long-Term	John Alden Life Insurance	04 040014359	Nursing Home	898.00	Annually

SCHEDULE E - Property owned jointly with right of survivorship (if none, so state.)

Item No.	Description - include kind, location and co-owner(s)	Appraised Value(s)	Percentage Ownership	Value of Protected Person's Interest
1.	NONE			0.00

TOTAL SCHEDULE E

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE F - Miscellaneous Personal Property - (If none, so state.) List tangible personal property items, title assets, employment bonus or award, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, etc.)

Item No.	Description	Location	Value of Protected Person's Interest
	NONE		0.00

TOTAL SCHEDULE F

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE G - Transfers Within Three Years of Incapacity - Transfers intended to take effect at death. United States Government Bonds payable on Death. Trust created by Incapacitated Person prior to incapacity in which income for life was retained. Power to revoke or other incidents of ownership retained, life insurance transfers. Lifetime transfers of real property in which Incapacitated Person retains a life estate or other incidents of ownership. (If none, so state.)

Item No.	Description	Value
1.	NONE	0.00

TOTAL SCHEDULE G

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H - Powers of Appointment - Property, both real and personal, over which Incapacitated Person possesses a Power of Appointment whether Testamentary or otherwise. (If none, so state.)

Item No.	Description	Value
1.	NONE	0.00

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

\$0.00

SCHEDULE I - Annuities (If none, so state.) (IRA's, Keogh's, etc.)

Item No.	Description & Name of Beneficiary	Value
	Wachovia IRA Account # 12	17,133.24

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

\$ _____

(If more space is required, insert tax schedules or additional sheets of same size.)

ENCUMBRANCES - (e.g., mortgages, liens, judgments, etc., but not general debts of the estate) - List specific assets encumbered

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
	NONE	0.00

TOTAL ENCUMBRANCES

(also enter under recapitulation, page 1)

\$ 0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

ANNEX

2

2008 DEC 19 AM 10:31
FILED PROBATE CT CHASN CO

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PROBATE COURT

IN THE MATTER OF Alice Shaw-Baker

CASE NUMBER 2008-GC10-088

ACCOUNTING

~~FINAL~~
X
INTERIM

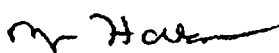
The undersigned Conservator submits this accounting, which covers the period from August 14, 2008 through December 18, 2008.

The documentation on the reverse side of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	\$	-
Plus: Receipts	\$	247,964.99
Subtotal	\$	247,964.99
Less: Disbursements	\$	(247,964.99)
Ending Balance:	\$	0.00

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 18th day of December 2008

SWORN to before me this 18 day of Dec. 2008  Notary Public for South Carolina My Commission Expires: 7-8-2007	Signature:  Name: Family Services, Inc. Address: 4925 Lacross Road, Suite 215 North Charleston, SC 29406 Telephone (O): (843) 744-1348 (H):

FORM #562PC (1/91)

Receipts (assets received into estate)		Disbursements (assets disbursed/paid out from estate)	
INITIAL DEPOSIT Bank Of America	37,000.00	ATTORNEY FEES	3,915.84
Close Account First Federal	151,049.49	AUTOMOBILE PURCHASE/EXPENSE	10.71
Close Account Bank Of America	41,512.82	CABLE	238.26
Other Deposit	555.77	CAREGIVER EXPENSE	31,284.49
REFUND - DEPOSIT	29.00	CLOTHING	196.57
RETIREMENT	7,530.67	COURT FEES	830.00
SOC SEC	1,056.90	CREDIT CARD PAYMENT	3,715.31
SOCIAL SECURITY	2,113.80	ELECTRIC/WATER/GAS	411.18
TAX REFUND	30.00	FMS CONSERVATOR FEE	1,903.94
Interest	304.16	FOOD	68.91
Edward Jones	6,782.38	GUARDIAN FEES	8,254.40
		HOUSEHOLD MAINTENANCE	2,512.35
		INSURANCE	1,688.87
		LAWN CARE	35.00
		LEGAL FEES	7,192.18
		MEDICAL	227.26
		PERSONAL	498.37
		PET CARE	1,136.00
		REAL ESTATE TAX	294.95
		TELEPHONE	619.09
		Net Change	3,308.17
		Edward Jones Transferred to Admin	6,782.38
		Close Account	52,025.77
		Smith Barney Transferred to Admin	120,814.99
TOTAL	247,964.99		247,964.99

Assets - Detail

Asset Type: All

Client Type: All

Thru Date: 12/18/2008

Client Type: Conservator

Name	Asset Type	Date	Amount	Description
Shaw-Baker, Alice	INVESTMENT	09/05/2008	\$35,000.00	SMITH BARNEY 65J-02140-16
		09/30/2008	(\$587.05)	DEPREC SEP08
		09/30/2008	\$60,000.00	TRANSFER FROM CHECKING
		09/30/2008	\$27.79	INT/DIV SEP08
		10/16/2008	\$40,000.00	TRANSFER FROM CHECKING
		10/31/2008	(\$1,345.85)	DEPREC OCT08
		10/31/2008	\$133.66	INT/DIV OCT08
		10/31/2008	(\$1,181.00)	FMS QUARTERLY FEE
		11/13/2008	(\$10,000.00)	TRANSFER TO CHECKING
		11/30/2008	(\$1,375.27)	DEPREC NOV08
		11/30/2008	\$142.71	INT/DIV NOV08
	INVESTMENT Total:		\$120,814.99	
	OUTSIDE INVESTMENTS	10/23/2008	\$6,782.38	EDWARD JONES #714-04013-1-1
	OUTSIDE INVESTMENTS Total:		\$6,782.38	
	SAFE DEPOSIT BOX	10/16/2008	\$0.00	#488469 - Box #187 - In - (5) pieces of jewelry
		10/16/2008	\$0.00	#488467 - Box #187 - In - (2) additional safety deposit box keys
		10/16/2008	\$0.00	#488466 - Box #187 - In - Bonds: (1)\$50, (1)\$100, (3)\$200, (2)\$500, (16)\$1,000
	SAFE DEPOSIT BOX Total:		\$0.00	
	Total Assets For Shaw-Baker, Alice		\$127,597.37	

Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SERVIC

Acct Mgr

Client Type: All

Date Range: 8/14/2008 thru 12/18

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: <-

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Bal
Totals:		\$250,878.45	\$250,878.45		Transactions for Period: 81			5
Payment		Total			Deposit	Total		
ATTORNEY FEES		\$3,915.84			CLOSE ACCOUNT - DEPOSIT	\$192,562.31		
AUTOMOBILE PURCHASE/E		\$10.71			INITIAL DEPOSIT	\$37,000.00		
CABLE		\$238.26			Other Deposit	\$555.77		
CAREGIVER EXPENSE		\$31,284.49			REFUND - DEPOSIT	\$29.00		
CLOSE ACCOUNT		\$52,025.77			RETIREMENT	\$7,530.67		
CLOTHING		\$196.57			SOC SEC	\$1,056.90		
COURT FEES		\$830.00			SOCIAL SECURITY	\$2,113.80		
CREDIT CARD PAYMENT		\$3,715.31			TAX REFUND	\$30.00		
ELECTRIC/WATER/GAS		\$411.18			TFR FROM INVESTMENT	\$10,000.00		
FMS CONSERVATOR FEE		\$722.94			Deposit Total	\$250,878.45		
FOOD		\$68.91						
GUARDIAN FEES		\$8,254.40						
HOUSEHOLD MAINTENANC		\$2,512.35						
INSURANCE		\$1,688.87						
LAWN CARE		\$35.00						
LEGAL FEES		\$7,192.18						
MEDICAL		\$227.26						
PERSONAL		\$498.37						
PET CARE		\$1,136.00						
REAL ESTATE TAX		\$294.95						
TELEPHONE		\$619.09						
TFR TO INVESTMENT		\$135,000.00						
Payment Total		\$250,878.45						

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Family Services, Inc

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Transactions By Client By Acct Mgr.

Account Checking-FINANCIAL MGMT SVC

Acct Mg

Client Type: All

Date Range 8/14/2008 thru 12/11

Client Name: Alice Shaw-Baker

Acct Mgr. Ed Jellison

SSN: *

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Bal
08/26/2008	Deposit		\$37,000.00	☐	INITIAL DEPOSIT			\$37.00
09/02/2008	177374	\$292.58		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$36.70
09/04/2008	Deposit		\$64,679.22	☐	CLOSE ACCOUNT -			\$101.38
09/04/2008	178196	\$35,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$66.38
09/04/2008	178361	\$10.00		☐	COURT FEES	Charleston County RMC	Shaw-Baker, Alice - COURT FEE	\$66.37
09/09/2008	178839	\$407.78		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # xxxx9	\$65.96
09/09/2008	178856	\$215.00		☐	MEDICAL	Roper Hospital	Shaw-Baker, Alice - 0034-5512	\$65.75
09/09/2008	178866	\$76.00		☐	CAREGIVER EXPEN	Walter Kaufmann	Shaw-Baker, Alice - CAREGIVE	\$65.67
09/10/2008	178996	\$187.50		☐	CAREGIVER EXPEN	Alfred Duchene	Shaw-Baker, Alice - CAREGIVE	\$65.49
09/11/2008	179015	\$30.15		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$65.46
09/11/2008	179050	\$412.03		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$65.04
09/15/2008	Deposit		\$555.77	☐	Other Deposit			\$65.60
09/15/2008	Deposit		\$900.00	☐	RETIREMENT			\$66.50
09/15/2008	Deposit		\$899.59	☐	RETIREMENT			\$67.40
09/15/2008	Deposit		\$29.00	☐	REFUND - DEPOSIT			\$67.43
09/15/2008	179335	\$60,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - transfer to in	\$7.43
09/16/2008	179623	\$505.04		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$6.92
09/16/2008	179643	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$6.82
09/22/2008	180119	\$230.87		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Policy # 366	\$6.58
09/23/2008	180365	\$111.90		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$6.47
09/23/2008	180379	\$2,832.90		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$3.64
09/23/2008	180488	\$125.00		☐	HOUSEHOLD MAIN	Titan Termite And Pest Con	Shaw-Baker, Alice - Invoice # 12	\$3.51
09/25/2008	180709	\$272.80		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$3.24
09/30/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$5.15
10/06/2008	182440	\$195.20		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$4.95
10/06/2008	182512	\$11.26		☐	MEDICAL	Cain Lackey & Maguire	Shaw-Baker, Alice - Acct # xxx22	\$4.94
10/08/2008	Deposit		\$41,512.82	☐	CLOSE ACCOUNT -			\$46.45
10/08/2008	182985	\$65.60		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - CK# 10617	\$46.39

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Family Services, Inc.

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Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SERVIC

Acct Mg

Client Type: All

Date Range: 8/14/2008 thru 12/11

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: : -

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Bal
10/08/2008	182986-001	\$525.31		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	ck#10574	\$45.86
10/08/2008	182986-002	\$735.50		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - ck#s 10587,	\$45.13
10/08/2008	182986-003	\$60.00		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - ck# 10625	\$45.07
10/09/2008	183231	\$32.04		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$45.04
10/10/2008	Deposit		\$1,056.90	☐	SOC SEC			\$46.09
10/14/2008	183588	\$306.91		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	ck#10598 and 10638	\$45.79
10/16/2008	183880-144	\$64.39		☐	FMS CONSERVATO	FAMILY SERVICES - CO	Shaw-Baker, Alice - FMS CONSE	\$45.72
10/16/2008	183916	\$40,000.00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$5.72
10/20/2008	184082	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$5.62
10/20/2008	184140	\$1,108.50		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$4.51
10/20/2008	184141	\$195.57		☐	CLOTHING	John Hughes Cooper Pc	Shaw-Baker, Alice - CLOTHING	\$4.32
10/20/2008	184355	\$127.87		☐	PERSONAL	Jane Orenstein	Shaw-Baker, Alice - PERSONAL	\$4.19
10/20/2008	184356	\$350.00		☐	PERSONAL	John Hughes Cooper Pc	Shaw-Baker, Alice - # 14	\$3.84
10/20/2008	184357	\$37.43		☐	FOOD	John Hughes Cooper Pc	Shaw-Baker, Alice - #10	\$3.81
10/20/2008	184358	\$20.50		☐	PERSONAL	John Hughes Cooper Pc	Shaw-Baker, Alice - #12	\$3.79
10/23/2008	186255	\$277.00		☐	PET CARE	Veterinary Medical Care, LI	Shaw-Baker, Alice - PET CARE	\$3.51
10/23/2008	186256	\$298.00		☐	PET CARE	Veterinary Medical Care, LI	Shaw-Baker, Alice - PET CARE	\$3.21
10/23/2008	186257	\$267.00		☐	PET CARE	Veterinary Medical Care, LI	Shaw-Baker, Alice - PET CARE	\$2.94
10/23/2008	186258	\$299.00		☐	PET CARE	Veterinary Medical Care, LI	pet	\$2.65
10/27/2008	186304	\$65.39		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$2.59
10/27/2008	186326	\$35.00		☐	LAWN CARE	John Hughes Cooper Pc	Shaw-Baker, Alice - LAWN CAR	\$2.55
10/27/2008	186531	\$127.87		☐	CLOTHING	Jane Orenstein	Shaw-Baker, Alice - clothing	\$2.42
10/28/2008	186626	\$299.95		☐	REAL ESTATE TAX	Charleston County Treasure	Shaw-Baker, Alice - PID# 349-07	\$2.13
10/28/2008	186698	\$38.48		☐	FOOD	John Hughes Cooper Pc	Shaw-Baker, Alice - Food	\$2.09
10/30/2008	186726	\$4.27		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$2.05
10/30/2008	186766	\$300.00		☐	COURT FEES	Rebecca S McCrudden	Shaw-Baker, Alice - COURT FEE	\$1.75
10/30/2008	186776	\$729.00		☐	INSURANCE	State Farm Insurance	Shaw-Baker, Alice - Acct # 27098	\$1.02
10/31/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$2.93

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Family Services, Inc.

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Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SVC

Acct Mgr

Client Type: All

Date Range: 8/14/2008 thru 12/18/2008

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN: -

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	Bal
11/03/2008	Deposit		\$1,056.90	☐	SOCIAL SECURITY			\$3.95
11/03/2008	187865	\$10.71		☐	AUTOMOBILE PUR	Charleston County Treasure	Shaw-Baker, Alice - Receipt# 200	\$3.98
11/03/2008	187890	\$729.00		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Acct #1119-2	\$3.25
11/04/2008	188240	\$200.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 5401	\$3.05
11/06/2008	186531V	(\$127.87)		☐	CLOTHING	Jane Orenstein	Void	\$3.17
11/06/2008	188538	\$350.00		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct# ***58	\$2.82
11/06/2008	188539	\$505.86		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # ***91	\$2.32
11/10/2008	188793	\$39.99		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$2.29
11/13/2008	Deposit		\$86,370.27	☐	CLOSE ACCOUNT -			\$88.66
11/13/2008	Deposit		\$10,000.00	☐	TFR FROM INVEST			\$98.66
11/14/2008	Deposit		\$30.00	☐	TAX REFUND			\$98.69
11/17/2008	189695	\$25.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$98.66
11/17/2008	189730	\$105.00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$98.56
11/17/2008	189752	\$7,192.18		☐	LEGAL FEES	C. Mac Gibson, Jr	Shaw-Baker, Alice - LEGAL FEE	\$91.36
11/17/2008	189788	\$4,318.00		☐	GUARDIAN FEES	Walter Kaufmann	Shaw-Baker, Alice - GUARDIAN	\$87,050
11/20/2008	190212	\$520.00		☐	COURT FEES	Clark And Associates Inc	Shaw-Baker, Alice - COURT FEE	\$86,530
11/20/2008	190258	\$1,708.63		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # ***58	\$84,820
11/24/2008	190544	\$69.97		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$84.76
11/24/2008	190625	\$31,021.99		☐	CAREGIVER EXPEN	John Hughes Cooper Pc	Shaw-Baker, Alice - Reimburse	\$53.74
12/01/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$55,650
12/03/2008	Deposit		\$1,056.90	☐	SOCIAL SECURITY			\$56,710
12/04/2008	192740	\$92.04		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$56,610
12/04/2008	192845	\$19.00		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$56,600
12/08/2008	193134	\$3,915.84		☐	ATTORNEY FEES	Peter A. Kouten, Esquire	Shaw-Baker, Alice - ATTORNEY	\$52,680
12/18/2008	194554-002	\$658.55		☐	FMS CONSERVATO	FAMILY SERVICES - CO	Shaw-Baker, Alice - FMS CONSE	\$52,020
12/18/2008	194565	\$52,025.77		☐	CLOSE ACCOUNT	Lisa Fisher	Shaw-Baker, Alice - CLOSE ACC	\$0

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Family Services, Inc.

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Alice Shaw-Baker
08/14/08-12/18/08
Client's Final Accounting

Beginning Balance 08/14/08		
Checking	-	
Investment	-	
INITIAL DEPOSIT Bank Of America	37,000.00	
Close Account First Federal	151,049.49	
Close Account Bank Of America	41,512.82	
Other Deposit	555.77	
REFUND - DEPOSIT	29.00	
RETIREMENT	7,530.67	
SOC SEC	1,056.90	
SOENED SECURITY	2,113.80	
TAX REFUND	30.00	
	<u>240,878.45</u>	
TFR FROM INVESTMENT	10,000.00	
Close Account	52,025.77	
ATTORNEY FEES	3,915.84	
AUTOMOBILE PURCHASE/EXPEN	10.71	
CABLE	238.26	
CAREGIVER EXPENSE	31,284.49	
CLOTHING	196.57	
COURT FEES	830.00	
CREDIT CARD PAYMENT	3,715.31	
ELECTRIC/WATER/GAS	411.18	
FMS CONSERVATOR FEE	722.94	
FOOD	68.91	
GUARDIAN FEES	8,254.40	
HOUSEHOLD MAINTENANCE	2,512.15	
INSURANCE	1,688.87	
LAWN CARE	35.00	
LEGAL FEES	7,192.18	
MEDICAL	227.26	
PERSONAL	498.37	
PET CARE	1,116.00	
REAL ESTATE TAX	294.95	
TELEPHONE	619.09	
	<u>(115,878.45)</u>	
TFR TO INVESTMENT	135,000.00	
Smith Barney		
09/05/2008	35,000.00	SMITH BARNEY 140-16
09/30/2008	27.79	INT/DIV SEP08
10/31/2008	133.66	INT/DIV OCT08
11/30/2008	<u>142.71</u>	INT/DIV NOV08
	304.16	
09/30/2008	(587.05)	DEPREC SEP08
10/31/2008	(1,345.85)	DEPREC OCT08
11/30/2008	<u>(1,372.27)</u>	DEPREC NOV08
	(3,308.17)	
09/30/2008	60,000.00	TRANSFER FROM CHECKING
10/16/2008	<u>40,000.00</u>	TRANSFER FROM CHECKING
	100,000.00	
11/13/2008	(10,000.00)	TRANSFER TO CHECKING
10/31/2008	<u>(1,181.00)</u>	FMS QUARTERLY FFE
	(1,181.00)	
10/23/2008	<u>6,782.38</u>	EDWARD JONES / 13-1-1
	6,782.38	

Alice Shaw-Baker
08/14/08-12/18/08
Client's Final Accounting

Investment Smith Barney	(120,814.99)	Investment Will Be Transferred to Special Administrator
Investment Edward Jones	(6,782.38)	Investment Will Be Transferred to Special Administrator
Ending Balance		
Checking	-	
Investment Smith Barney	-	
Investment Edward Jones	-	

Alice Shaw-Baker
08/14/08-12/09/08
Client's Final Accounting

Investment Smith Barney	(120,814.99)
Investment Edward Jones	(6,782.38)
Ending Balance	
Checking	52,684.32
Investment Smith Barney	-
Investment Edward Jones	-
	52,684.32 ✓

Investment Will Be Transferred to Special Administrator
Investment Will Be Transferred to Special Administrator

Alice Shaw-Baker
08/14/08-12/09/08
Client's Final Accounting

Beginning Balance 08/14/08
Checking
Investment

INITIAL DEPOSIT Bank Of America	37,000.00 ✓	
Close Account First Federal	151,049.49 ✓	
Close Account Bank Of America	41,512.82 ✓	
Other Deposit	555.77 ✓	
REFUND - DEPOSIT	29.00 ✓	
RETIREMENT	7,530.67 ✓	
SOC SEC	1,056.90 ✓	
SOCIAL SECURITY	2,119.80 ✓	
TAX REFUND	30.00 ✓	
	240,878.45	
TFR FROM INVESTMENT	10,000.00 ✓	
ATTORNEY FEES	3,915.84	
AUTOMOBILE PURCHASE/EXPEN	10.71	
CABLE	238.26	
CAREGIVER EXPENSE	31,784.49	
CLOTHING	196.57	
COURT FEES	830.00	
CREDIT CARD PAYMENT	1,715.31	
ELECTRIC/WATER/GAS	411.18	
FMS CONSERVATOR FEE	64.39	
FOOD	68.91	
GUARDIAN FEES	8,254.40	
HOUSEHOLD MAINTENANCE	2,512.35	
INSURANCE	1,688.87	
LAWN CARE	35.00	
LEGAL FEES	7,192.18	
MEDICAL	227.26	
PERSONAL	498.37	
PET CARE	1,136.00	
REAL ESTATE TAX	294.95	
TELEPHONE	619.09 ✓	
	(63,194.13)	
TR TO INVESTMENT	135,000.00 ✓	
Smith Barney		
09/05/2008	35,000.00 ✓	SMITH BARNEY 40-16
09/30/2008	27.79 ✓	INT/DIV SEP08
10/31/2008	133.66 ✓	INT/DIV OCT08
11/30/2008	142.71 ✓	INT/DIV NOV08
	304.16	
09/30/2008	(587.05) ✓	DEPREC SEP08
10/31/2008	(1,345.85) ✓	DEPREC OCT08
11/30/2008	(1,375.27) ✓	DEPREC NOV08
	(3,308.17)	
09/30/2008	60,000.00 ✓	TRANSFER FROM CHECKING
10/16/2008	40,000.00 ✓	TRANSFER FROM CHECKING
	100,000.00	
11/13/2008	(10,000.00) ✓	TRANSFER TO CHECKING
10/31/2008	(1,181.00) ✓	FMS QUARTERLY FEE
	(1,181.00)	
10/31/2008	6,782.38 ✓	EDWARD JONES 3-1-1
	6,782.38	

Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SERVIC

Client Type: All

Acct N

Date Range: 8/14/2008 thru 1:

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN:

Date	Check #	Withdraw	Deposit	Reconciled	Trans. Type	Pay To	Check Memo	B
Totals		\$198,194.13	\$250,878.45		Transactions for Period: 79			SS2,
Payment		Total			Deposit	Total		
ATTORNEY FEES		\$3,915.84			CLOSE ACCOUNT - DEPOSIT	\$192,562.31		
AUTOMOBILE PURCHASE/E		\$10.71			INITIAL DEPOSIT	\$37,000.00		
CABLE		\$238.26			Other Deposit	\$555.77		
CAREGIVER EXPENSE		\$31,284.49			REFUND - DEPOSIT	\$29.00		
CLOTHING		\$196.57			RETIREMENT	\$7,530.67		
COURT FEES		\$830.00			SOC SEC	\$1,056.90		
CREDIT CARD PAYMENT		\$3,715.31			SOCIAL SECURITY	\$2,113.80		
ELECTRIC/WATER/GAS		\$411.18			TAX REFUND	\$30.00		
FMS CONSERVATOR FEE		\$64.39			TFR FROM INVESTMENT	\$10,000.00		
FOOD		\$68.91			Deposit Total	\$250,878.45		
GUARDIAN FEES		\$8,254.40						
HOUSEHOLD MAINTENANC		\$2,512.35						
INSURANCE		\$1,688.87						
LAWN CARE		\$35.00						
LEGAL FEES		\$7,192.18						
MEDICAL		\$227.26						
PERSONAL		\$498.37						
PET CARE		\$1,136.00						
REAL ESTATE TAX		\$294.95						
TELEPHONE		\$619.09						
TFR TO INVESTMENT		\$135,000.00						
Payment Total		\$198,194.13						

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Family Services, Inc.

Page

Transactions By Client By Acct Mgr.

Account: Checking-FINANCIAL MGMT SERVIC

Acct #

Client Type: All

Date Range: 8/14/2008 thru 1

Client Name: Alice Shaw-Baker

Acct Mgr: Ed Jellison

SSN.

Date	Check #	Withdraw	Deposit	Reconciled	Trans Type	Pay To	Check Memo	B
08/26/2008	Deposit		\$37,000 00	☐	INITIAL DEPOSIT	Bank of America		\$37,
09/02/2008	177374	\$292 58		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$36,
09/04/2008	Deposit		\$64,679 22	☐	CLOSE ACCOUNT -	First Federal		\$101,
09/04/2008	178196	\$35,000 00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - TFR TO INV	\$66,
09/04/2008	178361	\$10 00		☐	COURT FEES	Charleston County RMC	Shaw-Baker, Alice - COURT FEE	\$66,
09/09/2008	178839	\$407 78		☐	CREDIT CARD PAY	Discover	Shaw-Baker, Alice - Acct # xxxx9	\$65,
09/09/2008	178856	\$216 00		☐	MEDICAL	Roper Hospital	Shaw-Baker, Alice - 0034-5512	\$65,
09/09/2008	178866	\$75 00		☐	CAREGIVER EXPEN	Walter Kaufmann	Shaw-Baker, Alice - CAREGIVE	\$65,
09/10/2008	178996	\$187 50		☐	CAREGIVER EXPEN	Alfred Duchene	Shaw-Baker, Alice - CAREGIVE	\$65,
09/11/2008	179015	\$39 55		☐	ELECTRIC/WATER/	Charleston Water System	Shaw-Baker, Alice - Acct # 02290	\$65,
09/11/2008	179050	\$414 03		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$65,
09/15/2008	Deposit		\$899 59	☐	RETIREMENT			\$65,
09/15/2008	Deposit		\$900 00	☐	RETIREMENT			\$66,
09/15/2008	Deposit		\$555 77	☐	Other Deposit	Wachovia		\$67,
09/15/2008	Deposit		\$29 00	☐	REFUND - DEPOSIT	State Farm		\$67,
09/15/2008	179335	\$60,000 00		☐	TFR TO INVESTME	Smith Barney	Shaw-Baker, Alice - transfer to in	\$7,
09/16/2008	179623	\$505 04		☐	CREDIT CARD PAY	Cardmember Service	Shaw-Baker, Alice - Acct # 4408	\$6,
09/16/2008	179643	\$103 00		☐	ELECTRIC/WATER/	SCE & G	Shaw-Baker, Alice - 7-1975-0210	\$6,
09/22/2008	180119	\$230 87		☐	INSURANCE	Insurance Support Center	Shaw-Baker, Alice - Policy # 366	\$6,
09/23/2008	180365	\$115 90		☐	CABLE	Comcast Cable	Shaw-Baker, Alice - acct # 15552	\$6,
09/23/2008	180379	\$2,832 90		☐	GUARDIAN FEES	Jane Orenstein	Shaw-Baker, Alice - GUARDIAN	\$3,
09/23/2008	180488	\$125 00		☐	HOUSEHOLD MAIN	Titan Termite And Pest Con	Shaw-Baker, Alice - Invoice # 12	\$3,
09/25/2008	180709	\$279 00		☐	HOUSEHOLD MAIN	Jane Orenstein	Shaw-Baker, Alice - HOUSEHOL	\$3,
09/30/2008	Deposit		\$1,910.36	☐	RETIREMENT			\$5,
10/06/2008	182440	\$193 20		☐	TELEPHONE	AT&T	Shaw-Baker, Alice - Acct # 843 5	\$4,
10/06/2008	182512	\$11 26		☐	MEDICAL	Cam Lackey & Maguire	Shaw-Baker, Alice - Acct # xxx22	\$4,
10/08/2008	Deposit		\$41,512 82	☐	CLOSE ACCOUNT -	Bank of America		\$46,
10/08/2008	182985	\$63 60		☐	HOUSEHOLD MAIN	John Hughes Cooper Pc	Shaw-Baker, Alice - CK# 10617	\$46,

Printed 12/8/2008 2 21 00 PM

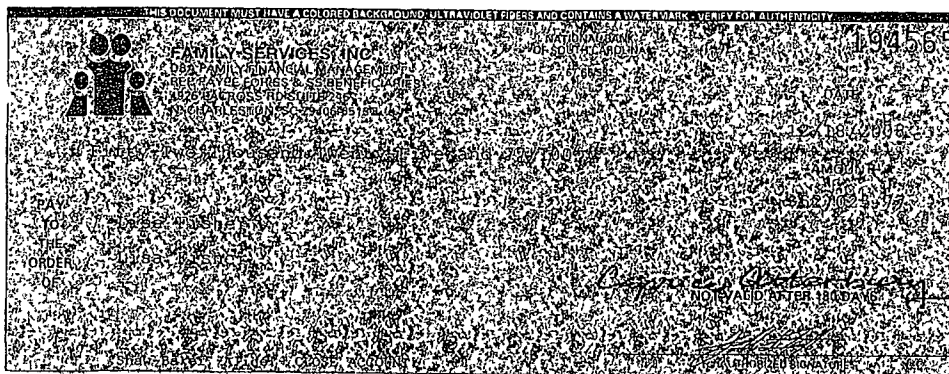
Family Services, Inc

Page

2008 DEC 18 #10131
FILED PROSECUTOR

Check # 194565
Date 12/18/2008
Amount \$52,025.77

Client Alice Shaw-Baker
Pay To Lisa Fisher
Category CLOSE ACCOUNT
Memo Shaw-Baker, Alice - CLOSE ACCOUNT



2008 DEC 19 PM 10:31
FILED PROBATE CT CHAS CO

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PROBATE COURT

IN THE MATTER OF Alice Shaw-Baker

CASE NUMBER 2008GC10-088

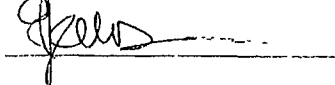
RECEIPT AND RELEASE

The undersigned hereby acknowledges receipt from the Conservator in this matter of the following property for Alice Shaw-Baker

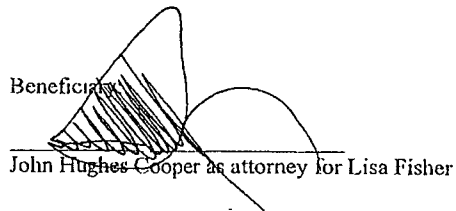
1. Check #194565 made out to Lisa Fisher in the amount of \$52,025.77.
2. 5 Pieces of Jewelry
3. 2 keys to Safe Deposit Box
4. \$17,800.00 in Savings Bonds
5. Statements from Edward Jones for Sept. 27-Nov 28, 2008

Executed this 18th day of December 2008.

Witness:



Beneficiary



John Hughes Cooper as attorney for Lisa Fisher

ANNEX

3

(2008)

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF CHARLESTON

CONSERVATOR ANNUAL ACCOUNTING

IN THE MATTER OF

Alice Shaw-Baker

CASE NUMBER 2008 - GC-10 - 88

Please provide Bank Statement with Accounting

The undersigned Conservator submits this accounting, which covers the period from ~~01/01/2008~~ ^{10/29/08} through ~~12/31/2008~~ ^{12/31/2008}.

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows

Beginning Balance

0

Plus Receipts

179,216.¹⁰

Subtotal

179,216.¹⁰

Less Disbursements

20,694.09

Ending Balance

158,522.⁰¹

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator

Executed this

day of 1-29th 20 09

SWORN to before me this

day of

20

Notary Public for South Carolina

My Commission Expires

SEE ATTACHED NOTARY CERTIFICATE

Signature

Name

Address

Telephone (O)

(H)

[Signature]
Lisa Fisher
P.O. Box 9112
Long Beach, CA 90809-1112

2-17-09
[Signature]

RECEIPTS (assets received into estate)	DISBURSEMENTS (assets disbursed/paid out from estate)
See Attached	See attached
TOTAL	

JURAT

STATE OF CALIFORNIA

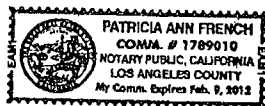
COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 29th day of January, 2009

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who
appeared before me



(seal)

Signature Patricia French

ALICE SHAW BAKER 12-23-08 to 12/31/08

ASSETS RECEIVED INTO ESTATE		DISBURSEMENTS	
INITIAL DEPOSIT 12/23/08 Transfer from Jellison	\$52,025.77	Caregiver expense (See attachment)	\$18,124.09
CONSERVATORSHIP ACCT -Edward Jones Valued as of November, 2008	\$5,381.61	Bond (See attachment)	\$1,465.00
CONSERVATORSHIP -Smith Barney Valued as of December 2008	\$121,739.57	Living Expenses (See attachment)	\$1,105.00
Cash	\$69.15	Note (Monies not received from Family Services until 12/23/08)	
TOTAL	179216.1		20694.09

ALICE Shaw BAKER

DISBURSEMENTS

CAREGIVER EXPENSE

10-2008 through 12/12/2009	Caregivers	\$12,941 59
12/13 to 12/27/08	Caregivers	\$5,182 50
		18124.09

BOND

12/25/08	Bond Services	\$1,465 00

LIVING EXPENSES

12/29/08	Deposit to Cover past due Blue Shield Payments	\$1,000 00
12/29/08	SCE & G	\$105 00
12/30/08	Chase Card Services	\$24 11
		1105

ASSETS-Detail

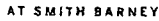
ALICE SHAW BAKER

RECEIPTS FROM FAMILY SERVICES

12/23/08	5 pieces of jewelry	\$0 00
	Safe Deposit Box Keys (?)	\$0 00
	Bonds (1) \$50 00, (1) \$100 00, (3) \$200 00, (2) \$500.00, (16) \$1,000 00 *** Items will be transferred to Estate Assets in January 2009	\$0 00

SAFE DEPOSIT BOX CONTENTS

	Bonds-HH (4) \$10,000 00, (6) \$5,000 00, (16) \$1000 00, (40) \$500 00 *** Items will be transferred to Estate Assets in January 2009	\$0 00
12/13 to 12/27/08	Caregivers	\$0 00
		0



Page 1 of 6

'87 00109701

Your Broker/Dealer is
CITIGROUP GLOBAL MKTS INC.

Account number ~~8872020217200~~

200 MEETING STREET
SUITE 402
CHARLESTON SC 29401
843-727-7700
www.smithbarney.com

[illegible]

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citi smith barney

2025 RELEASE UNDER E.O. 14176



00032347 01 AT 0 346 01 TR 00113 EJADD022 010000
 ALICE SHAW-BAKER
 306 CASSINA PARKWOOD ROAD
 CHARLESTON SC 29407-0000



Total Account Value	
\$5,381.61	
Value on Sep 27	\$6,782.38
Value One Year Ago	\$7,314.70

Account Number 01

Financial Advisor Louis C. Tick, 843.571.7007
 1124 Sam Rittenberg Boulevard, Charleston, SC 29407
 Statement Date Sep 27 - Nov 28, 2008



Page 1 of 2



Market Volatility: What Do You Want to Know?

Edward Jones clients just like you recently had the chance to bring their questions about investing in today's market to Alan Skrainka, our chief market strategist. View a video of the event at www.edwardjones.com/townhall to find out what's on their minds and hear what Alan has to say

Jerry L. Gal

Value Summary		
	This Period	This Year
Beginning value	\$6,782.38	\$7,301.15
Assets added to account	0.00	0.00
Income	125.00	283.05
Assets withdrawn from account	0.00	0.00
Change in value	-1,525.77	-2,202.59
Ending Value	\$5,381.61	

Summary of Assets (as of Nov. 28, 2008) additional details at www.edwardjones.com/accountlink

Cash & Money Market					Ending Balance
Cash					\$375.00
Municipal Bonds	Maturity Date	Maturity Value	Amount Invested	Amount Withdrawn	Value
SC Jobs Economic Dev Hosp Facs 5.00%	11/1/2026	5,000.00	4,981.00	—	3,647.55
Mutual Funds	Price	Quantity	Amount Invested	Amount Withdrawn	Value
Investment Co of America Fd A	20.73	65.56	1,626.87	—	1,359.06
Total Account Value					\$5,381.61

Investment and Other Activity

Date	Description	Quantity	Amount
11/03	Interest on SC Jobs Economic Dev Hosp Facs Due 11/01/2026 5.000% on 5,000 @ 0.025		\$125.00



Date 1/07/09
Account No
Enclosures

Page 1
11

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809-1112

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Interest On Checking		Number of Enclosures	11
Account Number	1846817	Statement Dates	12/23/08 thru 1/07/09
Beginning Balance	.00	Days in the statement period	16
2 Deposits/Credits	52,125.77	Average Ledger	42,565.78
12 Checks/Debits	20,553.20	Interest Earned	.93
Service Charge	.00	Annual Percentage Yield Earned	0.05%
Interest Paid	93	2009 Interest Paid	93
Ending Balance	31,573.50		

Deposits and Other Credits

Date	Description	Amount
12/23	Deposit	100.00
12/23	Deposit	52,025.77
1/07	Interest Deposit	93

Checks and Other Debits

Date	Description	Amount
12/31	CHASE EPAY 021000023461637 5760039224TEL	24.11-

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount	Date	Check No	Amount
12/30	1,000.00	1/05	510.00	1/06	105.00
12/30	1,465.00	1/05	667.50	1/06	472.50
12/30	12,941.59	1/05	862.50	1/06	682.50
1/05	660.00	1/05	1,162.50		

* Denotes missing check numbers

CHARLESTON COUNTY PROBATE COURT

RECEIVED 15/10/11

14 PRAD STARD

CHARLESTON, SOUTH CAROLINA 29401

PHONE (843) 551-5000

1. THE COURT OF PROBATE AND VICES OF THE COUNTY OF CHARLESTON, SOUTH CAROLINA, DO hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Court of Probate and Vices of the County of Charleston, South Carolina, to wit:

NAME	DECEASED	REPORT	DATE OF
JOHN, JR.	1911-1912		1912

2. The Court of Probate and Vices of the County of Charleston, South Carolina, DO hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Court of Probate and Vices of the County of Charleston, South Carolina, to wit:

NAME	DECEASED	REPORT	DATE OF
JOHN, JR.	1911-1912		1912

3. The Court of Probate and Vices of the County of Charleston, South Carolina, DO hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Court of Probate and Vices of the County of Charleston, South Carolina, to wit:

NAME	DECEASED	REPORT	DATE OF
JOHN, JR.	1911-1912		1912

4. The Court of Probate and Vices of the County of Charleston, South Carolina, DO hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Court of Probate and Vices of the County of Charleston, South Carolina, to wit:

NAME	DECEASED	REPORT	DATE OF
JOHN, JR.	1911-1912		1912

5. The Court of Probate and Vices of the County of Charleston, South Carolina, DO hereby certify that the following is a true and correct copy of the original as the same appears in the records of the Court of Probate and Vices of the County of Charleston, South Carolina, to wit:

NAME	DECEASED	REPORT	DATE OF
JOHN, JR.	1911-1912		1912

JOHN, JR. DECEASED 1911-1912

8/12

Dep. of Prob. and Vices, Charleston, S.C.

ANNEX

4

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE MATTER OF *Alice Shaw-Baker*

FINAL

IN THE PROBATE COURT

CONSERVATOR ANNUAL ACCOUNTING

CASE NUMBER 2008-*C.C. 10* - 88

Please provide Bank Statement with Accounting

The undersigned Conservator submits this accounting, which covers the period from *1/1/09* through *5/26/09*

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows

Beginning Balance

158,522.01

Plus Receipts

111,100.77

Subtotal

269,622.78

Less Disbursements

123,405.45

Ending Balance

\$146,217.33

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator

Executed this *26* day of *May*, 20*09*

SWORN to before me this *20* day of *May*, 20*09*

Notary Public for South Carolina

My Commission Expires *SEE ATTACHED NOTARY CERTIFICATE*

Signature

Name

Address

Telephone (O)

(H)

Lisa Fisher

P.O. Box 91112

Long Beach, CA 90809

(562) 965-3267

(366) 206-9066 x 9861

RECEIPTS (assets received into estate)	DISBURSEMENTS (assets disbursed/paid out from estate)

See Attached

See attached

TOTAL	111,100.77	123,405.45

JURAT

STATE OF CALIFORNIA

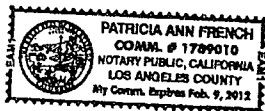
COUNTY OF Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 26th day of May, 2009.

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature Patricia French

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

RECEIPTS

Deposit-Account not marshaled by Family Services	BofA	\$67,438.88
Deposit-Account not marshaled by Family Services	First Federal	\$34,367.85
Social Security Deposits (1,168.00 and 1,168.00)		\$2,336.00
State Retirement		\$1,910.36
Wachovia Disbursement		\$834.16
Tax Refund-Federal		\$3,444.00
Discover Refund		\$375.03
Tax Refund-South Carolina		\$384.00
Interest (Jan. thru May, 2009)		\$10.49
		111100.77

DISBURSEMENTS

Caregivers	28813.50
Household Expense	11731.26
Administrative Costs	53906.00
Bills	2131.08
Donations	2855.00
Medical Expenses	17473.05
Final Expenses	1113.95
Edward Jones Acct. (Refuse to Release funds -due to death of conservatee. Please see attached for monies not marshaled)	\$5,381.61
	123405.45

Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88

ADDITIONAL ASSETS PROTECTED UNDER THE CONSERVATORSHIP

Monies outside estate/Bank notified of conservatorship:

Edward Jones-Will not release funds (originally in assets account)	\$6,186.00
Bank America -small checking account not closed due to automatic deposit for insurance	\$67.20
Wachovia IRA-Will not release funds pending appointment of special /successor administrator	\$16,431.38
Check from Jellison, Family Services (Would not release monies while Alice was alive) Fam. Services 3/2/09 no 202989	\$3,012.46
Refund from Blue Shield no 9923860	\$246.21
T-mobile refund due (PR must request in writing)	\$24.81
	25968.06

Bonds-HH Treasury dept. given notice of conservatorship, however not marshaled due to high rate of interest	1-\$50.00 1-\$100.00 3-\$200.00 2-\$500.00 16-\$1,000.00 4-\$10,000.00 6-\$5,000.00 16-\$1,000.00 40-\$500.00
Personal Property in the home	not appraised
Jewelry-8 pieces of jewelry	not appraised

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

NOTICE TO THE COURT:

Conservator Lisa Fisher has learned that Bessie Huckabee had an additional set of keys which she never disclosed. Bessie Huckabee, through her attorney Peter Kouten, represented that ~~she entered the home whenever she wanted. Conservator does not know, if during her tenure as~~ conservator, Bessie Huckabee entered the premises and removed assets without notice to this conservator. Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the only other keys from the caretaker without conservator's knowledge or consent, and through deception. The Conservator was forced to change all locks on the property. Conservator believes that the property is now secure.

Additionally, the bank receipts attached do not reflect the most current deposits, nor the outstanding checks. However, the representations in said ending balance reflect the accurate known ending balance.

Snapshot History for Interest On Checking #1846817 as of 05/26/09 10:35 AM

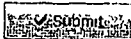
Account Details

Current Balance	\$83,042.61	Collected Balance	\$83,042.61
Interest Rate	050%	Overdraft Limit	\$ 00
Last Interest Paid	\$3.27	Current Overdraft Balance	\$ 00
This Year's Interest	\$10.49	Available Overdraft Protection	\$518.00
Last Year's Interest	\$ 00	Total Holds	\$ 00
Available Balance	\$82,787.61		

Date ↓	Description	Withdrawals	Deposits	Balance
	Balance After Memo Postings			\$82,787.61
****	VTXTLR /Teller Cash Transaction	255.00		82,787.61
	Balance Before Memo Postings			\$83,042.61
05/21/09	Check Inclearing #590 View Image	36.30		83,042.61
05/19/09	Check Inclearing #611 View Image	895.00		83,078.91
05/19/09	Check Inclearing #585 View Image	235.21		83,973.91
05/19/09	Check Inclearing #573 View Image	215.88		84,209.12
05/19/09	Check Inclearing #581 View Image	204.40		84,425.00
05/19/09	Check Inclearing #557 View Image	165.00		84,629.40
05/19/09	Check Inclearing #610 View Image	75.00		84,794.40
05/19/09	Check Inclearing #548 View Image	82.32		84,869.40

* Note: Entries noted with a * are "memo" entries which have not yet been officially posted to your account.
This is a snapshot view of this account's history since 5/19/09; for a more complete view, enter a starting date and press the submit button.

View History Since 04/11/2009



Snapshot History for Market Rate Savings #1588336
as of 05/26/09 10:36 AM

Account Details

Current Balance	\$20,497.20	Overdraft Limit	\$ 00
Interest Rate	100%	Current Overdraft Balance	\$ 00
Last Interest Paid Date	03/31/2009	Available Overdraft Protection	\$ 00
Last Interest Paid	\$3.36	One Day Float	\$ 00
This Year's Interest	\$3.36	Two Day Float	\$ 00
Last Year's Interest	\$ 00	Three Day Float	\$ 00
Available Balance	\$20,497.20	Total Holds	\$ 00

This is a snapshot view of this account's history since 5/19/09, for a more complete view, enter a starting date and press the submit button

View History Since 04/11/2009

Member FDIC

STATE OF SOUTH CAROLINA
COUNTY OF: CHARLESTON
IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

FILED
PROOF OF DELIVERY
CASE NUMBER: 2008-GC-10-0088
09 MAY 27 2009

On the 26 day of May, 2009, I mailed or delivered the following document, Conservator Final Accounting filed May 26, 2009 and Petition for Discharge of Guardianship and Conservatorship filed May 26, 2009

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

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

☐ personal delivery ☒ ordinary first class mail
☐ certified mail ☐ registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
Peter A. Kouten, Esq., attorney for Bessie Huckabee	7013 Dorchester Rd., Suite E, North Charleston, SC 29418
Hon. David K. Avant, counsel for State Budget and Control Board and South Carolina Retirement Systems	P.O. Box 11960, Columbia, SC 29211-1960
Sandra Byrd	254 Jean Wells Drive, Goose Creek, SC 29445
Kay Passailaigue Slade	4446 Paramount Dr., North Charleston, SC 29405
B. Allen Bullard, Esq., attorney for ING and South Carolina Deferred Compensation Program	P.O. Box 11886, Columbia, SC 29211
National Life Insurance Company	One National Life Drive, Montpelier, VT 05604
Hon. Henry McMaster, Attorney General of SC	P.O. Box 11549, Columbia, SC 29211

SWORN to before me this 26 day of
May, 2009

Notary Public for South Carolina
My Commission Expires: 5-11-2014

Signature: Cain Denny
Name: Cain Denny
Address: P.O. Box 1205

Telephone (O): (843) 965-5400
(H): (843) 478-0692
E-mail: cain@intercoastproperties.com

Signature: _____
Name: _____
Address: _____

Telephone (O): _____
(H): _____
E-mail: _____

ANNEX

5

COUNTY OF CHARLESTON

THE MATTER OF ALICE SHAW-BAKERCASE NUMBER 2008-GC-1D-088

MOTION FOR EXTENSION

- INVENTORY AND APPRAISEMENT
 — ACCOUNTING/PROPOSAL FOR DISTRIBUTION
 — PERIOD FOR ACTION ON CLAIMS
 ✓ OTHER: DELIVERY OF ASSETS

Applicant: LISA FISHER, ESQUIRE

1. Nature of interest of undersigned:

LISA FISHER, ESQUIRE WAS THE CONSERVATOR.

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 FORMER CONSERVATOR days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s): DELIVERY OF THE ESTATE ASSETS, FOR THE FOLLOWING REASONS

ON MAY 22, 2009, THE HONORABLE THOMAS L. HOUGHSTON, JR. IN CASE NO. 2009-CP-10-3010, ISSUED AN ORDER PROVIDING, "TEMPORARY ORDER RESTRAINING P.R. FROM DOING ANYTHING REGARDING THE ESTATE GRANTED." THIS EXTENSION IS TO SEEK APPOINTMENT OF A SPECIAL ADMINISTRATOR OR SUCCESSOR P. TO WHOM TO DELIVER THE ESTATE ASSETS.

Execute this 26th Day of MAY, 2009.Signature: Cain DennyName: CAIN DENNY, ESQUIREAddress: PO BOX 1205
CHARLESTON, SC 29402Telephone (O): (843) 965-5400

(H): _____

ATTORNEY FOR LISA FISHER

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

LISA FISHER, ESQ.IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be GRANTED DENIED a 90 day extension in this matter. The filing is now due on the _____ day of _____, 20____.Executed this 26th day of May, 2009.

IRVIN G. CONDON, PROBATE COURT JUDGE
TAMARA C. CURRY, ASSOCIATE PROBATE JUDGE

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

09 AUG 14 PM 2:48 CASE NUMBER: 2008-GC-10-088

FILED
CLERK OF COURT
CHARLESTON

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: DELIVERY OF ASSETS

Applicant: LISA FISHER, ESQUIRE

1. Nature of interest of undersigned:

LISA FISHER, ESQUIRE WAS THE CONSERVATOR.

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

ON MAY 26, 2009 THIS COURT GRANTED AN EXTENSION OF UP TO 90 DAYS TO ALLOW APPOINTMENT OF A SPECIAL ADMINISTRATOR OR PERSONAL REPRESENTATIVE IN THE ESTATE OF ALICE SHAW-BAKER 2009-CP-10-3010, PROVIDING THAT THE ASSETS HELD BY LISA FISHER, ESQUIRE BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT. TO DATE NO HEARING HAS BEEN HELD IN THE CIRCUIT COURT AND NO APPOINTMENT HAS BEEN MADE. VIRGINIA DRUCE HAS INDICATED THAT A HEARING MAY BE SCHEDULED IN SEPTEMBER OR OCTOBER. THE CURRENT EXTENSION WILL EXPIRE ON OR ABOUT AUGUST 24, 2009. WE REQUEST AN EXTENSION OF UP TO AN ADDITIONAL 90 DAYS, PROVIDING THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 13TH day of AUGUST, 2009.

Signature: _____
Name: JOHN HUGHES COOPER, ESQUIRE
Address: 1808 MIDDLE STREET
SULLIVAN'S ISLAND, SC 29482
Telephone (O): 883-9099
(H): _____

Signature: _____
Name: _____
Address: _____
Telephone (O): _____
(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22ND day of NOVEMBER, 2009 within 12 days of the appointment of a Special Administrator or Personal Representative.

Executed this 14th day of August 2009

Assoc Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

FILED
09 NOV 12 AM 10:41

CASE NUMBER: ~~2009-SC-10-088~~

2009-ES-10-378

PROBATE COURT INVENTORY AND APPRAISEMENT
CHARLESTON COUNTY ACCOUNTING/PROPOSAL FOR DISTRIBUTION

☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

ON MAY 26, 2009 THIS COURT GRANTED A 90 DAY EXTENSION. THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON NOVEMBER 22. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 9th day of November, 2009.

Signature: _____

Name: John Hughes Cooper, Esquire

Address: 1808 Middle Street

Sullivan's Island, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED up to a 90 day extension in this matter. The filing is now due ~~on the~~ within 10 days of appointment or at latest the 22nd day of February, 2010.

Executed this 20th day of November, 2009.

Assoli
Probate Court Judge

STATE OF SOUTH CAROLINA
COUNTY OF: CHARLESTON
IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT
FILED MOTION FOR EXTENSION
CASE NUMBER: 2008 GC-10-088
10 FEB 16 PM 12:09

- ☐ PROBATE COURT
- ☐ INVENTORY AND APPRAISEMENT
- ☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
- ☐ PERIOD FOR ACTION ON CLAIMS
- ☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR
2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.
3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
ON MAY 26, 2009 THIS COURT GRANTED A 90 DAY EXTENSION. THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON FEBRUARY 22, 2010. BRIEFING IS COMPLETE IN THE COURT OF APPEALS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

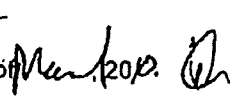
Executed this 11TH day of FEBRUARY, 2010.

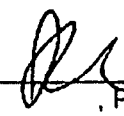
Signature: _____
Name: JOHN HUGHES COOPER, ESQUIRE
Address: 1808 MIDDLE STREET
SULLIVAN'S ISLAND, SC 29482
Telephone (O): 883-9099
(H): _____

Signature: _____
Name: _____
Address: _____
Telephone (O): _____
(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due ~~on the~~ WITHIN 10 DAYS OF APPOINTMENT OR AT THE LATEST THE 22ND day of MAY, 2010.

Executed this 1st day of March 2010. 



Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ Is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT GRANTED A SERIES OF EXTENSIONS, THE ORDER MODIFYING POWERS OF THE INFORMALLY APPOINTED PR IS ON APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. THE CURRENT EXTENSION WILL EXPIRE ON MAY 22, 2010. BRIEFING IS COMPLETE IN THE COURT OF APPEALS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 10 day of MAY, 2010.

Signature: _____

Name: JOHN HUGHES COOPER, ESQUIRE

Address: 1808 MIDDLE STREET

SULLIVAN'S ISLAND, SC 29482

Telephone (O): 843.883.9089

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22 day of AUGUST, 2010.

Executed this

day of

2010

Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW-BAKER

PROBATE COURT

10 AUG 11 AM 8:15

IN THE PROBATE COURT

MOTION FOR EXTENSION

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of Interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
SINCE MAY 26, 2009 THIS COURT GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 9TH day of AUGUST, 2010.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET
SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22ND day of NOVEMBER, 2010 AND WITHIN 10 DAYS OF APPOINTMENT.

Executed this

10 day of August, 2010

[Signature]
GSSOL Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

2010 NOV 10 PM 02:42

FILED PROBATE CT CHASN CO

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

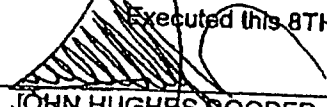
1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. is/are the duly qualified and acting Personal Representative(s) of the above estate:

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 8TH day of NOVEMBER, 2010.

Signature: 

Name: JOHN HUGHES SCOOPER

Address: 1808 MIDDLE STREET
SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H):

Signature:

Name:

Address:

Telephone (O):

(H):

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 22nd day of FEBRUARY, 2011.

Executed this 10 day of NOV 20 10



, Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ Is/are the duly qualified and acting Personal Representative(s) of the above estate.

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):

SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 7TH day of FEBRUARY, 2011.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET

SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the 27 day of MAY, 2011.

Executed this

27 day of May, 2011.

[Signature]
Probate Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

THE MATTER OF: ALICE SHAW-BAKER

IN THE PROBATE COURT

MOTION FOR EXTENSION

CASE NUMBER: 2008-GC-10-088

- ☐ INVENTORY AND APPRAISEMENT
☐ ACCOUNTING/PROPOSAL FOR DISTRIBUTION
☐ PERIOD FOR ACTION ON CLAIMS
☒ OTHER: TO TURN OVER ASSETS

Applicant: LISA FISHER

1. Nature of interest of undersigned:

LISA FISHER WAS THE CONSERVATOR

2. _____ is/are the duly qualified and acting Personal Representative(s) of the above estate

3. I request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
SINCE MAY 26, 2009 THIS COURT HAS GRANTED A SERIES OF EXTENSIONS, BASED UPON THE PENDING APPEAL. LISA FISHER NEEDS RESOLUTION OF THE ISSUE OF WHO CAN ACCEPT THE ASSETS OF THE ESTATE BEFORE SHE CAN TURN OVER THE ASSETS. WE REQUEST AN EXTENSION OF UP TO 90 DAYS, PROVIDED THAT THE ASSETS BE TURNED OVER WITHIN 10 DAYS OF APPOINTMENT.

Executed this 13TH day of MAY, 2011.

Signature: _____

Name: JOHN HUGHES COOPER

Address: 1808 MIDDLE STREET

SULLIVANS ISLAND, SC 29482

Telephone (O): 883-9099

(H): _____

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

ORDER FOR EXTENSION

IT IS HEREBY ORDERED that the Personal Representative(s) in the above estate be ☒ GRANTED ☐ DENIED a 90 day extension in this matter. The filing is now due on the _____ day of AUGUST, 2011.

Executed this _____ day of MAY, 2011.

_____, Probate Court Judge

ANNEX

6

KOUTEN LAW FIRM, LLC

PO Box 340
JOHNS ISLAND, SC 29457
TEL: (843) 670-3919
FAX: (843) 559-4102

October 12, 2010

John Hughes Cooper
PO Box 395
Sullivan's Island, SC 29482

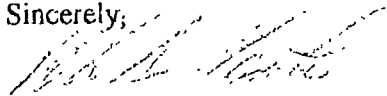
**Re: Estate of Alice Shaw-Baker
Fisher v. Huckabee
2009-CP-10-3010**

FILE COPY

Dear Mr. Cooper,

Please find enclosed Subpeona in the above matter directed to your client. Please contact me with your available dates for production and inspection of said documents. You may, in the alternative, provide subject matter documents in lieu of appearance prior to November 30, 2010.

Sincerely,



Peter A. Kouten

CC w/ Enclosures:

Attorney General McMaster
c/o Mary Frances Jowers, Esq.

STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT COURT

IN THE COUNTY OF CHARLESTON
NINTH JUDICIAL CIRCUIT

In the Matter of
Alice Shaw-Baker

Betty Fischer and Lisa Fischer,
Plaintiffs

v.

Bessie Huckabee, et al.,
Defendants.

FILE COPY

SUBPOENA IN A CIVIL CASE

To: Lisa Fischer
PO Box 91112, Long Beach, CA 90809

Case No.: 2009-CP-10-3010
Pending in Charleston County

() YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY:	DATE AND TIME:

() YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:	DATE AND TIME:

(X) YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects).

Please provide the following account information for Alice Shaw-Baker:

1. Monthly statement of account for savings and account number from inception of conservatorship (10/29/08) to the present.
2. Monthly statement of account for checking and account number from inception of Conservatorship (10/29/08) to the present including copies of all checks drawn on each account.
3. Monthly statements of CD activity include redemption, purchase and maturity dates from inception of Conservatorship (10/29/08) to the present.
4. Any other bank account numbers in addition to the above saving, checking, investment and CD accounts whether held solely in the name of Alice Shaw-Baker or with Alice Shaw-Baker as a joint account holder. Please include name and address of joint account holder if applicable.

PLACE: KOUTEN LAW FIRM, LLC PO BOX 340, JOHNS ISLAND, SC 29457	DATE AND TIME: NOVEMBER

() YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:	DATE AND TIME:

ANY SUBPOENA ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30(B)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER:

PETER A. KOUTEN, ESQ
KOUTEN LAW FIRM, LLC
P.O. BOX 340
JOHNS ISLAND, SC 29457

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT NOTICE AS REQUIRED BY 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

ISSUING OFFICER'S SIGNATURE AND TITLE
ATTORNEY FOR DEFENDANT BESSIE HUCKABEE

DATE

10/22/2010

PROOF OF SERVICE

SERVED: DATE: _____

FEES AND MILEAGE TENDERED TO WITNESS

() YES () NO AMOUNT \$ _____

PLACE: _____

SERVED ON (Print Name): _____

MANNER OF SERVICE: _____

SERVED BY (Print Name): _____

TITLE: _____

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on: _____

Signature of Server _____

Address of Server _____

RULE 45, SOUTH CAROLINA RULES OF CIVIL PROCEDURE, PARTS (C) AND (D):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow a reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 60 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of paragraphs (c), (d)(2)(ii) of this rule, such a person may in order to attend not be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unclaimed expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person who is or is affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the category or categories demanded.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ANNEX

7

DATE: MARCH 31, 2011

TO: LISA FISHER

FROM: SUSAN CURRAN
CHARLESTON COUNTY PROBATE COURT
PHONE: 843-958-5184
FAX: 843-958-5191

RE: ALICE SHAW-BAKER

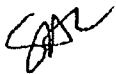
CASE #: 2008-GC-10-088

MESSAGE:

MS. FISHER,

JUDGE CURRY IS REQUESTING THAT YOU FURNISH THE COURT WITH A 2009 AND 2010 ANNUAL ACCOUNTING FOR MS. SHAW-BAKER'S ACCOUNTS. PLEASE INCLUDE THE DECEMBER 2009 AND 2010 BANK STATEMENTS WITH THE ACCOUNTINGS.

THANK YOU,



SUSAN CURRAN

ANNEX

8

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW BAKER

IN THE PROBATE COURT

CONSERVATOR ANNUAL ACCOUNTING

FILED
1-11-2011 - 11:00 AM
CASE NUMBER 2008-GC-10-0088

PROBATE COURT
CHARLESTON COUNTY

AMENDED

The undersigned Conservator submits this accounting, which covers the period from 12/23/08 through 12/31/09.

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	0
Plus: Receipts	381394.30
Subtotal	381394.30
Less: Disbursements	233378.99
Ending Balance	148015.31

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 31ST day of MAY, 2011.

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina

My Commission Expires: _____

Signature: 

Name: LISA FISHER

Address: PO BOX 91112

LONG BEACH, CA 90809-1112

Telephone (O): 562-965-3267

(H): 562-965-3267

See Attached

RECEIPTS (assets received into estate)	DISBURSEMENTS (assets disbursed/paid out from estate)

see attached

I
see attached

0

TOTAL	381394.30	\$233378.99

JURAT

State of California

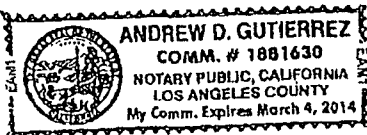
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 31st day of May, 2011,

by LISA Fisher

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature

A large, stylized handwritten signature in black ink, which appears to be 'AGutierrez', written over a horizontal line.

Re. Computer Annual Account

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

Monies outside the Estate/Notification of Hold due to Pending Litigation:

Edward Jones Investments	\$ 6,819.69
Wachovia --IRA	\$16,431.38
Bank of America --small account not closed due to insurance payments	\$ 247.85
	23498.92

Other Property:

<i>BONDS-HH</i>	1- \$ 50.00
Treasure dept. given notice of	1- \$ 100.00
conservatorship/not marshalled due to high	3- \$ 200.00
rate of interest	2- \$ 500.00
	16- \$ 1,000.00
	4- \$10,000.00
	6- \$ 5,000.00
	16- \$ 1,000.00
	40- \$ 500.00
Personal Property in house	not appraised
Jewelry-8 pieces of jewelry	not appraised

ALL FEDERAL AND STATE INCOME TAXES HAVE BEEN PAID,
AND CURRENT FIDUCIARY TAX RETURNS HAVE BEEN FILED.

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

NOTICE TO COURT:

Bessie Huckabee has admitted that she had an Additional set of keys which she never disclosed.

She represented that she entered my great-aunt's house whenever she wanted.

~~Conservator does not know, if during her tenure as conservator, Bessie Huckabee entered the~~
premises and removed assets without notice to this conservator.

Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the only other keys from the caretaker without conservator's knowledge or consent within minutes of Alice Shaw Baker's death through deception. Conservator was forced to obtain a locksmith's assistance to gain access to the property which had already been entered by Bessie Huckabee.



Date 1/11/10
Account No.
Enclosures

Page 1
2

checking

Alice Shaw-Baker Conservatorship
~~Lisa Fisher Conservator~~
PO Box 91112
Long Beach CA 90809-1112

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Interest On Checking		Number of Enclosures	2
Account Number	~~123456789~~	Statement Dates	12/10/09 thru 1/11/10
Beginning Balance	128,282.25	Days in the statement period	33
Deposits/Credits	.00	Average Ledger	127,814.49
7 Checks/Debits	779.58		
Service Charge	.00	Interest Earned	5.77
Interest Paid	5.77	Annual Percentage Yield Earned	0.05%
Ending Balance	127,508.44	2010 Interest Paid	5.77

Deposits and Other Credits

Date	Description	Amount
1/11	Interest Deposit	5.77

Checks and Other Debits

Date	Description	Amount
12/14	ATT Payment 021000028545144 9864031005WEB	88.46-✓
12/15	CHARLESTON CPW CPW DRAFT 053904481822797 1576000227 P	32.95-✓
12/15	AT&T SERVICES CHECKPAYMT CHECK # 0677 ARC 021200021586476 1742782655	88.46-✓
12/16	SCE&G/PSNC DRAFT 111000020528116 9570248695WEB	115.00-✓
12/29	THE POST AND COU ACH DIRECT 111000752476562 1000106682	14.25-

--- CHECKS IN NUMBER ORDER ---

Date	Check No	Amount	Date	Check No	Amount	Date	Check No	Amount
12/15	677	-See above-	12/29	678	64.71	12/29	679	375.75

* Denotes missing check numbers

Date 1/11/10
Account No.
Enclosures

Page 2
2

Interest On Checking

(Continued)

Checking Account Daily Balances					
Date	Balance	Date	Balance	Date	Balance
12/10	128,282.25	12/15	128,072.38	12/29	127,502.67
~~12/14~~	~~128,193.79~~	~~12/16~~	~~127,957.38~~	~~1/11~~	~~127,508.44~~

Interest Rate Summary
Date Rate
12/09 0.050000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.



Date 12/31/09
Account No.
Enclosures

Page 1

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Market Rate Savings		Number of Enclosures	0
Account Number		Statement Dates	10/01/09 thru 12/31/09
Beginning Balance	20,507.47	Days in the statement period	92
Deposits/Credits	.00	Average Ledger	20,507.47
Checks/Debits	.00		
Service Charge	.00	Interest Earned	5.17
Interest Paid	5.17	Annual Percentage Yield Earned	0.10%
Ending Balance	20,512.64	2009 Interest Paid	18.80

Savings Account Activity		
Date	Transaction Description	Amount
12/31	Interest Deposit	5.17
		20,512.64

Interest Rate Information

Date	Rate
9/30	0.100000%

* * * * End of Statement * * * *

Thank you for banking with Farmers and Merchants Bank.



ANNEX

9

STATE OF SOUTH CAROLINA

COUNTY OF: CHARLESTON

IN THE MATTER OF: ALICE SHAW BAKER

IN THE PROBATE COURT

FILED

CONSERVATOR ANNUAL ACCOUNTING

11 JUN 21 CASE NUMBER 2008-GC-10-0088

PROBATE COURT
CH-LESTON COUNTY

The undersigned Conservator submits this accounting, which covers the period from 01/01/10 through 12/31/10

The documentation on page 2 of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance	148,015.31
Plus: Receipts	454.15
Subtotal	148,469.46
Less: Disbursements	12669.85
Ending Balance	135,799.61

The Conservator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and is true to the best knowledge and belief of the Conservator.

Executed this 31ST day of MAY, 2011.

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina
My Commission Expires. _____

Signature: _____

Name: LISA FISHER

Address: PO BOX 91112

LONG BEACH, CA 90809-1112

Telephone (O): 562-965-3267

(H): 562-965-3267

See Attached

RECEIPTS (assets received into estate)		DISBURSEMENTS (assets disbursed/paid out from estate)	
INTEREST ON CHECKING	\$61.63	INSURANCE	\$2,470.61
INTEREST ON SAVINGS	\$20.52	ADMINISTRATION/BOND	\$2,405.00
SOUTH CAROLINA TAX REFUND	\$32.00	HOME MAINTENANCE	\$2,092.50
~~FEDERAL TAX REFUND~~	~~\$340.00~~	~~TAXES~~	~~\$1,770.06~~
RECEIPTS TOTAL	\$454.15	REPAIRS	\$661.00
		HOUSEHOLD EXPENSE	3270.68
		DISBURSEMENT TOTAL	\$12,669.85
TOTAL	\$454.15		\$12,669.85

JURAT

State of California

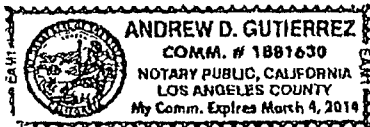
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 31st day of May, 2011,

by Lisa Fisher

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(seal)

Signature

Per Conservator Annual Account

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

Monies outside the Estate/Notification of Hold due to Pending Litigation:

Edward Jones Investments	\$ 6,819.69
Wachovia --IRA	\$16,431.38
Bank of America --small account not closed due to insurance payments	\$ 247.85
	23498.92

Other Property:

BONDS-HH	1- \$ 50.00
Treasure dept. given notice of conservatorship/not marshalled due to high rate of interest	1- \$ 100.00
	3- \$ 200.00
	2- \$ 500.00
	16- \$ 1,000.00
	4- \$10,000.00
	6- \$ 5,000.00
	16- \$ 1,000.00
	40- \$ 500.00
Personal Property in house	not appraised
Jewelry-8 pieces of jewelry	not appraised

ALL FEDERAL AND STATE INCOME TAXES HAVE BEEN PAID, AND CURRENT FIDUCIARY TAX RETURNS HAVE BEEN FILED.

*Conservatorship of Alice Shaw Baker
Final Account 2008-GC-10-88*

NOTICE TO COURT:

Bessie Huckabee has admitted that she had an Additional set of keys which she never
disclosed.

She represented that she entered my great-aunt's house whenever she wanted.
Conservator does not know, if during her tenure as conservator, Bessie Huckabee entered the
premises and removed assets without notice to this conservator.

Conservator knows that at the death of Alice Shaw Baker, Bessie Huckabee obtained the
only other keys from the caretaker without conservator's knowledge or consent within minutes of
Alice Shaw Baker's death through deception. Conservator was forced to obtain a locksmith's
assistance to gain access to the property which had already been entered by Bessie Huckabee.



Date 12/31/10
Account No.
Enclosures

Page 1

Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator
PO Box 91112
Long Beach CA 90809

Please visit our website for online banking at www.fmb.com.
"California's Strongest Bank"

Account Title: Alice Shaw-Baker Conservatorship
Lisa Fisher Conservator

Market Rate Savings		Number of Enclosures	0
Account Number		Statement Dates	10/01/10 thru 12/31/10
Beginning Balance	20,527.99	Days in the statement period	92
Deposits/Credits	.00	Average Ledger	20,527.99
Checks/Debits	.00		
Service Charge	.00	Interest Earned	5.17
Interest Paid	5.17	Annual Percentage Yield Earned	0.10%
Ending Balance	20,533.16	2010 Interest Paid	20.52

Savings Account Activity		
Date	Transaction Description	Amount
12/31	Interest Deposit	5.17
		20,533.16

Interest Rate Information	
Date	Rate
9/30	0.100000%

* * * * * End of Statement * * * * *

Thank you for banking with Farmers and Merchants Bank.



ANNEX

10

KOUTEN LAW FIRM, LLC

8 Gillon Street
Charleston, South Carolina 29401
TEL: (843) 789-9614
FAX: (843) 559-3162

Mailing address:
PO Box 340
JOHNS ISLAND, SC 29457

EMAIL: pkouten@gmail.com
www.koutenlaw.com

February 16, 2017

John Hughes Cooper, Esquire
1476 Ben Sawyer Blvd., Ste 11
Mt. Pleasant, SC 29464

Re: Matter of Alice Shaw-Baker
2008-GC-10-088

Estate of Alice Shaw-Baker
2009-ES-10-0378

Dear Attorney Cooper,

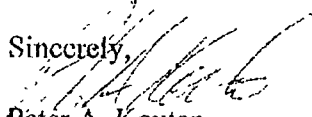
In furtherance of satisfying the requests of Judge Jefferson, I attempted to review the Conservatorship file at the Charleston County Probate Court. The file has been sent to records and has been ordered returned to the Court, however, the Clerk of Court has established through the database that the last accounting was filed in 2010.

As Lisa Fisher is in possession of all Conservatorship/ Estate assets she has a continued duty to account for these assets. I am formally requesting that Ms. Fisher provide annual accountings of the assets of the Estate of Alice Shaw-Baker for the years 2011, 2012, 2013, 2014, 2015, and 2016. I ask that these accountings be filed in the Conservatorship Division of the Charleston County Probate Court and that I be copied on these filings. It would seem that thirty (30) days is sufficient time to provide these delinquent accountings.

Please contact me if you have any questions regarding this request. In the event I do not hear from you or receive any response in the way of filed accountings, I will seek the delinquent accountings by way of motion.

I look forward to your prompt reply.

Sincerely,


Peter A. Kouten

CC: Charleston County Probate Court Conservatorship and Estate Divisions
Attorney Wills

ANNEX
11

CROWLEY LAW FIRM, LLC

8 Gillon Street, Ste. B
Charleston, South Carolina 29401
TEL (843) 789-9614
FAX (843) 559-3162

Mailing address
PO Box 30189
Charleston, South Carolina 29417

EMAIL: jcrowleylawfirm@gmail.com

May 10, 2017

John Hughes Cooper
1476 Ben Sawyer Blvd, Suite 11
Mount Pleasant, SC 29464

**Re: Matter of Alice Shaw-Baker
2008-GC- 10-088**

Dear Attorney Cooper,

It is my understanding that Attorney Kouten has informed you that he has been relieved as counsel for Bessie Huckabee, Personal Representative for the Estate of Alice Shaw-Baker. Prior to my substitution as counsel, Attorney Kouten filed a Motion for Accounting for funds held by your client. After review of the file, I will be seeking hearing on this motion.

Please find enclosed Order Substituting Counsel for your records. I look forward to working with you on these estate matters. Please contact me if there is a way to have the delinquent accountings filed without hearing.

In further review of the file, I note that there are two current appeals in progress. One is a Writ of Certiorari accepted by the Supreme Court; one is a Petition for Writ of Certiorari. I will be informing the Supreme Court of my substitution as counsel when necessary.

Sincerely,



Jessica L. Crowley

w/ enclosure

CC: Westbrook Wills, Esquire

ANNEX

12

JOHN HUGHES COOPER PC

ADMIRALTY & MARITIME LAW & CIVIL LITIGATION



John Hughes Cooper
shiplaw@jhcooper.com

www.JHCOOPER.com

John Townsend Cooper
jtc@jhcooper.com

May 18, 2017

Jessica L. Crowley, Esquire
P.O. Box 30189
Charleston, SC 29417

Re: Alice Shaw-Baker
2008-GC-10-088
2009-ES-10-0378

Dear Ms. Crowley:

Your correspondence of May 10, 2017 requesting that the Court set the matter for an accounting is premature. This matter is not final, it is still on appeal and, as such, the Probate Court does not have jurisdiction.

Further, you should be aware that the monies are in a blocked account. Any continued request for an accounting could be considered harassment. I am requesting that you withdraw your request, and wait for the appellate process to be completed. Thank you.

Very truly yours,

John Hughes Cooper

Cc: Charleston County Probate Court
W. Westbrook Wills, III, Esquire ✓

ANNEX

13

CROWLEY LAW FIRM, LLC

8 Gillon Street, Ste. B
Charleston, South Carolina 29401
TEL: (843) 789-9614
FAX: (843) 559-3162

Mailing address:
PO Box 30189
Charleston, South Carolina 29417

EMAIL: jcrowleylawfirm@gmail.com

May 24, 2017

John Hughes Cooper, Esq.
1476 Ben Sawyer Blvd, Suite 11
Mount Pleasant, SC 29464

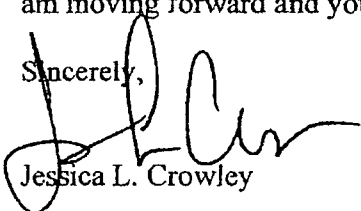
**Re: Matter of Alice Shaw-Baker
2008-GC- 10-088**

Dear Attorney Cooper,

Attorney Kouten sought accounting previously and you disregarded his requests. You provided the accountings subject to the prior motions. Your appeal is not related to the submission of accountings.

I will withdraw the Motion if you agree to file the delinquent accountings, otherwise, I am moving forward and you can address your objections to the Court.

Sincerely,



Jessica L. Crowley

CC: - ~~Charleston County Probate Court~~ JLC
W. Westbrook Wills, III

ANNEX

14

From: **Jessica Crowley** jcrowleylawfirm@gmail.com
Subject: **Matter of Alice Shaw Baker**
Date: **October 31, 2017 at 2:28 PM**
To: **John Hughes Cooper** shiplaw@jhc.cooper.com
Cc: **W Westbrook Wills III** wwwss@wwwills.com, **lisa fisher** lfisher6736@yahoo.com



Dear Attorney Cooper

Now that the jury verdict has been made an order of the Court, please arrange for a transfer of all estate assets, real and personal, within 48 hours. If you are personally in possession of any assets, I am happy to come by your office to collect them. It is also my understanding that you or your client are in possession of savings bonds, jewelry, and other items belonging to the estate of Alice Shaw-Baker which need to be turned over to the Personal Representative.

Furthermore, I am seeking access to the property at 306 Cassina Road in order to begin inventorying assets held there. Please inform Ms Rickborne that I will be there Friday, November 3 at 9:30am.

I will be seeking transfer of all liquid assets by Order of the court.

Sincerely,

Jaci

Jessica Crowley
Attorney at Law
8 Gillon Street
Charleston, SC 29401
Mail: PO Box 30189
Charleston, SC 29417
Telephone (843) 789-9614
Facsimile (843) 559-3162
Email: jcrowleylawfirm@gmail.com

PROBATE ADMINISTRATION, WILL DRAFTING, ESTATE PLANNING AND ADULT CARE GUARDIANSHIPS.

CONFIDENTIALITY NOTICE

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, or if you received this email in error, then you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please then notify the sender immediately either by phone (843-789-0498) or reply to this e-mail and delete all copies of this message. You will notice that any federal tax advice that may be contained in this email (or attachments) would require further analysis to ensure compliance with IRS requirements.

ANNEX

15

JOHN HUGHES COOPER PC

ADMIRALTY & MARITIME LAW & CIVIL LITIGATION



John Hughes Cooper
shiplaw@jhcooper.com

www.JHCOOPER.com

John Townsend Cooper
jtc@jhcooper.com

October 31, 2017

Via mail and email

Jessica Crowley, Esquire
P.O. Box 30189
Charleston, SC 29417

Re: Estate of Alice Shaw-Baker

Ms. Crowley,

Thank you for your email dated October 31, 2017. Your requests are premature. The time for post-trial motions has not passed. You are aware of the time limits, and your request is contrary to the law.

Further, you are also aware that there is a Petition for Certiorari regarding the appropriateness of the Motion for Special Fiduciary. Despite your presumption about the jury trial, the automatic stay is still in place.

Do not contact Ms. Rickborn nor trespass on the property pending final determination of this case.

Until the matter is fully resolved, all efforts for transfer of any assets will be opposed. As you know, no distributions may occur until the matter is finally resolved. Even if the stay were not in place, your client can not take possession of the property, she doesn't even have the Court Ordered bond.

Very truly yours,

John Hughes Cooper

Cc: Lisa Fisher, Esquire
W. Westbrook Wills III, Esquire

ANNEX

16

JOHN HUGHES COOPER PC

ADMIRALTY & MARITIME LAW & CIVIL LITIGATION



John Hughes Cooper
shiplaw@jhcooper.com

www.JHCOOPER.com

John Townsend Cooper
jtc@jhcooper.com

December 13, 2017

Hon. Kenneth E. Fulp, Jr., Judge
Beaufort County Probate Court
P.O. Box 1083
Beaufort, SC 29901-1083

RE: Estate of Alice Shaw Baker
2017-ES-07-949 (Charleston Case No.: 2009-ES-10-378)
Matter of Alice Shaw Baker
2017-GC-07-37 (Charleston Case No.: 2008-GC-10-088)

Dear Judge Fulp,

This letter responds to the letter to you from Jessica L. Crowley, Esquire, dated December 7, 2017 and received December 11, 2017.

Ms. Crowley's correspondence does not accurately state the status of the hearings or the role of Bessie Huckabee in these proceedings. It has been represented that Ms. Huckabee has not been "removed" as Personal Representative; however, she has never complied with the Circuit Court Order requiring her to obtain a bond to serve as Personal Representative in this case. At the recent trial, she admitted under oath that she could not be bonded. Therefore, she should not be permitted to act as Personal Representative.

Several post-trial motions are pending in the Circuit Court, including a motion for new trial. We are waiting for a trial on the bifurcated claims for Constructive Trust, for the benefit of animal charities. It is important to note that Kay Passailague-Slade, one of the alleged beneficiaries, testified under oath that Ms. Shaw Baker expected the monies would be used by Ms. Passailague-Slade to purchase property for the benefit of animals or animal charities. Although initial briefs have been filed, responsive briefs on the motion for new trial have not been filed. The matter has not been set for hearing. The judgment is not final. The issues raised by Ms. Crowley are premature.

Ms. Crowley is attempting to use self-help methods to access the real property by threatening the care taker of the property and by

Hon. Kenneth E. Fulp, Jr., Judge
December 13, 2017
Page Two

filing an Application for Ejectment, when her client has no standing, because she has no bond. The evidence is that Ms. Fisher never used any monies improperly. Moreover, the statement that Ms. Fisher has provided no accounting since 2010 is not reasonable, because there is nothing to account for, in light of the Order freezing the assets (now before the South Carolina Supreme Court on Petition for Certiorari). Due process mandates that Ms. Crowley follow proper procedure, and despite efforts to expedite the process, Lisa Fisher and Betty Fisher have rights under their cause of action for Constructive Trust, and they are entitled to a trial.

The property of Alice Shaw Baker is being protected by Lisa Fisher, with her mandatory duties to protect the property until the property can be transferred to the proper person. This is well settled law. (See S.C. Code Ann. § 62-5-425(D).) Moreover, Ms. Fisher has paid all taxes, insurance, and maintenance expenses of the property pending the final outcome of this case. There is no urgency, as Ms. Fisher is bonded, and the matters are certainly not moot. Moreover, there is no authority to seek any orders without following due process and procedural mandates.

Finally, issues concerning the appointment of a Special Fiduciary, the continuing duty of the Conservator to hold Estate property, the Accounting filed by the Conservator, the Order freezing assets and accounts, the Conservator's compensation, and related issues are still before the South Carolina Supreme Court, Appellate Case No. 2017-000743, on Petition for Certiorari.

This Court lacks jurisdiction to make any orders concerning issues removed to the Circuit Court or concerning the issues before the Supreme Court. We respectfully request that the court decline to issue any new orders pending final resolution of the matters before the South Carolina Supreme Court and a final judgment in the Circuit Court.

Hon. Kenneth E. Fulp, Jr., Judge
December 13, 2017
Page Three

Thank you for your consideration of this matter.

Best regards.

Very truly yours,

John Hughes Cooper

. Cc: Jessica L. Crowley, Esquire ✓
W. Westbrook Wills III, Esquire

ANNEX

17

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

FORM 4

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. Hightower, Jr.
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

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

2017 OCT 26 PM 3:34
JULIE J. ARISTIDE
CLERK OF COURT

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

 10/26/2017
FORELADY

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

ANNEX

18

Estate of Alice Shaw-Baker, 2009-CP-10-3010
Accounting

Estate of Alice Shaw Baker, Bessie Huckabee. Pers Rep				
Wachovia Account 1245				
Date	Deposit	Debit	Balance	Description
6/18/2009	\$100.00	0	\$100.00	Loan from Bessie Huckabee
7/17/2009	\$16,657.73	0	\$16,557.73	Retirement Services Dep't Money Market Account End 9529 check
12/31/2010	0	0	\$16,657.73	
12/31/2010	0	0	\$16,657.73	
12/31/2011	0	0	\$16,657.73	
Estate of Alice Shaw Baker, Bessie Huckabee. Pers Rep				
Wells Fargo Account 2000039601245 (Bank name changed)				
12/31/2012	0	0	\$16,657.73	
12/31/2013	0	0	\$16,657.73	
12/31/2014	0	0	\$16,657.73	
12/31/2015	0	0	\$16,657.73	
12/31/2016	0	0	\$16,657.73	
12/31/2017	0	0	\$16,657.73	



WACHOVIA

RETIREMENT SERVICES DEPARTMENT



000049 RZWDW194

ESTATE OF ALICE SHAW-BAKER
C/O BESSIE HUCKABEE EXEC
5319 MCROY STREET
N CHARLESTON, SC 29418

07/13/09

Check Number: 5300060424

Check Amount \$16,557.73
Gross Disbursed \$16,557.73
Net Disbursed \$16,557.73

Fed Tax Withheld \$0.00
State Tax Withheld \$0.00

ACCT/CUSIP	DESCRIPTION	DATE	AMOUNT
'9529	MONEY MARKET	07/13/09	16,557.73

PLEASE DETACH BEFORE DEPOSITING

RZWDW194 000049 1941506212 1

WACHOVIA

Custom Business Checking

01

- 11245 008 130

0 66

12,562

00004638 01 AV 0.335 01 5DG 20



|||||

ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE, PERS REP.
5319 MCROY ST
NORTH CHARLESTON SC 29418-5856

CB

Custom Business Checking

6/18/2009 thru 6/30/2009

Account number: 1245
Account owner(s): ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE, PERS REP.

Account Summary

Opening balance 6/18	\$0.00
Deposits and other credits	100.00 +
Closing balance 6/30	\$100.00

Deposits and Other Credits

Date	Amount	Description
6/18	100.00	DEPOSIT
Total	\$100.00	

Daily Balance Summary

<u>Dates</u>	<u>Amount</u>	<u>Dates</u>	<u>Amount</u>	<u>Dates</u>	<u>Amount</u>
6/18	100.00				



ISSN 0046-38 18 2040925043 NNNNNN NNNNNN NNNNNN :NNNNUUU



Custom Business Checking

01 : 1245 008 130 0 66 12,381

VACHOVIA



00004506 01 AV 0 335 01 5DG 20



ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE, PERS REP.
5319 MCROY ST
NORTH CHARLESTON SC 29418-5856

CB

Custom Business Checking

7/01/2009 thru 7/31/2009

Account number: 15
Account owner(s): ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE, PERS REP.

Account Summary

Opening balance 7/01	\$100.00
Deposits and other credits	16,557.73 +
Closing balance 7/31	\$16,657.73

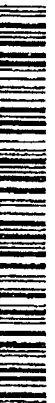
Deposits and Other Credits

Date	Amount	Description
7/17	16,557.73	DEPOSIT
Total	\$16,557.73	

Daily Balance Summary

Dates	Amount	Dates	Amount	Dates	Amount
7/17	16,657.73				

AS A REMINDER, TO AVOID A MONTHLY MAINTENANCE FEE OF \$12 YOU NEED TO MAINTAIN A QUALIFYING BALANCE OF \$5,000 IN YOUR CUSTOM BUSINESS BANKING CHECKING ACCOUNT AND OTHER LINKED BUSINESS DEPOSIT ACCOUNTS OR MAINTAIN A QUALIFYING DEPOSIT BALANCE AND A BUSINESS LOAN OUTSTANDING BALANCE WHICH TOTAL \$50,000.



ISSCZ2*3 004506 213043 30043 NNNNN NNNNN NNNNN NNNNN NNNNNNNNNNN

Wells Fargo Business Choice Checking

Account number: 1245 ■ December 1, 2017 - December 31, 2017 ■ Page 1 of 3



019406 1 AV 0.373 1194640



ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE PERS REP
5319 MCROY ST
NORTH CHARLESTON SC 29418-5856

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Activity summary

Beginning balance on 12/1	\$16,657.73
Deposits/Credits	0.00
Withdrawals/Debits	- 0.00
Ending balance on 12/31	\$16,657.73
 Average ledger balance this period	 \$16,657.73

Account number: 1245

ESTATE OF ALICE SHAW BAKER
BESSIE HUCKABEE PERS REP

South Carolina account terms and conditions apply

For Direct Deposit use
Routing Number (RTN):

For Wire Transfers use
Routing Number (RTN):

Overdraft Protection

This account is not currently covered by Overdraft Protection. If you would like more information regarding Overdraft Protection and eligibility requirements please call the number listed on your statement or visit your Wells Fargo store.

Monthly service fee summary

For a complete list of fees and detailed account information, see the Wells Fargo Account Fee and Information Schedule and Account Agreement applicable to your account (EasyPay Card Terms and Conditions for prepaid cards) or talk to a banker. Go to wellsfargo.com/feefaq for a link to these documents, and answers to common monthly service fee questions.

DDCM21UTE 019406 NNNNNNNNN NNN NNN C01 002 367 096895 20543052.2



General statement policies for Wells Fargo Bank

Notice: Wells Fargo Bank, N.A. may furnish information about accounts belonging to individuals, including sole proprietorships, to consumer reporting agencies. If this applies to you, you have the right to dispute the accuracy of information that we have reported by writing to us at: Overdraft Collections and Recovery, P.O. Box 5058, Portland, OR 97208-5058.

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Account Balance Calculation Worksheet

1. Use the following worksheet to calculate your overall account balance.
2. Go through your register and mark each check, withdrawal, ATM transaction, payment, deposit or other credit listed on your statement. Be sure that your register shows any interest paid into your account and any service charges, automatic payments or ATM transactions withdrawn from your account during this statement period
3. Use the chart to the right to list any deposits, transfers to your account, outstanding checks, ATM withdrawals, ATM payments or any other withdrawals (including any from previous months) which are listed in your register but not shown on your statement

ENTER

A. The ending balance
shown on your statement \$

ADD

B. Any deposits listed in your register or transfers into your account which are not shown on your statement	\$ _____
	\$ _____
	\$ _____
	+ \$ _____
..... TOTAL	\$ _____

CALCULATE THE SUBTOTAL

(Add Parts A and B)

..... TOTAL \$

SUBTRACT

C. The total outstanding checks and withdrawals from the chart above - \$

CALCULATE THE ENDING BALANCE

(Part A + Part B - Part C)

This amount should be the same as the current balance shown in your check register

[illegible]**Total amount \$**

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 et al.,)
Plaintiffs,)
vs.)
Bessie Huckabee et al.,)
Defendants,)
In the Matter of)
Alice Shaw-Baker.)
_____)

**RETURN BY PLAINTIFFS TO DEFENDANTS'
RENEWED MOTION N AND RENEWED
MOTION FOR SUMMARY JUDGMENT**

FILED
FEB 26 PM 3:55
CLERK OF COURT

COMES NOW Plaintiffs Betty Fisher and Lisa Fisher ("Plaintiffs") do hereby respectfully oppose Defendants' Renewed Motion for Summary Judgment as follows:

**I.
OPPOSITION TO
DEFENDANTS' RENEWED MOTION FOR SUMMARY JUDGMENT**

Defendants Bessie Huckabee, Sandra Byrd, and Kay Passailague's renewed motion for summary judgment on the bifurcated issues¹ is without merit and should be denied in its entirety.

First, said motion is fatally defective, in light of the fact that evidence used in motions for summary judgment are governed by §§ 56(f) and (g) SCRCP . Any affidavits used must be based on personal knowledge.

Here, counsel makes factual assertions without any evidence. For that reason, the motion must be denied. As the court in *Trivelas v. S.C. Dept. Of Transportation*, 348 S.C. 125, 141, 558 S.E 2d 271, 279 (2001) explained, arguments of counsel are not evidence, and absent stipulation, they do not

¹ It is well settled that if a court orders bifurcation, it must ensure 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).

provide a factual basis for summary judgment. Moreover, “factual statements of the attorneys, whether made during argument or in written briefs or memoranda, ordinarily may not be considered by the court in determining whether a genuine issue of material fact exists.” (See *Gilmore v. Ivey*, 290 S.C. 53, 348 S.E. 2d 180 (Ct. App. 1986).)

Summary Judgment is inappropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. (See *Smith v. S.C. Dept. Highways*, 296 S.C. 11, 13, 370 S.E.2d 101, 102 (1998).)

The renewed motion is fraught with speculation and conclusions. Plaintiffs object to these statements as arguments. Due to their lack of foundation and misrepresentation, they should not be given any credence, and should be stricken. (Rule 602, SCRE requires that a witness must have personal knowledge of a matter in order to testify about that matter. “Verdicts may not be permitted to rest upon surmise, conjecture, or speculation.” (*Hanahan v. Simpson*, 326 S.C. 140, 149, 485 S.E. 2d 903, 908 (1997)

For instance, Defendants claim that “At the commencement of trial, Defendants moved for a bifurcated trial to first determine the validity of the Will at issue in the matter, as that determination would be dispositive with regard to the totality of Plaintiff’s several other claims.” (Moving papers, p. 1, fn. 1) As this opposition explains, the bifurcated trial is not dispositive of the issues in this portion of the trial.

Moreover, the assertion on p. 2 of their moving papers, prg. 1, that “By implication, the jury, therefore, found Alice Shaw-Baker died testate, Bessie Huckabee is properly named as Personal Representative of the Estate and Defendants are the sole heirs under the Will” is not decided. Further, ; they asked for no such findings, and the issue of Alice Shaw Baker’s intentions have not yet been stated or decided.

Plaintiffs' object to paragraph nos. 2 through 8 as lacking in foundation, argumentative, speculative, conclusionary and violative of *Gilmore*. Plaintiffs respectfully request that the motion be denied in its entirety.

**II.
ALTERNATIVELY, THE COURT MUST DENY THIS MOTION, BECAUSE AS A MATTER
OF LAW, TRIABLE ISSUES OF FACT EXIST AS TO WHETHER PLAINTIFFS HAVE
STANDING TO PURSUE THIS LITIGATION**

It appears that the grounds for the renewed motion are essentially that:

- 1) Since the jury upheld the Will,² Plaintiffs do not have standing to maintain a cause of action for constructive trust on behalf of and in the name of an unidentified third party or parties citing to *Joseph v. S.C. Dept. Of Labor, Licensing & Regulation*, 417 S.C.08 436, 449, 790 S.E. 2d 763, 769 (2016)
- 2) Defendants further assert that plaintiffs abandoned their claim of fraud, thus they abandoned their ability to establish the claims for constructive trust. This is not supported by any evidence, and is contrary to the facts of this case.

However, as set forth in this opposition, the law provides plaintiffs with the ability to seek redress on behalf of their own rights and those of Alice Shaw Baker. Further, the legal authority cited under *Joseph, supra*, does not stand for the proposition that plaintiffs do not have standing. The complexities of this case require a more subtle, nuanced, and equitable review of the law regarding standing to ensure justice in this case.

² There is a pending Motion for New Trial by plaintiffs which has yet to be heard. Plaintiffs request a hearing and ruling on that matter.

South Carolina not only permits this type of litigation, but as a public policy mandates an appropriate consideration of the facts to ensure that the intention of the decedent, here Alice Shaw Baker, is met.

A. Standard on Summary Judgment Motion

The party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. The Court is responsible for giving every benefit of the doubt to the non-moving party in summary judgment motions. (See *Watters v. Terminix Service*, 376 S.C. 632, 635; 658 S.E. 2d 110, 111 (2008).)

The court in *Montgomery v. CSX Transportation, Inc.*, 376 S.C. 37, 53, 656 S.E. 2d 20, 29 (2008) explained that “even where there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.”

In ruling on a motion for summary judgment the evidence and inferences can be drawn and viewed in the light most favorable to the nonmoving party. (See *Johnson v. Paraplane Corp.*, 319 S.C. 247, 251, 460 S.E. 2d 398, 400 (1995).)

B. Defendant’s Legal Authority on Standing is not Persuasive nor on Point.

Interestingly, Defendants cite to *Joseph, supra*, for the proposition that plaintiffs do not have standing, however in *Joseph* the court found the litigants had standing because the court opined that “The only viable avenue to seek redress and access to our courts cannot be solely through disregarding our laws.” The court went on to say that “The ability to challenge precedent is a paramount principle of our judicial system. (*Sloan v. Sanford*, 357 S.C. 431, 434, 593 S.E. 2d 470, 472 (2004) (“Citizens must be afforded access to the judicial process to address alleged injustices.”))

Then the *Joseph, supra*, court made a most sensible argument concerning precedent. “While adherence to precedent under the rubric of *stare decisis* is commendable and provides certainty and consistency within our judicial system, adherence to precedent that is wrong serves no such laudable purpose. (*McLeod v. Starnes*, 396 S.C. 647, 654, 723 S.E. 2d 198, 202 (2012).)

Here, the surface reading of cases involving standing is not on point, because the law governing constructive trusts has a more expansive view of standing—that where a wrong has been committed which deprives that decedent of her intent, the law provides that a family member may stand up for her on several basis. To fully understand standing, legal authority regarding intent and constructive trusts must be examined.

C. Law Governing Disposition of Alice Shaw Baker’s assets.

1. A Decedent’s Intent: the Court’s Paramount Consideration

It is well settled in South Carolina that “the paramount consideration in constructing terms used in a will is to ascertain and effectuate the intention of the testator, unless that intention contravenes some well settled rule of law or public policy.” (See *McGirt v. Nelson*, 599 S.E.2d 620 (S.C. Ct. App. 2004); *Bob Jones University v. Strandell*, 344 S.C. 224, 543 S.E. 2d 251 (Ct. App. 2001); see also *Matter of Clark*, 308 S.C. 328, 417 S.E.2d 856 (1992).)

In construing the language of a will, the reviewing tribunal must give the words contained in the document their ordinary and plain meaning unless it is clear the testator intended a different sense or such meaning would lead to an inconsistency with the testator’s declared intention. (See *In re Estate of Fabian*, 326 S.C. 349, 483 S.E.2d 474 (Ct.App.1997).) The same procedure for determining intent in wills is used in trusts and non-probate assets.

Here, there are triable issues of fact as to whether Alice Shaw Baker intended her estate and non-probate assets to be distributed for any purpose other than charitable purposes. At trial, plaintiffs intend to demonstrate Alice Shaw Baker's intent for these purposes; however, for purpose of this motion, the language of Kay Passailague Slade's testimony at the earlier portion of the trial presents a triable issue of fact as follows:

"Q. Question is: Okay. Did she ever talk

-- to you and we're talking about Alice Shaw Baker. Did she ever talk to you about any of her charitable intent or wishes that she had for after -- when she died?

THE COURT: He wants you to read your answer.

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.”

(Trial Testimony, marked as Exhibit A.)

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....”

(Attached hereto is a true and correct copy of records from ING, pp. 16-17 marked as Exhibit B)

“...Current bene works on A dog rescue and \$ to go to the dog rescue....”

(Attached hereto is a true and correct copy of said document from South Carolina Retirement System p. 18 dated September 14, 2004 marked as Exhibit C)

As plaintiffs have asserted in their complaint, their motions, their appeals, in all actions involved in this litigation, Alice Shaw Baker wanted her monies to be used for charitable purposes to benefit animals. This testimony and these exhibits reveals what plaintiffs have always known. This is a triable issue of fact, and summary judgment must be denied.

2. *Discerning Alice Shaw Baker's Intent: Latent Ambiguity that Only Family Members would Raise on her Behalf.*

It is well settled that ambiguities in will/trust litigation are described as patent and latent. Patent ambiguities are when the uncertainty is one which arises upon the words of the instrument as looked at in themselves. Latent ambiguities are when "the uncertainty arises, not upon the words of the instrument as looked at in themselves, but upon those words when applied to the object or subject which they describe." *Fabian, supra*, 326 S.C. at 353, 483 S.E.2d at 476 (quoting *Jennings v. Talbert*, 77 S.C. 454, 456, 58 S.E. 420, 421 (1907)).

Well settled principles define latent ambiguities, as those cases involving equivocation, misnomer or and misdescription. While probate treatises and scholarly articles have defined these concepts, other jurisdictions have provided simple definitions which plaintiffs believe help clarify these principles, such as:

- 1) Equivocation arises when a testator names a person as the object of a gift and there are two persons or things that answer the name or description. (*Norton v. Jordan*, 360 Ill. 419, 196 N.E. 475 (1935))
- 2) Misnomer or misdescription of the object or subject, this is discovered when "no such person or thing in existence, or if in existence, the person is not the one intended, or the thing does not belong to the testator. (*Smith v. Burt*, 388 Ill. 162, 57 N.E. 2d 493 (1935).)

In an Illinois case, A testator designated a number of beneficiaries, wherein several entities concluded that they were beneficiaries. In deciding the case, the court admitted evidence of the facts existing when the testator executed the will, her knowledge of the claimants and her

feelings towards, and relations with them; the names by which she was accustomed to designate them, that no other entities existed at the date of the execution of the will corresponded with the names and descriptions in the will; in short, every material fact—adding that if such evidence made it clear that these claimants were intended by testator to be made the objects of her bounty, then it must be held that she had expressed her intention with sufficient certainty. (*Woman's Union Missionary Soc v. Mead.*, 131 Ill. 338, 23 N.E. 603 (1890).)

This special attention to charitable intentions was explained in another Illinois case. In *Heusser v. Harris*, 42 Ill. 425 (1867), the court explained how charitable organizations could receive their bequest without resorting to *cy pres*,³ the court may apply the monies for the purpose of giving effect to the intention of the testator in the administration of the trust. The court said, "in carrying into effect a bequest to an individual the mode in which it is to take effect is deemed essential, but where the legacy is to charity a court of chancery will consider charity as the substance, and if the mode designated fail, will provide another mode by which the charity may take effect. (See *Hitchcock v. Board of Home Missions*, 196 Ill. App. 358 (1915).)

Due to the dispute as to how the monies are to be used, *Heusser* is instructive, because it provides courts with the types of information that courts can use to benefit charities.

In South Carolina, the seminal case of *Shelley v. Shelley*, 244 S.C. 598, 602, 137 S.E.2d 851, 853 (1964) explains that "When a latent ambiguity exists, the lower court must resolve the ambiguity by ascertaining the decedent's intent. To do this, "A will must be so construed as to carry out the real intention of the testator as gathered from all attendant circumstances."

Shelley's clear provision supports the same type of instruction that *Heusser* provided. Later, this legal concept was codified under S.C. Code § 62-2-601 which mandates that this Court reforms the will "even if unambiguous, to conform the terms to the testator's intention if

³ South Carolina does not recognize *cy pres*, however it does recognize equitable deviation.

it is proved by clear and convincing evidence that the testator's intent and the terms of the will were affected by a mistake of fact or law, whether in expression or inducement.”⁴

3. *The Modern Approach to Ambiguities, Remedies, and Relief Demonstrate Triable Issues of Fact which Preclude Summary Judgment*

South Carolina provides remedies and relief to litigants subjected to errant Wills! These include the doctrine of Constructive Trusts and Equitable Deviation.

The concept of constructive trusts is most easily defined in confidential relations: where it has been said that: “The existence of such a relation prevents the person trusted from seeking any selfish benefit for self during the course of the relationship and gives ground for imposing a constructive trust on the property in the hands of the grantee, even if the promise were oral. As stated by one court many years ago, ‘[t]he betrayal of such confidences is constructively fraudulent and gives rise to a constructive trust. This is independent of any element of actual fraud. The law, from considerations of public policy, presumes such transactions to have been induced by undue influence.” (See Bogert’s Trusts and Trustees, June 2017 Update, The Law of Trusts and Trustees § 496)

In South Carolina, a constructive trust may be broadly imposed when a party obtains a benefit “which does not equitably belong to him and which he 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

⁴ As a reflection of changes in the law, courts are even allowed to modify the terms of a testator's will if it helps achieve the goals of a decedent's tax objectives under S.C. Code § 62-2-806, effective on June 7, 2013. This code provides for retroactive application, and does not appear to require clear and convincing evidence. Plaintiffs contend that since Alice Shaw Baker's intention was for her property to go to charitable purposes that this too supports Plaintiffs' contentions.

of a fiduciary duty.” *Smith v. S.C. Ret. Sys.*, 336 S.C. 505, 529, 520 S.E.2d 339, 352 (Ct.App.1999).

In contrast with express trusts, the existence of a constructive trust can be established through parol evidence, despite the statute of frauds. *Lollis v. Lollis*, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (S.C. 1987)

The legislature has codified these principles, as in Section 62-7-406 which provides that the Creation of trust induced by fraud, duress, or undue influence “is voidable to the extent its creation was induced by fraud, duress, or undue influence.” It also recognized that oral trusts may be established without a trust instrument. (See Section 62-7-407)

These are the principles and legal authority which this court must consider in deciding this case.

***D. Triable Issues of Facts as Evidenced in Equitable Remedies:
Equitable Deviation and Constructive Trusts Create Dynamic Principles
Allowing Standing to Effectuate the Rights of the Decedents, Because
Defendants Would Not Assert said Rights as they are Against their Pecuniary
Interests***

Equitable deviation permits deviation from a term of the trust if, owing to circumstances not known to the settlor and not anticipated by him, compliance would defeat or substantially impair the accomplishment of the purposes of the trust. Under these circumstances a court may direct or permit a trustee to accomplish acts that are unauthorized or even forbidden by the terms of the trust. “The Court of Equity has the power upon a proper showing, to permit a decimation from the strict terms of a trust if necessary or advisable to carry out the purposes thereof.” (*South Carolina Natl. Bank v. Bonds*, 260 S.C. 327, 195 S.E.2d 835 (1973) .

South carolina has been described as increasingly liberal in applying deviation and in reaching results that are usually reached under cy pres.

The statutory framework under SC § 62-7-413 (effective 1/1/2006), incorporates Section 413 of the Uniform Trust Code, but renames cy pres "equitable deviation".

The Court in *Colin McK. Grant Home v. Medlock*, 349 S.E.2d 655 (S.C. App. Ct. 1986) rejects cy pres, but does recognize and apply equitable deviation, as explained:

"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."

This factor coupled with the Due process rights of Alice Shaw Baker to leave her property to her *intended* beneficiaries.⁵

1. Betty Fisher's Standing to Pursue the Bifurcated Causes of Action

South Carolina Code Ann. § 62-2-101 (1987) provides that:"Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs as prescribed [by the sections concerning intestate succession]."

This provision provides Betty fisher with standing to seek a determination of the rights over the property. Here, she seeks a determination to protect the due process rights of Alice Shaw Baker to have her property distributed as she saw fit, and provide a constructive trust over the estate assets, including non-probate assets.

This statutory right coupled with her standing to seek appointment as personal representative based on her priority provides her with standing.⁶

⁵ "The principle of merger of equitable title into legal title will not be permitted when the result would defeat the intention of the grantor or testator or holder of estates. Thus, equity will not recognize a merger or union of the legal and equitable estates in the same person if this is contrary to the intention of the parties and a merger would be to destroy a valid trust, and will prevent the merger of an equitable and a legal estate to work substantial justice." 28 Am. Jur. 2d Estates. § 429, *Epworth Children's home v. Beasley*, 365 S.C. 157, 616 S.E. 2d 710 (2005)

⁶ As stated in this litigation, Plaintiffs desire the proceeds of the will to be distributed to the true beneficiaries, animal rescue charities. Nevertheless, as shown the law provides that any failure of a bequest leads to an intestacy distribution. Thus, Betty Fisher has standing under this principle. As set forth below, she also has third party standing to assert the wishes of Alice Shaw Baker, because the stated personal representative in the will has

Also, under long held principles governing standing, “heirs at law” are the “real representatives” of a decedent. (See *Duke v. Postal Telegraph Cable Co.*, 71 S.C. 95, 50 S.E. 675 (SC, 1905).) Survival actions survive both to and against the personal or real representative, Alice Shaw Baker’s intentions must be recognized.

Under these principles, Betty Fisher has standing to pursue this litigation.

2. *Lisa Fisher’s Standing to Pursue the Bifurcated Causes of Action*

Lisa Fisher as a former conservator in possession under S.C. Code § 62-5-417 acts as a fiduciary and is required to observe the standards of care applicable to trustees as described by Section 62-7-933. Trustees may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust.

Lisa Fisher is duty bound to deliver the funds to the proper person. South Carolina Code § 62-5-425(d) and § 62-7-707 (a) provides the requirements that she is to “deliver” the property to the proper person.

Ms. Fisher has protected the property and pursuant to statute “has the duties of a trustee and the powers necessary to protect the trust property.” (See § 62-7-707; see also § 62-7-708 (“knows that there is a breach of fiduciary duty owed to the beneficiaries.”)⁷

failed to protect the interests of Alice Shaw Baker.

⁷ This issue has been discussed extensively in 2A Austin W. Scott & William F. Fratcher, *The Law of Trusts* § 185 at 562–80 (4th ed. 1987):

“Where the holder of the power holds it solely for his own benefit, the trustee can properly comply and is under a duty to comply with his directions, provided that the attempted exercise of the power does not violate the terms of the trust. But where the holder of the power holds it as a fiduciary, the trustee is not justified in complying with his directions if the trustee knows or ought to know that the holder of the power is violating his duty to the beneficiaries as fiduciary in giving the directions.”

Therefore, Lisa Fisher has a stake in ensuring that the intentions of Alice Shaw Baker are honored, both to prevent violations to the beneficiaries and to prevent liability.

As conservator of the estate, Lisa Fisher was endowed with duties to protect Alice Shaw Baker's estate. Lisa Fisher has knowledge that Alice Shaw Baker intended to revoke her will based on the "mistake" of believing that Kay Passailague Slade ran an animal charity. She further has evidence that Kay Passailague Slade held herself out in this capacity. Lisa Fisher also has personal knowledge of Alice Shaw Baker's intention that her assets were to be transferred to animal charities. Documentary evidence establishes that Alice Shaw Baker believed that her monies were going to animal charities. Kay Passailague Slade admitted at trial that Alice Shaw Baker's intentions were that the monies be used for animal charities.

Therefore, to ensure that Lisa Fisher is not liable for the wrongful deliverance of Alice Shaw Baker's property, she has personal standing to bring this litigation and third party standing to protect the rights of Alice Shaw Baker.

3. *Third Party Standing to Pursue the Bifurcated Causes of Action*

It is not an unfamiliar process for a third party to intervene on behalf of one who cannot. Alice Shaw Baker's death precluded her from clarifying her intention through a new will or court process in the conservatorship case. Still, her intention which is admissible through extrinsic evidence cannot be overlooked.

Even cases involving the United States Supreme Court have permitted third parties to assert the rights of others. The court in *Pierce v. Society of Sisters*, 268 U.S. 510 (1925) allowed the parochial school to enjoin enforcement of a statute that required all parents to send their children to public schools.

In *Barrows v. Jackson*, 346 U.S. 249 (1953), the United States Supreme Court stated in a case where a restrictive covenant precluded sales of property based on race that the owner could

enforce the rights of others: The court found that the owner of the property was “the only effective adversary of the unworthy covenant.”

The accepted standard for a party seeking third party standing is to make two showings:

“First, we have asked whether the party asserting the right has a “close” relationship with the person who possesses the right. Second, we have considered whether there is a ‘hindrance’ to the possessor’s ability to protect his own interests.”

In *Fabian v. Lindsay*, 410 S.C. 475 (2014), the court permitted beneficiaries to sue estate planning attorneys whose drafting error defeats or diminishes the client’s intent.

The United States Supreme Court in the decision *Secretary of State of Maryland v. J.H. Munson Co.*, 467 U.S. 947, 104 S. Ct. 2839, 81 L. Ed. 2d 786 (1984) explains that there are circumstances where a third party can assert the rights of a charity. In that case the Supreme Court permitted the fundraiser standing to argue the constitutional claims of the charitable organizations because “where the claim is that a statute is overly broad in violation of the First Amendment, the Court has allowed a party to assert the rights of another without regard to the ability of the other to assert his own claims and with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with the requisite narrow specificity.

There are important legal principles which support Plaintiffs’ contentions that they have authority to assert the rights of the decedent. Even though Alice Shaw Baker may never know about the harm suffered by not following her intention, theorists have argued that “What drives many posthumous rights is not only the recognition that some interests survive death, but also a desire to respect decedents’ wishes. (See Smolensky, Kirsten Rabe, *Rights of the Dead*, scholarlycommons.law.hofstr.edu., at P. 771)

As Plaintiffs have argued throughout this case and the testimony of Kay Slade establishes, the evidence establishes: (1) Alice Shaw Baker's intention to benefit probate and non-probate assets; (2) Alice Shaw Baker's intention to revoke the 2001 will, (3) the copy of the will revoked by Alice Shaw Baker was the only Will in her possession and within her abilities to revoke, and (4) that the will offered by Defendants includes a contrary intention in the will that the assets be used for the care of her dogs and as Kay Slade testified be used to purchase land for the protection of animals.

While at trial, Defendants called Alice Shaw Baker "hard", the evidence will establish at trial that she was a determined, kind, devoted, and single-minded woman, who saved her pennies to ensure that all of her animals and rescue animals would benefit. Alicc, a woman who helped a friend (who was hospitalized). Alicc cared for dozens of cats *every day*, until her friend was better! Alice Shaw Baker loved all animals. Her grave marker includes "St. Francis of Assisi", patron saint of animals. In earlier writings, she desired the purchase of a plaque at her death in the memory of her pets. She was a fierce defender of animals, and as such she deserves a fierce effort to ensure that her desires are effectuated.

While these so-called "friends" should do the right thing, only those people who loved her and want her to have the desires of her heart, would be willing to stand up for her and prevent a grave injustice and unjust enrichment by those who abused their "confidential" relationship with Alice Shaw Baker. This is standing, and summary judgment is improper.

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CONCLUSION

The principle of constructive trusts is tied to the concept of confidential relations. Judge Cardozo stated in the case, *Sinclair v. Purdy*, 235 N.Y. 245, 253, 139 N.E. 255, 258 (1923), “it was ‘the case of a confidence induced, not by the bare promise of another, but by the promise of the confidential relation conjoined’... It is not the promise only, nor the breach only, but unjust enrichment under cover of the relation of confidence which puts the court in motion.”

Defendants know that all of Alice Shaw Baker’s assets, including the real property, life insurance, deferred compensation, and personal property, belong to animal charities. Defendant Slade held herself out as one associated with animal charities, her conduct creates triable issues of fact in this case precluding the grant of summary judgment. Her conduct demonstrates the type of betrayal that broke Alice Shaw Baker’s heart, resulting in what this court held as an ineffectual destruction of the 2001 will, and it stands as a reminder of the terrible consequences of allowing gold—whether 30 pieces, or metaphorical gold, evidenced by title to real property and the life’s works of an elderly woman, to invade human relationships.

As set forth herein, Plaintiffs pray that the court to deny this motion in its entirety.

RESPECTFULLY SUBMITTED,

JOHN HUGHES COOPER, P.C.

By:

JOHN HUGHES COOPER, ESQUIRE

Federal Court ID-298

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2009-CF-10-3010

and

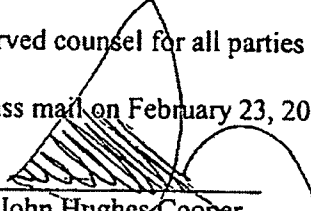
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ATTORNEYS FOR PLAINTIFFS,
BETTY FISHER AND
LISA FISHER, AS CONSERVATOR FOR
ALICE SHAW-BAKER

2018 FEB 26 PM 3:55
JULIE J. ARVISTE
CLERK OF COURT

CERTIFICATE OF SERVICE

I hereby certify that we served counsel for all parties in this action with a copy of the
forgoing by email and first class mail on February 23, 2018


John Hughes-Cooper

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

FILED
 2018 FEB 26 PM 3:55
 JULIE J. ANDERSON
 CLERK OF COURT

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.

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. § 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.

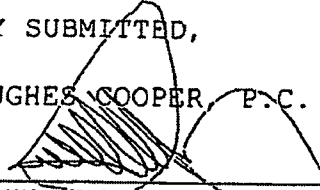
(7) A statement that settlement negotiations were attempted and the status of settlement negotiations.

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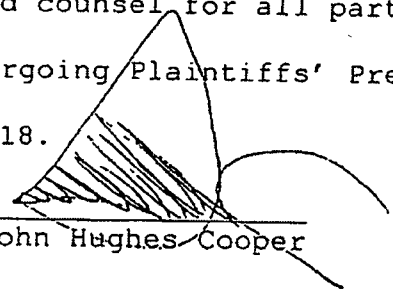
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ATTORNEYS FOR PLAINTIFFS,
BETTY FISHER AND
LISA FISHER, AS CONSERVATOR FOR
ALICE SHAW-BAKER

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

2009-CP-10-3010

From: W. Westbrook Wills III w.wills@w.willslaw.com
Subject: Re: PRETRIAL HEARING CASE # 2009-CP-10-03010
Date: March 6, 2018 at 2:00 PM
To: Hughston, Thomas L. thughst@scsccourts.org
Cc: Jaci jcrowlew@willslaw.com, sh plaw@jhcoccc.com, lisa.fisher.fisher@scsccourts.org, lisa.fisher.fisher@yahoo.com

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JULIE J. ARMSTRONG
CLERK OF COURT

Dear Judge Hughston

This e-mail responds to your February 28, 2018 e-mail Order below as regards Defendants' Renewed Motion for Summary Judgment, especially in light of the Supreme Court's decision last week in *Fisher v. Huckabee, et al* (2012-CP-10-1332) in which the Court concluded that Betty and Lisa Fisher were not real parties in interest and therefore had no standing to maintain their causes of action on behalf of themselves or the Estate of Alice Shaw-Baker against the same Defendants as we have in the present action. I have attached a copy of the Supreme Court's opinion for reference.

While Defendants understand, and generally agree, with this Court's position that it is a better use of everyone's time and attention to deny motions for summary judgment in complex cases where there are many disputed facts and opinions and proceed with a factual trial, this case is an exception to that concept in that Defendants are moving for summary judgment on the threshold issue of Plaintiffs' standing to bring and maintain their causes of action in the first instance (whether or not any issues of fact or opinion with regard to the merits of Plaintiffs' claims would be better resolved through the presentation of evidence).

"South Carolina courts, like the federal courts, require a justiciable case or controversy before any decision on the merits can be reached." *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 417-18, 498 S.E.2d 906, 908 (Ct. App. 1998), see also *Waters v. South Carolina Land Resources Conservation Comm'n*, 321 S.C. 219, 467 S.E.2d 913 (1996), *Crocker v. Barr*, 303 S.C. 1, 397 S.E.2d 665 (Ct. App. 1990) (Goolsby, J., concurring), rev'd on other grounds 305 S.C. 406, 409 S.E.2d 368 (1991). A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy. *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 415-16, 498 S.E.2d 906, 906-07 (Ct. App. 1998). "No justiciable controversy is presented unless the plaintiff has standing to maintain the action." *Id.* (citing *Brock v. Bennett*, 313 S.C. 513, 519, 443 S.E.2d 409, 413 (Ct. App. 1994)). Furthermore, "A plaintiff must allege an actual controversy in which he has a personal stake." *Id.* (citing *Energy Research Found. v. Waddell*, 295 S.C. 100, 102, 367 S.E.2d 419, 420 (1988)).

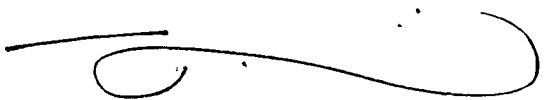
Because the jury returned a verdict upholding Alice Shaw-Baker's will following the will contest portion of the bifurcated trial, Plaintiffs (at least Betty Fisher), as would-be intestate heirs, are relegated to the status of uninterested parties with no personal stake in the subject matter of their remaining causes of action for constructive trust, promissory estoppel, and unjust enrichment. See *Joseph v. S.C. Dep't of Labor, Licensing & Regulation*, 417 S.C. 436, 449, 790 S.E.2d 763, 769 (2016) (a fundamental prerequisite to institute an action is the requirement that the plaintiff have standing, which is defined as a personal stake in the subject matter of the lawsuit).

The Plaintiffs' own pleadings confirm that with respect to their remaining causes of action, they do not allege they suffered any personal or individual damage, and the relief they seek is for the benefit of either the Estate or unspecified animal charities. As relief under their claim for promissory estoppel, Plaintiffs seek that Defendant Passalacqua be required, under a theory of specific performance, to give all money or property she receives as beneficiary to animal charities. See Complaint, paras. 132, 133. Under their claim for unjust enrichment, Plaintiffs seek equitable relief restoring any devise to Alice Shaw-Baker's Estate. See Complaint, para. 127. Finally, Plaintiffs' constructive trust claim seeks only that a constructive trust be placed on probate and non-probate assets pending the determination of the validity of the will and pending resolution of Betty Fisher's petition for appointment of Personal Representative. See Complaint, para. 81. Not only are the Plaintiffs asserting a claim for constructive trust on behalf of Mrs. Shaw-Baker's Estate, which they specifically allege was harmed, they have only asked for it pending the determination of the validity of the will (which has already occurred), and the resolution of Betty Fisher's petition for appointment (which is based and contingent upon their petition for removal of Bessie Huckabee as personal representative, which they have no standing to do as non-heirs).

Because Plaintiffs' complaint shows they have no personal stake in their remaining causes of action, and they are seeking relief for and on behalf of parties other than themselves, they have no standing to maintain the claims. A Plaintiff "cannot obtain standing by alleging he is acting in another's interest if he himself has suffered no individual injury." See *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 416, 498 S.E.2d 906, 907 (Ct. App. 1998). Plaintiffs have not alleged, and do not allege, to have suffered any individual injury themselves, and as a matter of law, are not entitled to a trial on the merits of their remaining causes of action.

Defendants address these issues to the Court, particularly in light of the Supreme Court's decision in 1332 regarding Plaintiffs' standing to maintain their causes of action in that case, and South Carolina law which provides that the issue of a party's status as "real party in interest" to confer standing to sue is not jurisdictional and may be waived if not objected to by the adverse party. See *Bardoon Properties, NV v. Eidolon Corp.*, 326 S.C. 166, 169-70, 485 S.E.2d 371, 373 (1997) (A challenge to a party's status as real party in interest must be made promptly or the court may conclude the point has been waived). Such waiver could potentially conflict with the Supreme Court's decision in 1332 regarding these Plaintiffs' standing to sue as non-interested parties. As such, Defendants would respectfully request the Court consider their motion for renewed summary judgment based on the threshold issue of Plaintiffs' standing, as opposed to the sufficiency of evidence and facts, prior to the trial of Plaintiffs' remaining causes of action. Thank you, Judge Hughston.

Brook Wills


W. Westbrook Wills III

Dated: March 7, 2018

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On Feb 28, 2018, at 1:23 PM, Hughston, Thomas L. <thughstonj@sccourts.org> wrote:

This will serve as my Order confirming that we had the Pre-Trial Hearing as scheduled and that about as much was accomplished there by the exchange of the Pre-Trial Briefs as expected. As I indicated to you, I would hope the Defendants can agree to the authenticity of the documents that the Plaintiffs wish to enter in to evidence as exceptions to the hearsay Rule. This does not mean that the Defendants are waiving any other objections that they may have under the Rule or Rules of Evidence or procedure. As I understand it, it would simply not require the Plaintiffs to bring live witnesses to testify as to their authenticity. Any other agreements that you can reach in advance of the trial that are practicable, etc. would be appreciated by everyone, I am sure.

One other matter that I want to mention to you is that in some cases, particularly big, complicated cases with many disputed facts and opinions as to how those facts fit into the law, I take the position that it is better use of everyone's time and attention to deny Motions for Summary Judgment and proceed with the factual trial. Also, that may include any Motion for a Directed Verdict. I know that is contrary to some opinions, etc. but I have done it on occasions and so far have not been reversed or ruled against on this. I give you this advice for several reasons. Further, I am Ordering the Plaintiffs to be prepared to present any evidence that they wish to present at the trial on March 12 concerning what they have called in their Pre-Trial Brief, (3) The Legal Issues Involved: (a) Breach of Fiduciary Duty. Also, of course, the Defendants should be prepared regarding any legal issues and factual matters.

Again, thank you for your consideration, cooperation and attention, and I shall look forward to seeing you.

Thomas L. Hughston, Jr.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



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Shaw Baker: 2009-cp-10-3010

Yahoo/Sent



lisa fisher &lt;lifisher6736@yahoo.com&gt;



Mar 16 at 1 13 PM

To: Thomas L. Hughston,  
John Hughes Cooper,  
W Westbrook Wills III, Jessica Crowley,  
Jaci Crowley and 1 more



lisa fisher

lifisher6736@yahoo.com  
(562) 965-3267

On Friday, March 16, 2018, 12 56 PM, lisa fisher  
<lifisher6736@yahoo.com> wrote

Dear Judge Hughston,

I am in receipt of the correspondence from Ms. Crowley and Mr. Wills

I am in a no win situation. As the former conservator of the estate of Alice Shaw Baker, I had a duty to ensure that the assets were distributed to the right person. I had substantial information that Kay Passalunghi Slade was not the right person, and in fact, that Alice Shaw Baker was under the belief that she ran a dog charity, which turned out not to be true. This court issued this order prior to the conclusion of plaintiff's case, so I believe my concerns re favoritism are well taken. I have tried to put these concerns aside to only be more confounded by the actions of defendants.

These attorneys know that you made your original order that the documents would be for your eyes only, and yet they do not verify that fact with you. (Rule 402)

I will seek judicial review of your order as set forth. I would like to avoid that review, but I can not allow involuntary disclosure of my financial status. South Carolina is a state which provides even more rights than the United States Constitution, with a specific right to privacy in Article 1, § 8.

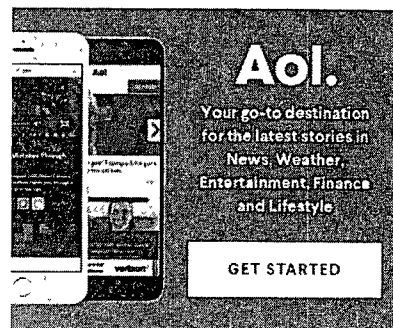
Moreover, the court has asked for this information without statutory or common law authority. The problem with the court's decision is that it creates a type of litmus test for litigants, subjecting litigants with financial problems to embarrassment and rich litigants to early disclosure for the defendants.

In light of The unreasonable positions of defendants, I can see no way to overcome the confusion over the scope of the order, the inadvertent disclosure of protected information, and the unfair prejudice that we have suffered at this juncture. Please issue an order that protects my financial privacy rights and allows judicial review.

Thank you for this opportunity to explain my position.

With respect,

Lisa Fisher



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 et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Bessie Huckabee et al., )  
 )  
Defendants, )  
 )  
In the Matter of )  
Alice Shaw-Baker. )  
\_\_\_\_\_ )

**PLAINTIFFS' MOTION TO VACATE  
ORDER COMPELLING FINANCIAL  
DISCLOSURE PURSUANT TO RULES  
59(e) AND RULE 60 (b), SCRPC**

2018 MAR 26  
FILED  
CLERK OF COURT  
NINTH JUDICIAL CIRCUIT  
CHARLESTON, SC

COME NOW the Plaintiffs Betty Fisher and Lisa Fisher ("Plaintiffs") and hereby respectfully move this Court for the following orders:

- 1) Pursuant to Rule 59(e), an order altering or amending the trial court's orders of March 12, March, 13, March 14, and March 16, 2018 requiring disclosure of Plaintiffs' financial condition; or alternatively,
- 2) Pursuant to Rule 60(b), an order vacating the trial court's orders of March 12, March 13, March 14, and March 16, 2018, based on subsection 1) mistake, inadvertence, surprise, or excusable neglect; and subsection 4) a void judgment issued without any legal authority or any evidentiary foundation.

Plaintiffs assert that somehow the Court has misconstrued their efforts to seek justice on behalf of Alice Shaw Baker, and ensure that her testamentary intent is followed has led to an impression that there were frivolous proceedings in this case. While such a finding is not supported by the facts and law of this case, as plaintiff Lisa Fisher certainly had a duty to seek judicial review when she had facts that suggested that Defendants were not entitled to the funds, and plaintiff Betty Fisher as heir at law could seek declaratory relief to ensure that Alice Shaw Baker's due process rights and desires were given full effect.

Nevertheless, it appears that prior to the completion of trial in this matter, the trial court had come to a conclusion that it was entitled to information concerning plaintiffs' finances. Even after trial, it does not appear that there is any statutory basis for the disclosure of such information, and as argued herein, Constitutional principles and statutory interpretation leads plaintiffs to believe that this Court does not have authority to seek such private financial information, and they seek relief by way of this motion:

## **I.**

### **THE TRIAL COURT ORDERS MANDATING DISCLOSURE**

#### **A. *Relevant Orders:***

On March 12, 2018, the Court made the following orders mandating that plaintiffs disclose :

THE COURT: .... I want you to fill out a current financial statement showing all of your assets, liabilities, and net worth. I need that to deal with issues that I have to deal with at the conclusion of this case.

So that's the first thing I want you to do is to give the information to him so that he can send that form to you that I want you to fill out.

Who wants to go first?

MR. COOPER: You want the email?

THE COURT: Tell him how to send it to you.

MR. COOPER: Okay. It's shiplaw@jhcooper.com, S-H-I-P-L-A-W.

THE COURT: Ms. Fisher.

MS. FISHER: It's lfisher6736@yahoo.com.

THE COURT: And then do you want to get it for your mother?

MS. FISHER: Yes.

MRS. FISHER: Well, wait a minute. Why do I have to do it?

THE COURT: Because you're a party and you are subject to the rules.

MRS. FISHER: Okay. I'll accept that.

THE COURT: Okay. And then the other thing I want each of you to do is to give me page 1 and page 2 of your US federal tax returns for last year. If you have it for this year, you can give it to me for -- that is, if you've already filed it. If you have it prepared, I want the 2017 and the 2016 page 1 and page 2 of your federal tax returns.

What I'm interested in is showing me what your taxable income was for those years, and I believe that will be shown on page 2 of the return.

So you can -- if you want to -- whatever the word is, where you take it out, scratch it out, or whatever, if you want to -- what's the word I'm looking for?

THE CLERK: Redact.

THE COURT: Redact, that's it. Redact your Social Security number. I want your name on it though and I want your signature -- well, you don't have to put your signature on it because you're

giving it to me as an officer of the court. You're swearing that that's your return showing what your taxable income was of the year submitted.

\*\*\*

THE COURT: It's not going to be public. The only person that's going to see it is me.

MRS. FISHER: -- South Carolina.

MS. FISHER: Your Honor, we will take all appropriate legal actions to review your order.

THE COURT: I'm sorry?

MS. FISHER: I will take all appropriate legal actions to review your order.

I'm not --

THE COURT: You're going to comply with it before you do anything else.

MS. FISHER: I'm going to look at what you're asking us to do. This Court has not made a decision --

THE COURT: I need that to make a decision about the attorneys' fees and sanctions.

MS. FISHER: Obviously --

THE COURT: Obviously.

MS. FISHER: Obviously, but we are in a position where the person who is the Plaintiff is being -- before all the evidence is introduced is being charged with something.

THE COURT: I want to get this done as soon as possible.

MS. FISHER: I'm sure you do, but that's not how things are done through the law. People are given rights, they're given notice, they're given an opportunity to respond. So if that's not what the law is in South Carolina, then, you know, I need to know that as well. So when I see the form, I will then determine what I need to do, Your Honor."

(Attached hereto is a true and correct copy of pertinent parts of the order marked as Exhibit A.)

Attorney John Hughes Cooper complied with the order based on the court's representation that the information would be for Judge Hughston's eyes only.

However, in an effort to gain clarity and not violate any other rules and/or rights of the litigants based on her own desire to not involuntarily waive her rights to financial privacy, Attorney Lisa Fisher sought further clarification from the court. On March 13, 2018, the Court then ruled:

MS. FISHER: Your Honor, at this time, I'm going to interpose an objection to the documents you're requesting. The order was vague. If you can explain to me what statutory authority you have for requiring me to produce tax records. Financial records are protected under the constitution, and I'm not sure why you're requesting information --

THE COURT: Well, I'll --

MS. FISHER: -- for --

THE COURT: -- tell you why. Because I think that it's relevant in regard to the issue of attorney's fees, and I think it's relevant in regard to the issue of sanctions.

MS. FISHER: Yes. And, unfortunately, Your Honor, I think that demonstrates a little bit of a bias in light of the fact that the case is not complete yet.

THE COURT: If I decide against it, then there won't be any problem.

MS. FISHER: I understand that, except that you've already demonstrated that the only people that you think are subject to sanctions would be the Plaintiffs --

THE COURT: You didn't ask for sanctions against them.

MS. FISHER: That's true, Your Honor, I didn't, but I'm not sure that it's appropriate to ask prior to the end of trial. In any event, Your Honor, if you can tell me what statutory authority -  
THE COURT: There's no statutory authority. It's within the discretion of the Court, I'm telling you that and you ought to know that.

MS. FISHER: I know that -- I don't believe that's correct. I mean no disrespect to you --

THE COURT: You can take it up or do whatever you want to do afterward. If you don't get that to me within a reasonable period of time, you're going to face further sanctions.

MS. FISHER: Okay. Well, just for clarity, Your Honor, I did look to try and find what statutory authority you might have, and now you're telling there is none. So I did look under the Internal Revenue Codes -- the Revenue a Treasury Code 1425119542, which indicates that income taxes are privileged.

Also, under --

THE COURT: Okay. We can go at it several ways. I want the figures I told you, your net taxable income. You don't have to show me your tax return. You give it to me under oath that that's your net taxable income and that would be sufficient.

MS. FISHER: And, Your Honor, with regard to that issue, I still believe that's under the code -- under the constitution, financial --

THE COURT: I don't believe so. I will bear whatever responsibility comes from that.

MS. FISHER: Well, I understand. And I

will bear whatever responsibility it takes, but I will look further into that. If the Court requires briefing, I certainly will give that to you, but I don't think whatever amount of money I made, or may not have, has any -- has any limits to what you can do. My hope is, that based on the law regarding sanctions, that of course sanctions will not be imposed and attorney's fees will not be imposed..."

(Attached hereto is a true and correct copy of pertinent parts of the order marked as Exhibit B).

On March 14, 2018, Judge Hughston sent out an email order to Ms. Fisher and copied to all counsel:

Dear Ms. Fisher:

Following up on my oral Order to you regarding a written statement from you as an officer of the Court telling me your net worth and your net income for 2017 if you have that figure available, and if not, your net income for 2016. I am putting this in writing as an Order. It is relevant to the issues before me. I hope that you will comply with this by Friday, March 16, 2018. Failure to do so will be dealt with as civil contempt of court.

Thank you for your consideration, cooperation and attention to this Order, and I shall look forward to hearing from you."

(Attached hereto is a true and correct copy of said email order marked as Exhibit C)

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***B. Efforts to Clarify the Orders***

In an effort to comply, Lisa Fisher sought waivers by all parties regarding this information. On March 16, 2018, she sent the following email:

"Dear Judge Houston,

I apologize for the delay in responding to your most recent correspondence. As I'm sure you recall at trial I was coughing excessively. Unfortunately it resulted in a pretty serious illness. I am only starting to recover.

Although I am licensed to practice in California, I have reviewed the lawyers oath under rule 402, SCACR, and seek to comply with the requirements of South Carolina law.

I believe in making this inquiry before final determination of my compliance with your order is appropriate and justified in requesting clarification. I do not wish to disobey your order, however I do not wish to inadvertently waive my rights to financial privacy especially when I can't find any statutory or common law Authority for your request.

The court indicated earlier that the information would not be disclosed to the other side. However, that would require me to violate the ex parte communication prohibition, unless the other side waives the right to this information. The next problem would be is the information sealed and prohibited from release and or destroyed?

I hope you understand the reason that I am concerned with complying. Although, I certainly don't have anything to hide that doesn't mean that I should not protect these important rights.

In any event, I hope the Court considers these important questions. I have copied all parties to ensure that they too understand my questions and as required by law."

(Attached hereto is a true and correct copy of said email marked as Exhibit D)

The same day, Ms. Crowley stated she did not object to sending the information by email, Judge Hughston replied:

"...I do not recall saying that your information would not be disclosed to the other side, for I believe that they are entitled to it. Therefore, it would not be an ex parte communication. However, Ms. Crowley apparently does not object to my receiving this information directly from you and not going to her at this time. I will keep it completely to myself, put it in a sealed envelope, and write on it that it will only be opened on an as needed basis in the future. In other words, it is for my eyes only."

(Attached hereto is a true and correct copy of said email marked as Exhibit E)

Still hoping that Lisa Fisher could find a way to comply, she sent another email stating:

"Thank you for your prompt reply. I appreciate Ms. Crowley's consent, and ask if she has authority to consent on behalf of Mr. Wills. I would appreciate this information."

(Attached hereto is a true and correct copy of said email marked as Exhibit F)

Ms. Crowley replied as follows.

"I consent to the ex parte communication only. My recollection was that Judge Hughston requested you communicate with his law clerk. I have no issue with this. As far as privacy of the information involved, I would expect that its availability for the parties to review what is submitted would be consistent with the law and with the Judge's order."

(Attached hereto is a true and correct copy of said email marked as Exhibit G)

Thereafter, Lisa Fisher sent an email showing her concern over the lack of clarity in the consent and the order:

Well this is quite different then judge Houston's understanding of your consent. The rest of your statement is unintelligible, furthermore you are not stating whether or not you have the ability to consent for Mr. Wills. It sounds to me like you certainly understand that disclosure would be a waiver of privacy, and this causes great concern for me. Please clarify

your position, so I can ensure that I understand I have a [sic] legal aspects of this case."

(Attached hereto is a true and correct copy of said email marked as Exhibit H.)

Ms. Crowley responded via email:

"1. I consent to you submitting your information in a separate email. I do this as a courtesy to you due to the approaching deadline.

2. I do not waive any right the law may afford me to review this information in the future. I do not waive my right to request or review your financial information in this or any other action should it be relevant and lawful for me to do so.

3. Attorney Wills, I imagine, will respond separately."

(Attached hereto is a true and correct copy of said email marked as Exhibit I.)

Mr. Wills concurred with Ms. Crowley's position.

(Attached hereto is a true and correct copy of said email marked as Exhibit J.)

Finally, Lisa Fisher responded as follows:

"I am in receipt of the correspondence from Ms. Crowley and Mr. Wills.

I am in a no win situation. As the former conservator of the estate of Alice Shaw Baker, I had a duty to ensure that the assets were distributed to the right person. I had substantial information that Kay Passailague Slade was not the right person, and in fact, that Alice Shaw Baker was under the belief that she ran a dog charity, which turned out not to be true. This court issued this order prior to the conclusion of plaintiff's case, so I believe my concerns re favoritism are well taken. I have tried to put these concerns aside to only be more confounded by the actions of defendants.

These attorneys know that you made your original order that the documents would be for your eyes only, and yet they do not verify that fact with you. (Rule 402)

I will seek judicial review of your order as set forth. I would like to avoid that review, but I can not allow involuntary disclosure of my financial status. South Carolina is a state which provides even more rights than the United States Constitution, with a specific right to privacy in Article 1, § 8.

Moreover [sic], the court has asked for this information without statutory or common law authority. The problem with the court's decision is that it creates a type of litmus test for litigants, subjecting litigants with financial problems to embarrassment and rich litigants to early disclosure for the defendants.

I can see no way to overcome the confusion over the scope of the order, the inadvertent disclosure of protected information, and the unfair prejudice that we have suffered at this juncture."

(Attached hereto is a true and correct copy of said email marked as Exhibit K.)

Prior to seeking Judicial review, and after further review of the law, Plaintiffs contend that the court's order must be vacated. As there is no legal authority for said order, and in fact, based on the Statutory mandates in the South Carolina Frivolous Civil Proceedings Sanctions Act, Plaintiffs contend that any such order is premature and there is no legal authority to seek such information.

Plaintiffs respectfully request that the court vacate the March 12, March 13, March 14, and March 16 order requiring disclosure of Plaintiffs' private financial information.

**II.**  
**THE TRIAL COURT'S ORDER REQUIRING**  
**PLAINTIFFS TO DISCLOSE THEIR FINANCIAL CONDITION**  
**IS AN ABUSE OF DISCRETION**

The court in *Stokes-Craven Holding Corp. v. Robinson*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016) held that: "An abuse of discretion occurs when the trial court's order is controlled by an error of law or when there is no evidentiary support for the trial court's factual conclusions." *Id.*

Here, the court noted in its order that there was no statutory authority for the order, but instead that it was within its discretion. However, in reviewing the language under the South Carolina

Frivolous Civil Proceedings Sanctions Act ("FCPSA"), the statute is explicit in that subsection (C)(1) provides:

**"At the conclusion of a trial and after a 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."** (Emphasis added).

Although Subsection (E)(7) does permit the court to take into account "other factors the court considers just, equitable or appropriate under the circumstances", disclosure of financial information requires a higher level of scrutiny than other types of relevant information under the Constitution. The United States Supreme Court explained in *Shelton v. Tucker*, 364 U.S. 479, 488 (1960) that a compelling state purpose "cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved."

Here, the FCPSA provides the means and standards for imposing sanctions, it is quite broad. There are clear mandates and discretionary positions in the code, however nowhere is there authorization to require disclosure of private financial information. Therefore, the stated purpose of imposing on errant attorneys monetary sanctions and/or fines is achieved by the established statutory procedure, without invasion into the financial information belonging to a litigant. Such a requirement would have the untoward effect of chilling litigation meant to protect the rights and interests of vulnerable dependent adults and seniors, as here, when family seeks to ensure that Alice Shaw Baker's rights to leave her property to animal charities is carried out.

As set forth below, the Constitutional rights governing financial privacy are clear in South Carolina and other states.

**III.**  
**ALICE SHAW BAKER'S DUE PROCESS RIGHTS HAVE REQUIRED VIGOROUS PROTECTIONS, AND THIS INCLUDES PROTECTION OF PLAINTIFFS OWN RIGHTS FROM INVOLUNTARY DISCLOSURE OF THEIR FINANCIAL STATUS, AS THEY BELIEVE THAT THE COURT DOES NOT HAVE ANY DISCRETIONARY AUTHORITY TO SEEK DOCUMENTS IMMUNE FROM THIS PROCESS.**

The questions the Court's March 12, 2018, March 13, 2018, March 14, and March 16 orders raises are such that if it is not resolved at this time, Plaintiffs will waive their right to preserve the confidential status of their finances.

The issue of finances is a double edged sword whether a person is wealthy or indigent, as release of said information to the Court and, possibly to the Defendants, in the middle of trial will subject the parties to stigma based on their finances, and conversely whether disclosure of immune information forever waives a party's rights to privacy with regard to these documents.

While Plaintiffs respect this Court and the Court's orders, taking the risk of producing financial documents, will subject plaintiffs to an involuntary waiver. Therefore, plaintiffs ask this Court to clarify and cite to some authority which will resolve this question:

"Whether the trial court has authority to compel production  
of an individual's financial statements or tax returns without statutory authority  
and without any findings of fact sufficient to justify sanctions under  
S.C. Code § 15-36-10 (g) for Frivolous lawsuits?"

A companion question is:

" Whether the court may seek this information  
prior to the conclusion of trial and prior to determination  
of whom the 'prevailing party' is?

While there does not appear to be any case clearly on point from Plaintiffs' research, Plaintiffs reference the fact that the court indicated that it was seeking this information from them, because it was

relevant. However, in review of plaintiffs' pleadings, they sought attorneys fees from defendants, and the court did not ask for a preliminary finding of Defendants' assets. Plaintiffs do not believe that any such order would be appropriate prior to the court's ultimate resolution of the action.

In cases involving evidence of a defendant's assets, the courts have been warned that "circumspection is necessary in light of the potential risks presented by such evidence, which include an acute danger of arbitrary deprivation of property. The court also notes that it is a means for a jury to "express bias against big business." (See *Branham v. Ford Motor Co.*, 390 S.C. 203, 239, 701 S.E. 2d 5 (2010).) The same type of bias appears to be present here where the court is requiring plaintiffs to disclose private financial information prior to the end of trial.

Additionally, evidence of a corporation's revenue is impermissible in punitive damages cases, as the courts have indicated that the "prejudicial effect of [disclosure] is self-evident." (See *Sulton v. HealthSouth Corp.*, 400 S.C. 412 (2012) [Sulton properly declined to admit financial forms]).

Plaintiffs believe that these cases stand for the proposition that an individual's right to financial privacy is as important as the protection of financial privacy for big business.

#### ***A. Right to Privacy***

Plaintiffs assert that they have constitutional rights to financial privacy and the Court's order compelling release of financial information is an abuse of discretion.

The United States Constitution "protects the right of privacy, without mentioning it by name. The United States Supreme Court explained in *Griswold v. Connecticut*, 381 US 479 (1965) that Article I, section 1 provides that all people have certain "inalienable rights" and among these is pursuing and obtaining privacy. This case dealt with access to contraception, however it also provided the "penumbra" of rights that may not be specifically mentioned in the United States Constitution.

South Carolina's right to privacy is explicit. In 1971, South Carolina added the right to privacy to its Constitutional provision regarding search and seizure. See, Acts and Joint Resolutions South Carolina 1971, Vol. 57, page 315, 316-317 (May 13, 1971). S.C. Const. art. I, §10 now reads in part:

"The right of the people to be secure in their persons,  
houses, papers and effects against searches and seizures  
and unreasonable invasions of privacy shall not be  
violated.... (emphasis added)"

Other state courts have determined the explicit privacy rights located in their state constitutions are broader than the United States Constitution's penumbral rights. See e.g., *State v. Glass* 583 P.2d 872, 874-75 (Alaska 1978); *McClowskey v. Honolulu Police Dep't*, 71 Haw. 568, 799 P.2d 953, 957 (1990) [privacy to include 1) right to prevent disclosure of personal matters, and 2) freedom from state interference in personal decisions]; *Vinson v. Superior Court*, 43 Cal.3d 833, 239 Cal.Rptr. 292, 740 P.2d 404 [right to privacy from intrusive medical and psychological discovery]; *Gill v. Curtis publishing Co.*, 38 Cal.2d 273, 239 P.2d 630, 632 (1952) ["right to live one's life in seclusion without being subjected to unwarranted and undesired publicity"]; *People v. Jackson*, 72 Ill. Dec. 153, 116 Ill. App. 3d 430, 452 N.E. 2d 85, 88 (1983)[privacy expectations in financial records may deserve greater protection under State's right to privacy].)

Article I, Sections 3 and 10 of the state constitution when read in conjunction with the interpretation clause of Article I Section 23. Article I, Section 3 ensures the government may not abridge the privileges and immunities of its citizens without due process, and provides for equal protection under the law.

Article I, Section 10 prohibits unreasonable searches, seizures, or invasions of privacy.

Article I, Section 23 states that constitutional provisions shall be construed to be mandatory unless expressly made permissive.



Based on all of these protections, a state may construe its own constitutional protections in a manner that provides more protection to citizens than does the federal constitution. (See *Singleton v. State*, 313 S.C. 75, 437 S.E. 2d 53 (1993).)

Courts have described the "inalienable and constitutionally protected right of privacy, which is the right to be left alone, is a fundamental and compelling interest of our society that is essential to the equally fundamental rights guaranteed for the First, Third, Fourth, Fifth and Ninth Amendments to the United States Constitution." (See *Santa Barbara v. Adamson*, 27 Cal.3d 123, 130 (1980).)

"Private financial information is generally protected by the constitutional right of privacy. The California Supreme Court described this constitutional "protection of one's personal financial affairs ...against compulsory public disclosure is an aspect of the zone of privacy which...falls within the penumbra of constitutional rights into which the government may not intrude absent a showing of compelling need." (See *Carmel-by-the Sea v. Young*, 2 Cal.3d 259, 268 (1970).)

South Carolina law provides for relief from wrongful intrusion into private affairs. (see *Gignilliat v. Gignilliat, Savitz & Bettis, LLP*, 684 S.E. 2d 756 (SC 2009),<sup>1</sup> so Plaintiffs insist that the concept of financial privacy and intrusion into financial affairs is not a foreign concept in the analysis of this protected area, that these records are privileged and immune from the Court's invasive orders.

While Federal law does provide broad public access to government records under 5 U.S.C § 552 it does not permit access to "financial information obtained from a person and privileged or confidential." If Plaintiffs do not seek this relief they will be allowing their records to be freely

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<sup>1</sup> Under the Freedom of Information Act, S.C. Ann. Code § 30-4-20, tax returns are not considered "public records" under section (c). There are procedural safeguards for criminal defendants. Confidentiality provisions contained in Title XII of the Tax Reform Act of 1976 set forth procedures which must be followed in order for tax returns or information from tax returns to be disclosed to or used by prosecutors. 26 U.S.C. §§ 6103, 7213 and 7217. See also Courts have generally held that tax returns are privileged whether or not state tax laws prohibit their disclosure by the state. 70 A.L.R.2d 240

disclosed to third parties, something they do not wish to do. There are further federal privacy statutes under the "Right to Financial Privacy Act", 12 U.S.C § 3401 et seq.

Other cases have precluded disclosure of income, even when fraud is alleged. See *Harrison v. Dean Witter Reynolds, Inc.*, 79 F.3d 609 (7th Cir. 1996) a customer alleged he was the victim of a "ponzi" scheme in a lawsuit. The court held that evidence of the customer's alleged underreporting of income from the investment was substantially more prejudicial than probative. As seen protections are given on both sides of the litigation.

Plaintiffs do not wish to abandon this issue. (see *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting where a party fails to cite authority or where the argument is simply a conclusory statement, the party is deemed to have abandoned the issue).)

In *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (S.C. 05/08/2006) , the court allowed the release of financial documents in a family law matter to an unrelated party in a civil action. The court found that the matter was immediately appealable, and while the court allowed disclosure of the information, it does not appear that the court considered the implications of the Constitutional right to privacy, instead considering the voluntary involvement in litigation. However, such a decision does not consider the problems associated and raised in many punitive damage cases, and here, in a sanctions matter before any findings have been made.

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The general proposition of *Ex Parte Capital, supra*, supports Plaintiffs' position:

"...We agree with courts which have been inclined to find such an order immediately appealable because, after a court file is unsealed and the information released, no appellate remedy is likely to repair any damage done by an improper disclosure. **"Compelling a party that disputes an unsealing order to forgo an appeal until the conclusion of the underlying litigation would let the cat out of the bag, without any effective way of recapturing it if the district court's directive was ultimately found to be erroneous."** *Siedle v. Putnam Investments, Inc.*, 147 F.3d 7, 9 (1st Cir. 1998) (quoting *Irons v. FBI*, 811 F.2d 681, 683 (1st Cir. 1987)). These courts also explain that the usual method of reaching an appellate court - being held in contempt for refusal to comply - is not available to a litigant when the court chooses to unseal its own records. See *Virginia Dept. of State Police v. Washington Post*, 386 F.3d 567, 574 n.4 (4th Cir. 2004) (order unsealing district court documents may be immediately appealed under collateral order doctrine applicable in federal courts); *S.E.C. v. TheStreet.com*, 273 F.3d 222, 228 (2d Cir. 2001) (same); *Siedle*, 147 F.3d at 9 (same)"(Emphasis added)

Plaintiffs want an appropriate conclusion to this case, however allowing the court to force disclosure of documents, and thereafter under threat of the type of conclusion reached in *Ex Parte Capital, supra*, mandates modification of the order, and Plaintiffs go so far to say that the law governing financial privacy mandates vacating the orders.

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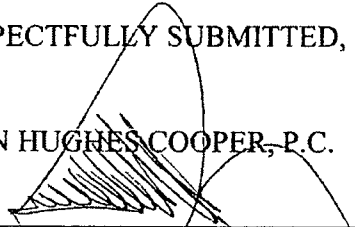
## CONCLUSION

As set forth herein, Plaintiffs ask the court to grant this motion in its entirety, and vacate its prior order .

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

[shiplaw@jhcooper.com](mailto:shiplaw@jhcooper.com)

JOHN TOWNSEND COOPER, Esquire

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South Carolina Bar 76087

1476 Ben Sawyer Blvd., Suite 11

Mt. Pleasant, SC 29464

843-883-9099; fax 843-883-9335

and

LISA FISHER, ESQUIRE (*Pro Hac Vice*)

P.O. Box 91112

Long Beach, CA 90809-1112

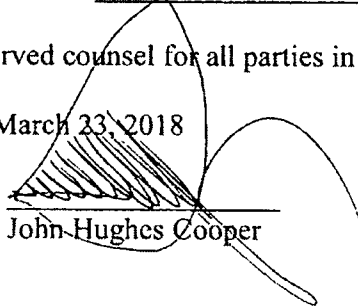
562-965-3267

[lfisher6736@yahoo.com](mailto: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 counsel for all parties in this action with a copy of the forgoing by email and first class mail on March 23, 2018

  
John Hughes Cooper

1 STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
 2 COUNTY OF CHARLESTON ) CASE NO. 2009-CP-10-3010

3 ALICE SHAW BAKER, ET. )  
 4 AL, )  
 5 Plaintiffs, ) Transcript of Excerpt  
 6 vs. ) of Record  
 7 BESSIE HUCKABEE, ET. )  
 8 AL., ) Date: March 12, 2018  
 9 Defendants.

10 \* \* \* \* \*

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B E F O R E:

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The Honorable Thomas L. Hughston

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Denise J. Lauder, RPR

22

Ninth Judicial Circuit

23

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1                   (The following is an excerpt of the  
2     proceedings held March 12, 2018, Charleston County  
3     Common Pleas Court.

4                   THE COURT: Okay. Well, I have a  
5     couple of assignments for you over the evening  
6     recess. And you're probably going to need to give  
7     some information to this young man right here who  
8     is my on-loan law clerk.

9                   Actually, he's Judge Nicholson's law  
10    clerk, but I'm getting to use him this week, and  
11    I've enjoyed meeting him and working with him.

12                  And the reason I say that you need to  
13    give him your e-mail addresses, you know, because I  
14    want you to fill out a current financial statement  
15    showing all of your assets, liabilities, and net  
16    worth. I need that to deal with issues that I have  
17    to deal with at the conclusion of this case.

18                  So that's the first thing I want you to  
19    do is to give the information to him so that he can  
20    send that form to you that I want you to fill out.

21                  Who wants to go first?

22                  MR. COOPER: You want the email?

23                  THE COURT: Tell him how to send it to  
24    you.

25                  MR. COOPER: Okay. It's

1 shiplaw@jhcooper.com, S-H-I-P-L-A-W.

2 THE COURT: Ms. Fisher.

3 MS. FISHER: It's

4 lfisher6736@yahoo.com.

5 THE COURT: And then do you want to get  
6 it for your mother?

7 MS. FISHER: Yes.

8 MRS. FISHER: Well, wait a minute. Why  
9 do I have to do it?

10 THE COURT: Because you're a party and  
11 you are subject to the rules.

12 MRS. FISHER: Okay. I'll accept that.

13 THE COURT: Okay. And then the other  
14 thing I want each of you to do is to give me page 1  
15 and page 2 of your US federal tax returns for last  
16 year. If you have it for this year, you can give  
17 it to me for -- that is, if you've already filed  
18 it. If you have it prepared, I want the 2017 and  
19 the 2016 page 1 and page 2 of your federal tax  
20 returns.

21 What I'm interested in is showing me  
22 what your taxable income was for those years, and I  
23 believe that will be shown on page 2 of the return.  
24 So you can -- if you want to -- whatever the word  
25 is, where you take it out, scratch it out, or

1     whatever, if you want to -- what's the word I'm  
2     looking for?

3                   THE CLERK:  Redact.

4                   THE COURT:  Redact, that's it.  Redact  
5     your Social Security number.  I want your name on  
6     it though and I want your signature -- well, you  
7     don't have to put your signature on it because  
8     you're giving it to me as an officer of the court.  
9     You're swearing that that's your return showing  
10    what your taxable income was of the year submitted.

11                  MRS. FISHER:  Well, if I have to do it,  
12    why don't they have to do it?

13                  THE COURT:  Because the issues that I'm  
14    considering only relate to you and not to them.

15                  MRS. FISHER:  Well, what are they here  
16    for, except for my aunt's money?  I don't want to  
17    be impolite, Your Honor, but this is so outrageous.  
18    You know, you lay out the red carpet for these guys  
19    and we're like the bad guys.

20                  THE COURT:  I appreciate your position,  
21    but you are to comply with my order.  I'm sure your  
22    daughter will --

23                  MRS. FISHER:  It's private --

24                  MS. FISHER:  Your Honor, I will --

25                  MRS. FISHER:  -- make it public what I



1 ever made?

2 THE COURT: It's not going to be  
3 public. The only person that's going to see it is  
4 me.

5 MRS. FISHER: -- South Carolina.

6 MS. FISHER: Your Honor, we will take  
7 all appropriate legal actions to review your order.

8 THE COURT: I'm sorry?

9 MS. FISHER: I will take all  
10 appropriate legal actions to review your order.  
11 I'm not --

12 THE COURT: You're going to comply with  
13 it before you do anything else.

14 MS. FISHER: I'm going to look at what  
15 you're asking us to do. This Court has not made a  
16 decision --

17 THE COURT: I need that to make a  
18 decision about the attorneys' fees and sanctions.

19 MS. FISHER: Obviously --

20 THE COURT: Obviously.

21 MS. FISHER: Obviously, but we are in a  
22 position where the person who is the Plaintiff is  
23 being -- before all the evidence is introduced is  
24 being charged with something.

25 THE COURT: I want to get this done as

1 soon as possible.

2 MS. FISHER: I'm sure you do, but  
3 that's not how things are done through the law.  
4 People are given rights, they're given notice,  
5 they're given an opportunity to respond.

6 So if that's not what the law is in  
7 South Carolina, then, you know, I need to know that  
8 as well. So when I see the form, I will then  
9 determine what I need to do, Your Honor.

10 THE COURT: All right. I appreciate  
11 that.

12 MS. FISHER: Thank you.

13 THE COURT: Thank you very much.

14 We'll be in recess until 9:30 tomorrow  
15 morning.

16 MR. COOPER: Thank you, Your Honor.

17 MR. WILLS: Thank you, Your Honor.

18 THE COURT: One other thing, I have the  
19 issue of attorneys' fees so I'm going to need an  
20 up-to-date at the end of this case, the end of the  
21 trial, your best estimate of what your attorneys'  
22 fees request are. Both sides.

23 You can send all of that sort of stuff  
24 to this young man. He'll give you the e-mail  
25 address for you to send it to him to give it to me.

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 ) Transcript of Excerpt  
 Plaintiffs, ) of Proceedings  
 6 )  
 vs. )  
 7 ) Date: March 13, 2018  
 BESSIE HUCKABEE, ET. )  
 8 AL., )  
 9 Defendants.

10 \* \* \* \* \*

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12 B E F O R E:

13 The Honorable Thomas L. Hughston

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20 Denise J. Lauder, RPR

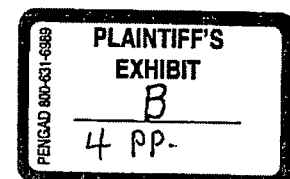
21 Ninth Judicial Circuit

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1 to me as soon as you can?

2 MS. FISHER: Your Honor, at this time,  
3 I'm going to interpose an objection to the  
4 documents you're requesting. The order was vague.  
5 If you can explain to me what statutory authority  
6 you have for requiring me to produce tax records.

7 Financial records are protected under  
8 the constitution, and I'm not sure why you're  
9 requesting information --

10 THE COURT: Well, I'll --

11 MS. FISHER: -- for --

12 THE COURT: -- tell you why. Because I  
13 think that it's relevant in regard to the issue of  
14 attorney's fees, and I think it's relevant in  
15 regard to the issue of sanctions.

16 MS. FISHER: Yes. And, unfortunately,  
17 Your Honor, I think that demonstrates a little bit  
18 of a bias in light of the fact that the case is not  
19 complete yet.

20 THE COURT: If I decide against it,  
21 then there won't be any problem.

22 MS. FISHER: I understand that, except  
23 that you've already demonstrated that the only  
24 people that you think are subject to sanctions  
25 would be the Plaintiffs --

1                   THE COURT: You didn't ask for  
2 sanctions against them.

3                   MS. FISHER: That's true, Your Honor, I  
4 didn't, but I'm not sure that it's appropriate to  
5 ask prior to the end of trial.

6                   In any event, Your Honor, if you can  
7 tell me what statutory authority --

8                   THE COURT: There's no statutory  
9 authority. It's within the discretion of the  
10 Court, I'm telling you that and you ought to know  
11 that.

12                  MS. FISHER: I know that -- I don't  
13 believe that's correct. I mean no disrespect to  
14 you --

15                  THE COURT: You can take it up or do  
16 whatever you want to do afterward. If you don't  
17 get that to me within a reasonable period of time,  
18 you're going to face further sanctions.

19                  MS. FISHER: Okay. Well, just for  
20 clarity, Your Honor, I did look to try and find  
21 what statutory authority you might have, and now  
22 you're telling there is none. So I did look under  
23 the Internal Revenue Codes -- the Revenue and  
24 Treasury Code 1425119542, which indicates that  
25 income taxes are privileged.

1                   Also, under --

2                   THE COURT:   Okay.  We can go at it  
3   several ways.  I want the figures I told you, your  
4   net taxable income.  You don't have to show me your  
5   tax return.  You give it to me under oath that  
6   that's your net taxable income and that would be  
7   sufficient.

8                   MS. FISHER:  And, Your Honor, with  
9   regard to that issue, I still believe that's under  
10  the code -- under the constitution, financial --

11                  THE COURT:  I don't believe so.  I will  
12  bear whatever responsibility comes from that.

13                  MS. FISHER:  Well, I understand.  And I  
14  will bear whatever responsibility it takes, but I  
15  will look further into that.  If the Court requires  
16  briefing, I certainly will give that to you, but I  
17  don't think whatever amount of money I made, or may  
18  not have, has any -- has any limits to what you can  
19  do.

20                  My hope is, that based on the law  
21  regarding sanctions, that of course sanctions will  
22  not be imposed and attorney's fees will not be  
23  imposed.

24                  THE COURT:  I can understand that.

25                  MS. FISHER:  I respectfully am not



John Hughes Cooper <shiplaw@jhcooper.com>

---

**Fisher v. Huckabee 2009-CP-10-3010**

---

**Hughston, Thomas L.** <thughstonj@sccourts.org>

Wed, Mar 14, 2018 at 11:24 AM

To: lisa fisher <lfisher6736@gmail.com>

Cc: Jaci <jcrowleylawfirm@gmail.com>, John Townsend Cooper <jtc@jhcooper.com>, "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Hughes Cooper <shiplaw@jhcooper.com>

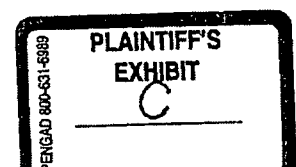
Dear Ms. Fisher:

Following up on my oral Order to you regarding a written statement from you as an officer of the Court telling me your net worth and your net income for 2017 if you have that figure available, and if not, your net income for 2016. I am putting this in writing as an Order. It is relevant to the issues before me. I hope that you will comply with this by Friday, March 16, 2018. Failure to do so will be dealt with as civil contempt of court.

Thank you for your consideration, cooperation and attention to this Order, and I shall look forward to hearing from you.

Thomas L. Hughston, Jr

[Quoted text hidden]





John Hughes Cooper <shiplaw@jhcooper.com>

---

**Fisher v. Huckabee 2009-CP-10-3010**

---

**lisa fisher** <lfisher6736@gmail.com>

Fri, Mar 16, 2018 at 11:06 AM

To: "Hughston, Thomas L." <thughstonj@sccourts.org>

Cc: "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>, jcrowleylawfirm@gmail.com

Dear Judge Houston,

I apologize for the delay in responding to your most recent correspondence. As I'm sure you recall at trial I was coughing excessively. Unfortunately it resulted in a pretty serious illness. I am only starting to recover.

Although I am licensed to practice in California, I have reviewed the lawyers oath under rule 402, SCACR, and seek to comply with the requirements of South Carolina law.

I believe in making this inquiry before final determination of my compliance with your order is appropriate and justified in requesting clarification. I do not wish to disobey your order, however I do not wish to inadvertently waive my rights to financial privacy especially when I can't find any statutory or common law Authority for your request.

The court indicated earlier that the information would not be disclosed to the other side. However, that would require me to violate the ex parte communication prohibition, unless the other side waives the right to this information. The next problem would be is the information sealed and prohibited from release and or destroyed?

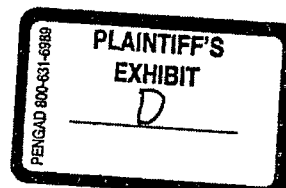
I hope you understand the reason that I am concerned with complying. Although, I certainly don't have anything to hide that doesn't mean that I should not protect these important rights.

In any event, I hope the Court considers these important questions. I have copied all parties to ensure that they too understand my questions and as required by law.

Thank you.

Lisa Fisher

[Quoted text hidden]







---

**Fisher v. Huckabee 2009-CP-10-3010**

---

Hughston, Thomas L. <thughstonj@sccourts.org>

Fri, Mar 16, 2018 at 11 28 AM

To: lisa fisher <lfisher6736@gmail.com>

Cc: "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>, "jcrowleylawfirm@gmail.com" <jcrowleylawfirm@gmail.com>

Thank you for your email and I am certainly sorry to hear of your illness.

I do not recall saying that your information would not be disclosed to the other side, for I believe that they are entitled to it. Therefore, it would not be an ex parte communication. However, Ms. Crowley apparently does not object to my receiving this information directly from you and not going to her at this time. I will keep it completely to myself, put it in a sealed envelope, and write on it that it will only be opened on an as needed basis in the future. In other words, it is for my eyes only.

I hope that this answers all your questions and that you will promptly supply this information to me.

Thomas L. Hughston, Jr.

---

From: lisa fisher <lfisher6736@gmail.com>

Sent: Friday, March 16, 2018 11:06 AM

To: Hughston, Thomas L.

Cc: W. Westbrook Wills III; John Townsend Cooper; John Cooper; jcrowleylawfirm@gmail.com

Subject: Re: Fisher v. Huckabee 2009-CP-10-3010

Dear Judge Houston,

I apologize for the delay in responding to your most recent correspondence. As I'm sure you recall at trial I was coughing excessively. Unfortunately it resulted in a pretty serious illness. I am only starting to recover.

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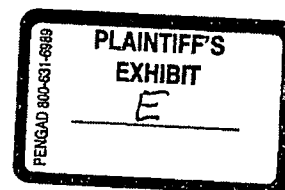
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In any event, I hope the Court considers these important questions. I have copied all parties to ensure that they too understand my questions and as required by law.

Thank you.

Lisa Fisher

[Quoted text hidden]





John Hughes Cooper <shiplaw@jhcooper.com>

---

**Fisher v. Huckabee 2009-CP-10-3010**

---

**lisa fisher** <lfisher6736@gmail.com>

Fri, Mar 16, 2018 at 11:42 AM

To: "Hughston, Thomas L." <thughstonj@sccourts.org>

Cc: "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>, "jcrowleylawfirm@gmail.com" <jcrowleylawfirm@gmail.com>

Thank you for your prompt reply. I appreciate Ms. Crowley's consent, and ask if she has authority to consent on behalf of Mr. Wills. I would appreciate this information

Thank you.

Lisa Fisher

Sent from my iPad

[Quoted text hidden]





John Hughes Cooper <shiplaw@jhcooper.com>

---

## Fisher v. Huckabee 2009-CP-10-3010

---

Jessica Crowley <jcrowleylawfirm@gmail.com>

Fri, Mar 16, 2018 at 12:06 PM

To: lisa fisher <lfisher6736@gmail.com>

Cc: "Hughston, Thomas L." <thughstonj@sccourts.org>, "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>

I consent to the ex parte communication only. My recollection was that Judge Hughston requested you communicate with his law clerk. I have no issue with this. As far as privacy of the information involved, I would expect that its availability for the parties to review what is submitted would be consistent with the law and with the Judge's order.

Jessica

### Jessica Crowley

#### Attorney at Law

8 Gillon Street

Charleston, SC 29401

Mail: PO Box 30189

Charleston, SC 29417

Telephone (843) 789-9614

Facsimile (843) 559-3162

Email: jcrowleylawfirm@gmail.com

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[Quoted text hidden]





John Hughes Cooper <shiplaw@jhcooper.com>

---

## Fisher v. Huckabee 2009-CP-10-3010

---

**lisa fisher** <lfisher6736@gmail.com>

Fri, Mar 16, 2018 at 1:26 PM

To: Jessica Crowley <jcrowleylawfirm@gmail.com>

Cc: "Hughston, Thomas L." <thughstonj@sccourts.org>, "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>

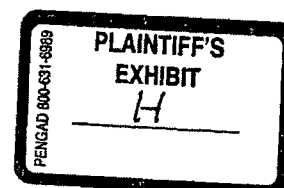
Well this is quite different then judge Houston's understanding of your consent. The rest of your statement is unintelligible, furthermore you are not stating whether or not you have the ability to consent for Mr. Wills. It sounds to me like you certainly understand that disclosure would be a waiver of privacy, and this causes great concern for me. Please clarify your position, so I can ensure that I understand I have a legal aspects of this case.

Thank you.

Lisa Fisher

Sent from my iPad

[Quoted text hidden]





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## Fisher v. Huckabee 2009-CP-10-3010

---

Jessica Crowley <jcrowleylawfirm@gmail.com>

Fri, Mar 16, 2018 at 2:20 PM

To: lisa fisher <lfisher6736@gmail.com>

Cc: "Hughston, Thomas L." <thughstonj@sccourts.org>, "W. Westbrook Wills III" <wwills@wwillslaw.com>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>

1. I consent to you submitting your information in a separate email. I do this as a courtesy to you due to the approaching deadline.
2. I do not waive any right the law may afford me to review this information in the future. I do not waive my right to request or review your financial information in this or any other action should it be relevant and lawful for me to do so.
3. Attorney Wills, I imagine, will respond separately.

--

**Jessica Crowley**

**Attorney at Law**

8 Gillon Street, Ste. B

Charleston, SC 29401

Mail: PO Box 30189

Charleston, South Carolina 29417

Telephone (843) 789-9614

Facsimile (843) 559-3162

Email: harperjaci@gmail.com

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[Quoted text hidden]





John Hughes Cooper <shiplaw@jhcooper.com>

---

**Fisher v. Huckabee 2009-CP-10-3010**

---

**W. Westbrook Wills III** <wwills@wwillslaw.com>

Fri, Mar 16, 2018 at 2:24 PM

To: Jessica Crowley <jcrowleylawfirm@gmail.com>

Cc: lisa fisher <lfisher6736@gmail.com>, "Hughston, Thomas L." <thughstonj@sccourts.org>, John Townsend Cooper <jtc@jhcooper.com>, John Cooper <shiplaw@jhcooper.com>

Mr. Wills joins in Ms. Crowley's position.

[Quoted text hidden]





---

**Shaw Baker: 2009-cp-10-3010**

1 message

---

**lisa fisher** <lfisher6736@yahoo.com>

Fri, Mar 16, 2018 at 4:13 PM

To: "Thomas L. Hughston" <thughstonj@sccourts.org>, John Hughes Cooper <shiplaw@jhcooper.com>, "W. Westbrook Wills III" <wwills@wwillslaw.com>, Jessica Crowley <jcrowleylawfirm@gmail.com>, Jaci Crowley <harper.jaci@gmail.com>, John Townsend Cooper <jtc@jhcooper.com>

On Friday, March 16, 2018, 12:56 PM, lisa fisher <lfisher6736@yahoo.com> wrote:

Dear Judge Hughston,

I am in receipt of the correspondence from Ms. Crowley and Mr. Wills.

I am in a no win situation. As the former conservator of the estate of Alice Shaw Baker, I had a duty to ensure that the assets were distributed to the right person. I had substantial information that Kay Passailague Slade was not the right person, and in fact, that Alice Shaw Baker was under the belief that she ran a dog charity, which turned out not to be true. This court issued this order prior to the conclusion of plaintiff's case, so I believe my concerns re favoritism are well taken. I have tried to put these concerns aside to only be more confounded by the actions of defendants.

These attorneys know that you made your original order that the documents would be for your eyes only, and yet they do not verify that fact with you. (Rule 402)

I will seek judicial review of your order as set forth. I would like to avoid that review, but I can not allow involuntary disclosure of my financial status. South Carolina is a state which provides even more rights than the United States Constitution, with a specific right to privacy in Article 1, § 8.

Moreover, the court has asked for this information without statutory or common law authority. The problem with the court's decision is that it creates a type of litmus test for litigants, subjecting litigants with financial problems to embarrassment and rich litigants to early disclosure for the defendants.

In light of The unreasonable positions of defendants, I can see no way to overcome the confusion over the scope of the order, the inadvertent disclosure of protected information, and the unfair prejudice that we have suffered at this juncture. Please issue an order that protects my financial privacy rights and allows judicial review.

Thank you for this opportunity to explain my position.

With respect,

Lisa 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

Case No. 2009-CP-10-3010

**RECEIVED**

MAR 30 2018

SC Court of Appeals

Betty Fisher and Lisa Fisher.....Appellants

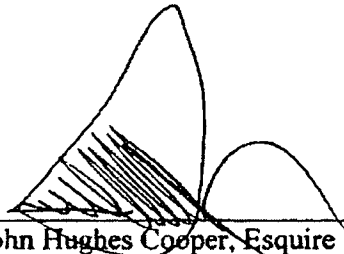
v.

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

## NOTICE OF APPEAL

Betty Fisher and Lisa Fisher appeal the interlocutory orders of the Honorable Thomas L. Hughston, Jr. of March 12, March 13, March 14, and March 16, 2018 compelling financial disclosure by Plaintiffs and the order of March 29 denying Plaintiffs' Motion to Vacate Order Compelling Financial Disclosure. Appellants received written notice of the above Orders via email or in open Court on the above dates.

March 29, 2018



John Hughes Cooper, Esquire  
Lisa Fisher, Esquire (*pro hac vice*)  
1476 Ben Sawyer Blvd., Suite 11  
Mt. Pleasant, SC 29464  
843-883-9099  
Attorneys for Appellants

Ex A



Other Counsel of Record:

W. Westbrook Wills III, Esquire

P.O. Box 822

Folly Beach, SC 29439

843-805-6300

Attorney for Bessie Huckabee, Kay Passailaigue Slade and Sandra Byrd

Jessica L. Crowley, Esquire

P.O. Box 30189

Charleston, SC 29417

843-789-9614

Attorney for Bessie Huckabee, as Personal Representative

Hon. Mary Frances Jowers

Assistant Attorney General

P.O. Box 11549

Columbia, SC 29211

803-734-0274

Counsel for the Attorney General of South Carolina

THE STATE OF SOUTH CAROLINA

In the Supreme Court of South Carolina

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

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Case No. 2009-CP-10-3010

Betty Fisher and Lisa Fisher. . . . . Appellants

v

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

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NOTICE OF APPEAL

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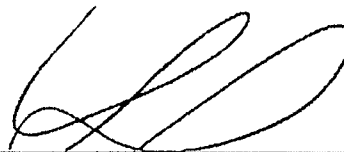
Betty Fisher and Lisa Fisher appeal the following orders of the Honorable Thomas L. Hughston, Jr. :

- 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

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

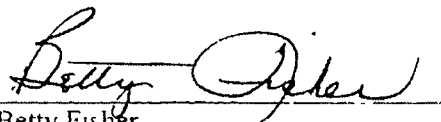


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Lisa Fisher  
PO Box 91112  
Long Beach, CA 90809-1112  
(562) 965-3267  
Appellant in Pro Per

Joining in Notice of Appeal:

April 4, 2018



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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 Huckabec, Kay Passailaiguc 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 South Carolina 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.

Appellate Case No. 2018-000566

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

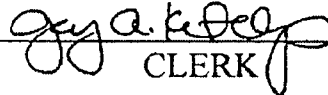
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## ORDER

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The Court hereby consolidates the two notices of appeal received in this case. All future filings must contain the caption and appellate case number featured above.

FOR THE COURT

BY   
CLERK

Columbia, South Carolina

cc:

John Hughes Cooper, Esquire

Lisa Fisher, Esquire

Warren W. Wills, III, Esquire

Jessica Lynn Crowley, Esquire

Mary Frances G. Jowers, Esquire

Betty Fisher

The Honorable Thomas L. Hughston, Jr.

**FILED**

April 10, 2018

Ex C

# 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. 2018-000566  
Lower Court Case No. 2009CP1003010

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## ORDER

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FILED  
2018 APR 16 PM 4:22  
CLERK OF COURT

This appeal is currently pending before the South Carolina Court of Appeals. Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, this appeal is hereby certified for review by this Court.<sup>1</sup>

With the consent of his clients, counsel for appellants moves to be relieved as counsel. The motion is granted. Further, since South Carolina counsel is no longer associated with her, the *pro hac vice* admission of Lisa Fisher, Esquire, is hereby withdrawn.

The records of this Court now reflect that appellants are proceeding without counsel in this appeal. If appellants desire to retain counsel for this appeal, that attorney will need to notify this Court that he or she has been retained within ten (10) days of the date of this order.

Any necessary transcript(s) must be ordered in the manner specified by Rule 207, SCACR, no later than ten (10) days of the date of this order.

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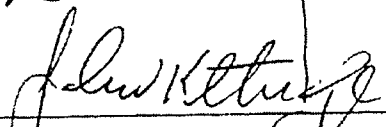
<sup>1</sup> Earlier, the Court of Appeals consolidated Appellate Court Case Number 2018-000604 into this case and ended Appellate Case Number 2018-000604.

EX D

Appellant Lisa Fisher has filed a petition for a writ of supersedeas and other relief. Appellant Betty Fisher has joined this petition. Since appellants have not sought supersedeas or a stay from the lower court, we deny this petition without prejudice and direct the appellants to first seek a stay or supersedeas from the circuit court judge. Rule 241(d)(1), SCACR.

Finally, in the petition for a writ of supersedeas and other relief, the appellants assert that they were preparing a motion under Rule 59 of the South Carolina Rules of Civil Procedure when the order of April 3, 2018, was issued by the circuit court. Since the April 3, 2018 order, "enjoined and restrained [appellants and their counsel] from filing any motions in the Circuit Court," appellants assert that they did not file a Rule 59 motion.

If appellants desire to file a Rule 59 motion with the circuit court, it shall be filed with the circuit court clerk and a copy provided to the circuit court judge within fifteen (15) days of the date of this order. Any appeal from the order ruling on the Rule 59 motion shall be combined with this appeal.

 C.J.  
 J.  
 J.  
 J.  
 J.

Columbia, South Carolina  
April 10, 2018

cc: John Hughes Cooper, Esquire  
Warren W. Wills, III, Esquire

Jessica Lynn Crowley, Esquire  
Mary Frances G. Jowers, Esquire  
Ms. Betty Fisher  
Lisa Fisher, Esquire  
The Honorable Thomas L. Hughston, Jr.  
The Honorable Julie J. Armstrong  
The Honorable Jenny Abbott Kitchings



Re: Fisher v. Huckabee 2009-CP-10-3010, also Appellate Case  
2018-000604

Hughston, Thomas L.

Mon 4/9/2018 1:49 PM

To: Shearouse, Daniel <DShearouse@sccourts.org>,

cc: lisa fisher <lfisher6736@gmail.com>; John Cooper <shiplaw@jhcooper.com>, Fulp, Kenneth <kfulp@bcgov.net>, Jaci  
<jcrowleylawfirm@gmail.com>, W. Westbrook Wills III <wwills@wwillslaw.com>;

Dear Mr. Shearouse:

In response to the Affidavit of Lisa Fisher and Betty Fisher of April 7, 2018 which I received today, I state that my first Post Trial Order was on April 3, 2018, more than 10 days after my Order was filed with the Clerk of Court on March 21, 2018 and I believe would have been available online by March 22, 2018. Therefore, I thought my Order of April 3 was beyond the 10 days allowed for Post Trial Motions. If I am mistaken in regard to this sequence of events and conclusions, I will be glad to consider any Post Trial Motions on directions to do so by the Supreme Court of South Carolina, or if appropriate, the Court of Appeals.

I await your instructions.

Respectfully submitted,

Thomas L. Hughston, Jr.

From: Hughston, Thomas L.  
Sent: Thursday, March 29, 2018 9:47 AM  
To: W. Westbrook Wills III; Jessica Crowley  
Cc: lisa fisher; John Townsend Cooper; John Cooper  
Subject: Re: Fisher v. Huckabee 2009-CP-10-3010

Dear Attorneys:

I received the Plaintiffs' Motion to Vacate Order Compelling Financial Disclosure. I have considered it and deny this Motion. You have until April 1, 2018 to comply or face contempt of court and other sanctions.

Thomas L. Hughston, Jr.

EX E

<https://mail.sccourts.org/ovw/>

4/9/2018

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

**RECEIVED**  
APR 09 2018  
SC Court of Appeals

Case No. 2009-CP-10-3010

APP. Case # 2018-000604

Betty Fisher and Lisa Fisher.....Appellants

v.

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

**AFFIDAVIT OF BETTY FISHER**

PERSONALLY APPEARED before me BETTY FISHER, who being first duly sworn,  
stated as follows:

1. My name is BETTY FISHER, and I am over the eighteen and of sound mind. I  
am one of the plaintiffs in this case.

2 I have personal knowledge of the matters set forth herein and if called and sworn  
to testify, I could and would competently do so.

3. I intended to file this affidavit with my motion for new trial which I learned on  
April 3, 2018, two days before the deadline, I could not file.

4. At all times, I relied on advise of my counsel in prosecuting this case. As such, I  
believed that the facts supported the law in this case, and that the claims were warranted under

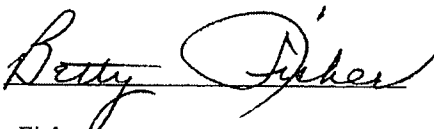
existing law or that an extension, modification, or reversal of law was available with regard to these legal proceedings.

5. Further, I believed based on my conversations with my aunt, Alice Shaw Baker, and that there were documents which supported my conversations with her that her estate was going to animal charities, that proceeding with this litigation was not only proper but consistent with her desires. It was my wish, only, to make sure that her desires were followed.

6. I did not intend EVER to delay, harass, or injure any other party. I was aware that my daughter Lisa Fisher was paying from her personal funds to maintain her [Alice Shaw Baker's] property, pay property taxes, pay insurance, and all other related expenses during the appeal process. I believed that these payments prevented waste to the property and allowed it to accrue in value, so that no losses to my aunt Alice Shaw-Baker's estate would take place.

7. I am requesting that the court preserve the status quo to protect Alice Shaw Baker's property, pending resolution of the appeal.

8. FURTHER, AFFIANT SAYENT NAUGHT.

By:   
Betty Fisher

Subscribed and sworn to before me

This \_\_\_\_\_ day of February, 2018.

(SEAL)

Notary Public

My Commission Expires: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California, County of LOS Angeles

Subscribed and sworn to (or affirmed) before me

on this 7 day of April, 2018.

by Patty Fisher.

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: Laura Hilke



THE STATE OF SOUTH CAROLINA

In the Court of Appeals of South Carolina

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

RECEIVED  
APR 09 2018  
SC Court of Appeals

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

Betty Fisher and Lisa Fisher.....Appellants

v.

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

**AFFIDAVIT OF LISA FISHER**

PERSONALLY APPEARED before me LISA FISHER, who being first duly sworn,  
stated as follows:

1. My name is LISA FISHER, and I am over the eighteen and of sound mind. I am one of the plaintiffs in this case.
2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
3. I intended to file this affidavit with my motion for new trial which I learned on April 3, 2018, two days before the deadline, I could not file.
4. RELEVANT PLEADINGS: All pleadings, orders and documents attached to the petition for writ of supercedeas are true and correct.

**RELEVANT ORDERS:**

**A) ORDER AFTER JURY TRIAL**

**B) ORDER AFTER CONSTRUCTIVE TRUST TRIAL**

Said order made no required findings under Rule 52 regarding plaintiffs efforts to seek a constructive trust. Instead, the court imposed the following judgment in the amount of:

**\*\*\$253,969.31 payable to Bessie Huckabee, Kay Passailague Slade, and Sandra Byrd from Lisa Fisher, John Hughes Cooper & Betty Fisher.**

**\*\*\$229,599.51 payable to The Estate of Alice Shaw Baker from Lisa Fisher;**

**\*\*\$65,151.34 payable to the Estate of Alice Shaw Baker from John Hughes Cooper. (It is important to note that this amount is the previously ordered fees approved from the probate court during Alice Shaw Baker's life.)**

The order reflects that the court had someone else convert Lisa Fisher's accounting into some type of spreadsheet. This was not introduced, nor was there any ability to dispute it or explain it. The court knew that Judge Fulp had already indicated that there would be a hearing in probate regarding my accounting, wherein I would have an opportunity to be heard. The court indicated that there was \$69,533.17 improper expenditures without any opportunity to provide evidence. Thereafter, the Court denied my fees as conservator. It awarded 3 times the actual damages to the estate, however there was no evidence or opportunity to be heard on these damages.

Most shocking and hurtful is the statement towards the end of the order which stated that the real purpose for trying to fly Alice to California was to "have her die in California, ultimately avoid the jurisdiction of South Carolina Court, control the Estate, defeat the Will, and benefit her mother an herself." There was no testimony to support this horrific conclusion, nor is it accurate legally. Alice's estate would have remained in South Carolina, unless I had petitioned the California Court and South Carolina Court would have had authority to make me account and review my transactions here, before transfer to California. My only desire was to have Alice restored to health and live a long life. She was family and she was loved. My help was based on my love for Alice and my mother, who was committed to helping Alice—her mother's baby sister! The order is a nightmare and not supported by any facts other than the court's deep hatred of Plaintiffs and their use of the judicial system to try and protect the property for Alice's stated desires.

- C) ORDER RELEASING ALL MONIES TO BESSIE HUCKABEE, KAY SLADE, AND ENJOINING PLAINTIFFS FROM FILING ANY MOTIONS IN CIRCUIT COURT. ALL FILINGS TO BE IN THE SUPREME COURT.

Said order releases all of the monies now held in the court after the previously filed Interpleader action. It also removes the house from the conservator's care, despite this issue being before the Supreme Court in a

related Petition for Writ of Certiorari.<sup>1</sup> Bessie Huckabee admitted at trial that she could not be bonded. There is no information on whether Kay Passailague Slade can be bonded.

If Appellants are successful on appeal, recourse for recovery of these funds on behalf of animal charities may be limited.

Finally, said order indicated as an "additional" sanction that Plaintiffs were enjoined from filing any motions in the Circuit court, and that all future filings must be filed with the Supreme Court of South Carolina.

- D. DIRECTIONS BY THE PROBATE COURT ON THE PROPER MANNER TO SEEK APPOINTMENT OF A SPECIAL ADMINISTRATOR
- E. WILL CONTEST TRANSCRIPT WHERE THE COURT ESSENTIALLY DIRECTED THE JURY TO FIND THE WILL VALID.  
Attached hereto is a true and correct copy of pertinent portions of the will contest wherein Judge Hughston directed and prosecuted the case for defendants.

At trial in the Will Contest matter, the Court took action to introduce the disputed will of Alice Shaw Baker stating:

"We have to have a will put

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<sup>1</sup> It also implicates the caregiver's rights as she currently has an appeal, wherein an appeal bond was filed and determination of these issues should be resolved. Attorney Crowley prematurely brought the action not disclosing that Huckabee failed to get a bond, thus she had no authority.



in somewhere into evidence in this case."

Thereafter, in instructing the jury, Judge Hughston stated:

"You can look at it and see exactly what Judge Curry said on that occasion as far as what she found to be what she should do on that occasion, based on what was before her at that time. Which I'm not sure of the date of it, I believe it's in November, or whatever; you will have that and you can look at it and see when it was. You can see what she said in that order, and you can presume that she had good reason to say that. She had good reason to do what she did when she put it in writing and filed in the probate court. You can presume that, that she was not able to make a will at that time" (Will Contest Transcript, P. 481, ll. 1-16)

Plaintiffs contend that he acted as advocate for Defendants.

5. The circuit court's order is devastating in that it makes conclusionary statements that are not founded in fact. I complained during trial that the court was sua sponte reviewing the files in the other cases, without an opportunity to be heard.

6. I believed that the facts supported the law in this case, and that the claims were warranted under existing law or that an extension, modification, or reversal of law was available with regard to these legal proceedings.

7. Further, I believed based on the my conversations with my great aunt, Alice Shaw Baker, that everything I was doing was proper. As the testimony set forth, Alice Shaw Baker wanted her monies to be used for animal charities. Despite Judge Hughston's conclusions about me, I believed that as her conservator, I had a duty to ensure that the appropriate persons received the distribution pursuant S.C. Code § 62-5-425(d) and § 62-7-707. Therefore, the significant evidence in the record, the attempt to revoke, and the judicial admissions of Kay Passailague Slade led me to believe at all times, that my proper legal efforts were made to protect the assets and ensure that I was not liable for delivery of the property to the wrong individuals.

8. I did not intend to delay, harass, or injure any other party at any time. I was making sure that I was in compliance with the laws in South Carolina to not leave the real property vacant, I paid all maintenance, insurance, and taxes over the years, the house has increased in value, and I used over \$58,653.42 in my own money to preserve the estate during the period of time after the court made its orders freezing the estate assets. While the amount of monies that I used did not come out at trial, I am attaching a true and correct copy of the monies expended and identified in the writ. I believe this supports my position that I did not intend ever to delay, harass, or injure any other party. There are additional billings that I paid that I am trying to get copies of at this time, however I did not believe that this was relevant in the constructive trust trial. After the court appointed Judge Fulp as probate judge, I believed that this was information that I would provide to him in satisfying my duties as conservator and that these payments prevented waste to the property and allowed it to accrue in value, so that no losses to my great aunt Alice Shaw-Baker's estate would take place.

9. This affidavit goes through the timeline and objects and responds to the specific allegations. The court used the following designations

**LEGEND:**

Circuit Court Case=No Emphasis

Underlying Probate Case=Underlined

Guardian and Conservator action=*Italics*,

I am trying to maintain the current designation as follows:

**2008**

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

a. I did not receive this petition originally. When I did receive it, I immediately obtained counsel to help Alice. She was very upset and did not want a conservator.

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

a. I did not receive this order until after Alice was conserved. When I did receive it, I immediately obtained counsel to help Alice. She was very upset and did not want a conservator.

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

- a. I did not receive this order until after Alice was conserved. When I did receive it, I immediately obtained counsel to help Alice. She was very upset and did not want a conservator.

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

- a. In filing this document, I 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. Alice attempted to revoke the will. 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. Therefore, I filed this petition.

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

- A. I was family, Alice nominated me, and I sought appointment. Ms. Spencer objected and wanted Alice to be subject to professional conservators.

15. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt.**

17. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. Most of this had been done by the time of the order. It was hard for Alice not to be able to smoke in her house. However, she did her best to obey the rules.**

18. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. These orders were initiated by the court. At trial, Kouten testified that he did not believe he was appointed Attorney, just Guardian ad litem. I produced the orders appointing him at trial.**

19. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This evaluation was an independent evaluation, because Alice did not want to be conserved. She nominated me because she trusted me. (See Dr. Declaration of Dr. Mulbry).**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.**

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

22. 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*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing. This is an incomplete summary of his statement. It also said that Alice trusted me.

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This was an appropriate filing and consistent with the known objectives of Alice Shaw Baker.

24. November 10, 2008—*Judge Curry issues several orders awarding fees to: (1) temporary coguardian 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;*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

26. 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.*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to comply with the court's orders.

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing. However, this summary is silent, as Alice was doing well.

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

29. 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.*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

30. 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.*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.

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

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. Jane Orenstein was bothering and upsetting Alice. This is reflected in the



reports of Peter Kouten. He also sent her a letter. She wanted Alice to be on anti-psychotics. I allowed the attorneys to handle it.

**2009**

32. 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.*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I complied with all orders of court. I had nothing to do with the order granting fees to Kouten.

33. 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*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had problems understanding the informal accountings. I believe that this was correct, however I more recently had all accountings reconciled with the bank records. Something was wrong initially with the accountings, the new accounting balances and shows no error.

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

A. Within minutes of Alice's death, Respondents had made an appointment with Attorney Kouten. They asked the caregiver for the Keys, and I was forced to change the keys. It was a horrible and upsetting experience.

35. 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.*

A. I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing

to do with this filing. These fees were determined and approved by the probate court. I have not seen that part of the file. I don't know that they were reimbursements. I believe that the fees were for Mr. Cooper directly. I will have to look at these documents.

36. 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.*

A. **This is not accurate. Bessie Huckabee was never appointed conservator.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this filing.**

40. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. The motions for attorney fees are not in possession. However, Mr. Cooper worked diligently to assist Alice in her life.**

41. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. Alice had revoked her will, and Bessie Huckabee betrayed Alice. Therefore, I continued to safeguard the property and sought authority.**

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

- A. **I repeat responses to 14 and 15 and 42.**

43. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. The motions for attorney fees are not in possession. However, Mr. Cooper worked diligently to assist Alice in her life.**

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

A. **I repeat responses to 14 and 15 and 42.**

45. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes and efforts to protect the assets, after their efforts to get the property within minutes of her death.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. I had nothing to do with this filing.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. The motion gave no relief, because Huckabee could not get a bond and the court ordered nothing more than the statutory relief.**

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

A. **See response to no. 48**

49. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. I was trying to keep costs down and working with Mr. Cooper to do so.**

50. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with the filing of this document.**

51. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. As set forth herein. I did all things to comply with the court orders, and properly asked for an extension.**

52. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with the filing of this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I filed all documents as required to prosecute the case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. As stated the injunction gave no relief that wasn't already available under the code. I took all action to properly prosecute the case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I filed all appropriate documents to prosecute the case.**

57. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. Respondents sought this order, and thereafter failed to comply with the order. The order granted no relief other than the statutory relief, and it included an improper provision relating to Plaintiffs.**

58. 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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

59. 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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. This complaint was in honor of Alice Shaw Baker's wishes. The motions for attorney fees are not in possession. However, Mr. Cooper worked diligently to assist Alice in her life. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with the document.**

61. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. It was flawed, and nothing was hindered in this case. It was properly prosecuted. The order did nothing that the statutory provision did. Moreover, Bessie Huckabee did not inform the court that she unlawfully marshaled assets, nor that she could not get a bond.**

62. June 19, 2009—Plaintiff Beatty [sic] 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. The grounds to remove as pro hac vice were not proper. I did all things to properly prosecute the case.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I supported this petition to protect the assets of Alice.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I supported this motion to protect the assets of Alice.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this petition.**

66. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. If she had lived, I would not have sought the monies for work on her behalf. However, Respondents did nothing for her, and it was fundamentally**



**unfair for me to have spent all my money to help her, lost money from work, while they tried to reap the rewards.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I filled the form out the way I was told. As indicated above, I had to turn to a professional, because I was unfamiliar with the South Carolina forms. My updated accounting is specific and balances. No monies were used improperly.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I supported this petition to protect the assets of Alice.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I tried to follow all rules before the probate court.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I would have to see document.**

72. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action as required to prosecute the case and claims.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to protect the estate.**

74. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

75. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

78. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this form.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

83. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

84. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

**2010**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did not draft this document.**

2011

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action, but I did not draft this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did not draft this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. As set forth herein, Judge Fulp informed Jessica Crowley that this was not the appropriate document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

98. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did not have anything to do with that document. The court determined it was interlocutory.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

101. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action. I had nothing to do with preparation of said document. I believe it was improper, and stated by Judge Fulp.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

103. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

105. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

106. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

107. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action. The filing of this appeal was proper, as Judge Fulp recently stated that the procedure used was improper and instructed Jessica Crowley how to do it.**

108. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with the drafting of this document, and the conclusions were wrong. That is why Judge Hughston should not have been conducting an independent investigation.**

109. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I took all appropriate action to prosecute the action.**

2012

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

111. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I have no knowledge of this communication, and why the court would have been communicating with Bank of America.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

113. July 30, 2012—Supreme Court Order denying certiorari.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document. This was not the first request to disqualify him. He absolutely refused to recuse himself, despite actual conflict.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

116. September 13, 2012—Bessie Huckabee files inventory and appraisement.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document. However, this document was not correct.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did all things to properly prosecute this case. It had to be filed in both, because it was unclear who was handling the estate assets. There was a question of whether the assets were within the control of the circuit court, or not.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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2013

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.** The courts independent investigation of this action was improper.

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document and it was not properly served on plaintiffs.**

#### **2014**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

134. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

**2015**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

**2016**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

144. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

## 2017

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

146. 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.*

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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



- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

148. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did all things to properly prosecute this case.**

149. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

157. 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.*

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.** Although I support any transfer from Charleston County.

158. October 2, 2017—Plaintiffs 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

160. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

161. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

163. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.** Although we vigorously opposed said document.

165. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did everything to properly prosecute this case.**

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

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did not have anything to do with this motion, however the order is very vague as to "cases currently filed.**

## **2018**

168. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document. This was opposed in the pre-trial brief by plaintiffs.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

172. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

173. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

174. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had filed this in the proper court of Judge Fulp. I objected to the consideration by Judge Hughston.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

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

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.** However, I have objected throughout these proceedings to the production of these documents.

178. 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.

- A. **This is unclear. See response to 176**

179. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I did all things to properly prosecute this case.**

180. 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.

- A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

181. 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.

A. **I repeat responses to 14 and 15 with regards to this document. I did all things out of love for Alice Shaw Baker, my great aunt. I had nothing to do with this document.**

182. I believed that the facts supported the law in this case, and that the claims were warranted under existing law or that an extension, modification, or reversal of law was available with regard to these legal proceedings.

183. Further, I believed based on my conversations with my great aunt, Alice Shaw Baker, and that there were documents which supported my conversations with her that her estate was going to animal charities, that proceeding with this litigation was not only proper but consistent with her desires. It was my wish, only, to make sure that her desires were followed.

184. I did not intend EVER to delay, harass, or injure any other party. I was aware that my daughter Lisa Fisher was paying from her personal funds to maintain her [Alice Shaw Baker's] property, pay property taxes, pay insurance, and all other related expenses during the appeal process. I believed that these payments prevented waste to the property and allowed it to accrue in value, so that no losses to my aunt Alice Shaw-Baker's estate would take place.

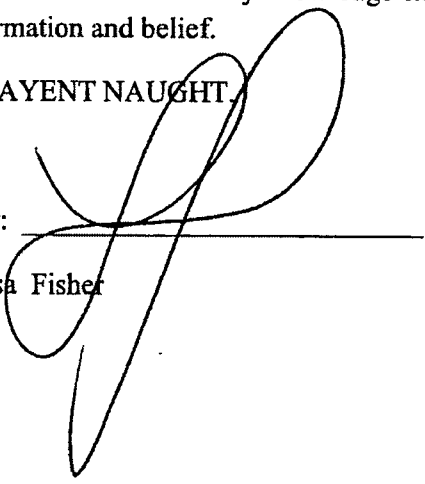
185. I am requesting that the court preserve the status quo to protect Alice Shaw Baker's property, pending resolution of the appeal.

186. I verify that all the statements herein are true and correct and that I know or believe the content and allegations are true to the best of my knowledge except for those matters stated which are alleged on information and belief.

187. FURTHER, AFFIANT SAYETH NAUGHT.

By: \_\_\_\_\_

Lisa Fisher



Subscribed and sworn to before me

This \_\_\_\_\_ day of February, 2018.

(SEAL)

Notary Public

My Commission Expires: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California, County of Los Angeles

Subscribed and sworn to (or affirmed) before me

on this 7 day of April, 2018.

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: \_\_\_\_\_





2  
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 et al., )  
Plaintiffs, )

**AFFIDAVIT OF LISA FISHER  
IN RESPONSE TO ORDER TO SHOW CAUSE  
DATED APRIL 4, 2018**

vs. )

**ALTERNATIVE, REQUEST TO STAY, CONTINUE,  
OR ALLOW LISA FISHER TO APPEAR  
TELEPHONICALLY**

Bessie Huckabee et al., )  
Defendants, )

DATE: April 20, 2018  
TIME: 10:00 A.M

In the Matter of )  
Alice Shaw-Baker. )  
\_\_\_\_\_ )

PERSONALLY APPEARED before me LISA FISHER, who being first duly sworn, stated as follows:

1. My name is LISA FISHER, and I am over the eighteen and of sound mind. I am one of the plaintiffs in this case.

2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.

3. I am filing this affidavit in response to the Order and Rule to Show Cause dated April 4, 2018. This affidavit respectfully objects to the propriety of this court issuing an Order and Rule to Show Cause for the reasons stated in this document and based on the history of this case.

4. Alternatively, I am requesting that the court continue the hearing, stay the hearing, or allow me to appear telephonically on April 20, 2018. I have court proceedings which preclude me from

traveling to South Carolina and appearing. Additionally, I expect to still be in trial in California on that date.

5. **REQUEST FOR JUDICIAL NOTICE PURSUANT TO RULE 201 (d):**

- a. I filed a Notice of Appeal on March 30, 2018 in the Circuit Court and the Court of Appeals regarding the March 12, March 13, March 14, and March 16 and March 29, 2018 order.  
(Request for Judicial Notice of Notice of Appeal marked as Exhibit A, hereinafter referred to as “financial” appeal.)
- b. This matter was consolidated by the Court of Appeals with the Second Notice of Appeal regarding orders dated.<sup>1</sup> (Request for Judicial Notice of Second Notice of Appeal filed on April 5, 2018 (without Exhibits) and Order Consolidating the two matters dated April 6, 2018 marked as Exhibits B and C, respectively). The case no. is 2018-000566.
- c. Thereafter, the South Carolina Supreme Court took jurisdiction over the case pursuant to Rule 204(b), SCACR. (Request for Judicial Notice of said order, Attached hereto is a true and correct copy of said Order dated April 10, 2018 marked as Exhibit D.)

6. **RESPONSE TO SAID ORDER AND RULE TO SHOW CAUSE(“OSC”):** The financial appeal is before the Supreme Court, as it is now consolidated. I believe and the evidence will show that this court has violated plaintiffs’ rights and as such has acted improperly in issuing the orders that this Court deems to hold me in contempt. With that said, the orders set forth in the Order and Rule to Show Cause are ambiguous and unintelligible. For instance:

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<sup>1</sup> This notice was filed directly before the Supreme Court, Case no. SC Case no. 2018-000604. As set forth above, the Supreme Court decided to take jurisdiction over the case and has ordered this court to hear Plaintiffs’ motion for New Trial and request for stay. The April 3, 2018 order precluded the filing of these motions before this court.

- a. The court complains that Lisa Fisher has failed to “deliver all assets belonging to the Estate of Alice Shaw Baker to the Charleston County Clerk of Court.” (OSC dated April 4, 2018). However, Lisa Fisher was never able to deliver assets to this court, in light of the fact that the monies at Farmers & Merchants Bank and Edward Jones were frozen by Hon. Tamara Curry in 2011. This matter is still before the Supreme Court in case no. 2017-000743. Thereafter, the court says that the monies should have been delivered to Bessie Huckabee. The court order of March 21, 2018 said it was to be delivered to the court. This would have been brought to the court’s attention had the court not denied me the right to file my Motion for New Trial.
- b. The court issued the order turning over the property to Defendants in violation of Rule 62 before the 10 day period had past, and in violation of California law. The court issued no safeguards to protect the property for ALL parties. Bessie Huckabee can not be bonded, however the court ignores this fact. Kay Passailague Slade is receiving over \$200,000.00 when there are serious questions about the conduct of the trial, and the need for a new trial. Plaintiffs will be filing their Motion for New Trial and seeking a stay of any order of enforcement. The court’s decision to make these orders which deal with Plaintiff Lisa Fisher’s duties were not before this court. Judge Fulp had already indicated that the issues related to her accounting and any further motions for administration were to be heard by him, after the conclusion of the trial. I have conflicting orders, conflicting jurisdiction, and unfortunately communication between both this Court and Judge Fulp, who was appointed due to a conflict of interest by the South Carolina Supreme Court. This court has prejudiced me and my mother before Judge Fulp due to the horrendous allegations against us.

- c. Issues related to the house were on appeal due to the improper ejectment action by Jessica Crowley on behalf of her client, Bessie Huckabee, the lack of jurisdiction by the magistrate's court or this court. These issues were supposed to be decided by Judge Fulp, as my duty and my accountings should never have been considered by the court. Deliver of any personal property and bonds are supposed to be in an orderly fashion, if the court makes any order. The Defendants requests that I should leave the keys under the mat are ludicrous. The house is in good condition, however no such transfer would ever allow me to safeguard my good name . Defendants' counsel have lied and misrepresented both their position and my position in this court. They surreptitiously took pictures through the window of the property while the caregiver was protecting the property in violation of her rights to privacy. I have spent over \$58,000.00 of my own monies to pay for taxes, insurance, and maintenance of the property since the freezing order. This was to ensure that I complied with the statutory duty to protect the real property until delivery of the property to the proper person. Moreover, this court and defendants ignore the fact that I have saved the costs of administrator fees, attorneys fees, and all costs paid on the property, instead making it sound like there has been waste. There has been none. The house has increased in value and no harm was ever done. This court's conclusion is based on speculation, and not the truth.
- d. This court's efforts to discredit me and my mother are plagued by improper conduct by this court and defendants' counsel.
- e. The order regarding the financial information is stayed pending decision by the Supreme Court. This court is not authorized to sanction me for strenuous argument. (See *State v.*

*Harper*, 297 S.C. 257, 376 S.E. 2d 272 (1989). This court violated my our rights, and thereafter, has specifically asked the Supreme Court to decide the matter. I am asking the court to let the process work and to prevent further harassment of us. *This was a simple case* regarding the propriety of Alice Shaw Baker's revocation of her Will and whether there were ambiguities in the former Will which imposed equitable remedies. This court used these proceedings to accost us for no good reason. While it is true, the court has great discretion in issuing its orders. That discretion does not including violating the rights of litigants.

- f. Finally, I had to travel to Charleston on April 12, 2018, when it became clear that the court was going to eject the caregiver (not a non-rent paying occupant), despite an appeal from the magistrate court order and jurisdiction of the Supreme Court (2017-000743). It is important to note that Jessica Crowley knew that the allegations in the application for ejectment were not true, but she used *false* self-help methods to try and gain control of the property. She also sought damages which were not available in ejectment actions. This court does not seem to care about the impropriety of Defendants' counsel. <sup>2</sup>
- g. On April 12, 2018, I was at the house waiting to see if the Court of Appeals granted the writ of supersedeas, only to learn that the Supreme Court had exercised its jurisdiction

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<sup>2</sup> Nor does it care that Peter Kouten, now Judge, refused to recuse himself which caused delays in the litigation and was contrary to case law, *Townsend v. Townsend*, 326 S.C. 309, 474 S.E. 2d 424 (1996). This court imputes all delays on Lisa Fisher, yet the court fails to even acknowledge the lack of credibility of Mr. Kouten's testimony at trial wherein he indicated he was not court appointed attorney but Guardian ad litem. I presented 2 orders related to his function as court appointed attorney. All of the pleadings in this case over all of these years NEVER included such a statement.

over the case. At that time, the police and Defendants' counsel arrived. Attorney W. Wills Westbrook stated that this Court informed everyone that the caregiver was to be removed at the meeting. When I asked him, What meeting? And when this meeting, he ignored me. I was perplexed. Jessica Crowley said that you had ordered at Court, however there was no conversation where the police were present and told to get the caregiver out of the property. I still did not fathom that this court had a hearing without notice to me.

- h. I spoke to the police who were very professional to me. I informed them of the Supreme Court order and that I had emailed all parties and Judge Hughston about the new order. They indicated that they were talking to Judge Hughston about the order. They said that the Court stated that I had to leave. I started to leave and W. Westbrook Wills received a call from what I believe was Judge Hughston and stated that he wanted the police to wait until he read my letter. I believe this was Judge Hughston, because I overheard him tell the police it was from Judge Hughston. Mr. Wills told the police what Judge Hughston had stated. Again, I did not know why the court was having ex parte communication with Mr. Wills. Thereafter, I spoke to Deputy Green, Sargent Craven, and Deputy Colburn. I was informed that on April 3, 2018, there was an emergency hearing at the court. Mr. Wills, <sup>3</sup>Supervisors of the police, and the clerk of the court were present and the orders of April 3, 2018 were made. This secret hearing is in clear violation of our

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<sup>3</sup> As set forth in Rule 402(3), Defendants' counsel had a duty not to engage in any secret hearing. It states specifically, "I pledge fairness, integrity and civility, not only in court but also in all written and oral communications." Counsel had to have known that I was not given notice of any hearing. They should not have participated without notice to me. The rule also states that they "will preserve, protect, and defend the Constitution of this State and/or the United States." I'm sure that they thought it was okay, due to the deep seated hatred of this court for plaintiffs, but that does not change their duty. The court's action in this case has caused plaintiffs to lose their counsel and this attorney to lose her standing as pro hac vice. This was just a probate case, how anyone can believe that these types of actions are appropriate is beyond my knowledge.

rights. This isn't just an order that someone did not send to us, which is a violation of the law in South Carolina, this was a blatant *ex parte* hearing which should never have occurred. The court in its wisdom withdrew the order for ejectment on that day, but at this point, Plaintiffs have no reasonable expectation that there will be a fair hearing on their behalf. I believe that any issue relating to these contempt allegations must be stayed pending resolution of this court.

7. **PLAINTIFF LISA FISHER HAS AT ALL TIMES ACTED IN GOOD FAITH. SHE HAS CAUSED NO LOSS TO THE ESTATE, AND HAS SOUGHT ONLY TO COMPLY WITH THE ORDERS AND/OR SEEK PROPER JUDICIAL INTERVENTION.**

As cited in *Segars-Andrews v. Judicial Merit Selection Commission*, 387 S.C. 109

(2010) in fn. 1 which quoted the commissions findings concerning when a judge creates:

“....an atmosphere of distrust that made [plaintiff] construe bother her ruling and the system that authorized and sanctioned it as corruptible and capable of manipulation by persons with connections to a judge...” it causes the appearance of impropriety and led the litigant “not only to question [the judges] ability to render a fair and impartial decision, but also to lose faith in the integrity of this state’s judicial system.”

This court conducted an independent investigation, and thereafter sanctioned plaintiffs to over half a million dollars in sanctions. Plaintiffs have no knowledge of the material reviewed by the court. The court failed to give plaintiffs’ judicial notice. The court’s action caused plaintiffs’ to lose their attorney, and caused me to lose my standing as *pro hac vice*. Most disturbing, this court acted as counsel for defendants, not requiring them to file any motions (save the sanctions motion, which this court decided during trial) or even mere pleadings seeking request of the relief granted by this court.

As the court in *Williams v. Pennsylvania*, 579 U.S. \_\_\_, 136 S.Ct. 1899 (2016) found “impermissible bias occurs when the same person serves as both ‘accuser’ and ‘adjudicator’ in a case. It is true that this is a criminal case wherein the prosecutor did not recuse himself on appeal in a capital case, the underlying problem of “accuser” v. “adjudicator” is present in this case. This court, not defendants, conducted an independent investigation.

South Carolina Judicial Canon 3(B)(7) prohibits ex parte communications. Even if it was permissible to speak to the Court Clerk or the police, it was not permissible to allow Attorney Wills to appear without notice to plaintiffs.

Finally, the court in *Ellis v. Proctor & Gamble*, 315 S.C. 283 held that “a judge’s impartiality might reasonably be questioned when his factual findings are not supported by the record.” This court refused to issue findings of fact under Rule 52 regarding the *legal* issues in this case. The second part of the case related to the equitable issues. This court required pre trial hearing briefs. This court considered pleadings from the conservatorship case, the probate case, the elder abuse/legal malpractice case, all discovery in this case—over my objection. The court did not require Defendants to put on their case, neither here or in the jury trial. The court ignored Alice Shaw Baker’s due process rights to revoke her will, because the court held that she was demented and that the original order for conservatorship precluded her from executing a new will. The court, not defendants, put on their case. This is when factual findings are not supported by the record.

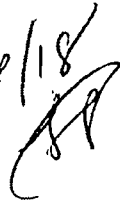
8. Finally, There has recently been an order dated April 9, 2018. I have reviewed the “order”, however it is unclear what the court is ordering and/or why it is making said orders. (Request for Judicial Notice to email “order” dated April 9, 2018 marked as Exhibit E) If the court is considering this order with regard to this OSC, I respectfully state that I have no knowledge of what the court is ordering.



9. I am requesting that the court preserve the status quo to protect Alice Shaw Baker's property, pending resolution of these motions and subsequent appeal. These serious problems at trial will mandate reversal. I am asking alternatively that the court set the matter for another date, in consideration of all parties' schedule, or allow me to appear by phone.

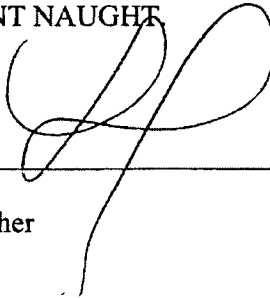
10. I verify that all the statements herein are true and correct and that I know or believe the contents and allegations are true to the best of my knowledge except for those matters stated which are alleged on information and belief.

11. FURTHER, AFFIANT SAYETH NAUGHT

4/16/18  


By: \_\_\_\_\_

Lisa Fisher



Subscribed and sworn to before me

This \_\_\_\_\_ day of February, 2018.

(SEAL)

See Attached Notary →

Notary Public

My Commission Expires: \_\_\_\_\_

## JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

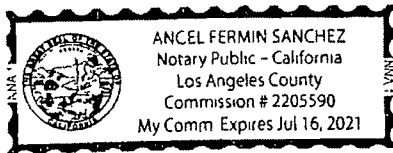
COUNTY OF LOS ANGELES

Subscribed and sworn to (or affirmed) before me on

this 16th day of April, 2018,

by Lisa Fisher

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Signature

A handwritten signature in black ink, appearing to be "Ancel Fermin Sanchez", written over a horizontal line.

(seal)

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 et al., )  
Plaintiffs, )  
vs. )  
Bessie Huckabee et al., )  
Defendants, )  
In the Matter of, )  
Alice Shaw-Baker. )  
\_\_\_\_\_ )

**PLAINTIFFS' MOTION FOR THE FOLLOWING  
ORDERS:**

- 1) **RULE 59 (a) MOTION FOR NEW TRIAL;**
- 2) **RULE 59 (e) TO ALTER OR AMEND THE  
JUDGMENT;**
- 3) **RECUSING AND/OR DISQUALIFYING  
HONORABLE THOMAS L. HUGHSTON  
FROM FURTHER PROCEEDINGS IN THIS  
MATTER;**

**JOINDER and VERIFICATION BY BETTY FISHER**

COME NOW, the Plaintiffs Lisa Fisher and Betty Fisher, joining herein, ("Plaintiffs") and hereby respectfully move this Court for the following Orders pursuant to the South Carolina Supreme Court's order of April 10, 2018 authorizing and permitting plaintiffs to file this motion and the previously filed motion for stay filed herein:

- 1) An order granting new trial pursuant to Rule 59(a) is proper in this case, based on this Court and Defendants' violations of plaintiffs and Alice Shaw Baker's rights under the common law, statutes, legal precedent, South Carolina Constitution, United States Constitution, including equal protection and substantive and procedural due process.

FILED  
2018 APR 25 AM 11:  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY 

- 2) Alternatively, an order altering and/or amending the judgment all of the orders issued by this court including October 26, 2017,<sup>1</sup> March 21, 2018,<sup>2</sup> and April 3, 2018, and April 9, 2018.<sup>2</sup>
- 3) An order recusing and/or disqualifying the Honorable Thomas L. Hughston for the reasons set forth herein, including but not limited to have personal bias, animosity, and hatred for Plaintiffs and involving himself in the litigation through personal feelings and Independent investigation of the case prohibited by SCAR, Rule 501 Judicial Conduct, Canon 3, B (7) [A judge must not independently investigate facts in a case and must consider only the evidence presented.].

These violations and errors at law are present in the transcript, previously filed documents at trial, Plaintiffs' request for judicial notice, and the affidavits of Betty Fisher and Lisa Fisher filed herein. Most recently, Plaintiffs learned that there had been ex parte communication in the form of a secret meeting on or about April 3, 2018 at the courthouse. Plaintiffs were not given notice, yet defendants' counsel, the clerk of the court, and the Police Supervisors were present. At this hearing, the court sanctioned plaintiffs and precluded them from filing post trial motions, which the Supreme Court restored on April 10, 2018.

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<sup>1</sup> With regard to the jury trial, plaintiffs previously filed a Motion for new trial, which this court denied as part of the March 21, 2018 order. However, with the new information related to ex parte communication and bias against plaintiffs discovered, their right to a new jury trial based on the improper investigation, bias, animosity and hatred displayed by this Court, must be granted.

<sup>2</sup> This April 9, 2018 order is vague and ambiguous, and it is referenced to preserve objections.

Plaintiffs respectfully contend that a new trial is warranted, or amendment/alteration of the original judgment, and recusal and/or disqualification of Judge Hughston for the reasons stated herein:

I.

INTRODUCTION

***A. Motion for New Trial is Proper when Parties are Deprived of their Due Process, Equal Protection, Common Law and Statutory Rights***

The court in *Segars-Andrews v. Judicial Merit Selection Commission*, 387 S.C. 109 (2010) in fn. 1 stated that when a judge creates:

“....an atmosphere of distrust that made [plaintiff] construe bother her ruling and the system that authorized and sanctioned it as corruptible and capable of manipulation by persons with connections to a judge...” it causes the appearance of impropriety and led the litigant “not only to question [the judges] ability to render a fair and impartial decision, but also to lose faith in the integrity of this state’s judicial system.”

(Emphasis added)

Plaintiffs’ faith in the system has been lost by these proceedings. However, they fight on and prepare this motion with a focus on the legal errors that mandate reversal under Rule 59, SCRPC.

***B. Background History of Alice Shaw Baker.***

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, Defendant 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, but she refused to assist Alice.

Plaintiff Lisa Fisher was appointed successor guardian and conservator, 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 plaintiffs, and despite findings by the court that Alice had capacity to nominate Lisa Fisher and it was merely a limited guardianship/conservatorship.

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), as required by the doctor and hospital, to bring her to California to try and get her some additional medical help. It was devastating for Alice's family, Plaintiffs herein.

Bessie Huckabee filed an informal petition for probate without notice to Betty Fisher. Plaintiffs objected to and filed a formal will contest on April 27, 2009. Defendants filed their answer which did not seek attorney fees.

During the litigation, Plaintiffs objected to and asserted the rights for Alice Shaw Baker that Attorney Peter Kouten had an actual conflict in representing Defendants. They alleged that he represented Defendants at the same time as Alice Shaw Baker, while she was alive. This is a viable and proper argument. This was appealed, as were other erroneous orders, which delayed the trial of this case. Nevertheless, Plaintiffs at all times believed that their 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. Plaintiffs sought only to ensure that Alice Shaw Baker's testamentary wishes were followed.

This appears to have angered and interfered with the court's consideration of the case and the duties of this court. Plaintiff Betty Fisher relied on the advice 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 Defendants in any pleading or motion,<sup>3</sup> but contrived without notice and contrary to the other courts' jurisdiction.

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<sup>3</sup> Although Defendants filed a post trial motion 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. Their motion filed on or about November 6, 2017 asked for \$111,842.42. The motion was not based on Rule 11, and the motion was not based on any affidavits regarding alleged wrongdoing. The allegations in the motion were different than raised by the court. The court in *PDHC v Estate of Thompson*, 418 S.C. 557 (2016) explained :

"The main purpose of Rule 11, however, is to deter future litigation abuse, not compensate the opposing party. By waiting until the case has been fully litigated and decided by the appellate courts on the merits, the Estate failed to challenge or prevent any litigation abuse from occurring in this case. Instead, the Estate made the tactical decision of waiting until the conclusion of the case to recover attorney's fees for all of the abuses that took place over a three-year period. In our view, the Estate's delay in bringing the motion for sanctions failed to serve the deterrence and efficiency purposes of Rule 11 and, therefore, was unreasonable." (Emphasis added)

The *Estate of Thompson* stands for the proposition that the defendants can not sit on their rights or make tactical decisions to unjustly enrich themselves. This precluded this court from granting all of the attorney fees and costs, due to the delay of defendants. Further, neither the motion (nor the answer) asked for any "loss of opportunity" damages. Plaintiff objected to the billings and time in the fee estimation.

The bills of W. Westbrook Wills III justify plaintiffs' position that he was not acting as counsel in 2013, instead Peter Kouten, with his non-waivable conflict continued to bill, and filed an affidavit with errors and duplicative charges and charges in the appeals. Interestingly, the bills show as early as July 2009, Peter Kouten was aware of Huckabee's inability to be bonded.

Plaintiffs concerns over the protection of the assets of Alice Shaw Baker were justified. Defendants' tactical decision was to blame plaintiff while she paid the bills to protect Alice's desires.

There was no notice of the extent of damages and/or attorneys fees that this court would impose. The American rule regarding each side paying for their own litigation expenses still applies when there isn't frivolous or bad faith conduct.

Lisa Fisher is the only person accused of wrongdoing, where their billing records show that counsel and the defendants could not be bonded, and as such could not pay for the maintenance of the property. Unjust enrichment for their benefit as the property increased in value is ignored for the sake of Defendants, when this court's own feelings of remorse for the benefit of Defendants and his rage over plaintiff's Lisa Fisher conduct in seeking redress, blinded the principles guiding temperance for justice. The court in *Wannaker v Wannamaker*, 395 S.C. 592, 719 S.E.2d 261 (Ct. App.2011), held that a family court may not sua sponte modify an order not requested by the moving party. This same principle applies to sua sponte orders in this court.

Plaintiffs Lisa Fisher and Betty Fisher<sup>4</sup> believe that based on 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 Defendants.

These assets were protected by Lisa Fisher and 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,<sup>5</sup> and no other attorneys and/or Special Administrators have incurred additional fees which would have diminished the value of the property. There has been no damage to Defendants.

***C. Corrupted Proceedings Precluded Proper Rulings on Plaintiffs' objections and failed to give Constitutional or Statutory Notice, Plaintiffs Respond to the Improper Order:***

The entirety of the order is corrupted by these proceedings as follows:

1. On p. 1 of the order, the court denied all of plaintiffs' post trial motions regarding the jury trial.

**RESPONSE:** Plaintiffs assert that these post trial motions should have been granted, and are relevant to these proceedings

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<sup>4</sup> Plaintiff Betty Fisher files a joinder in motion.

<sup>5</sup> At this time, plaintiffs are 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 Defendant Huckabee as personal representative. Defendant 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 Defendant Slade. These monies are not protected, in the event that Plaintiffs are successful in their post trial motions or Appeal. Thus, causing losses to Alice Shaw Baker's estate and interfering with Plaintiff 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, the Circuit court. Case no. 2017CP1006629. An appeal bond was filed in this case. This interference with the jurisdiction of the courts has raised havoc in this case, as this court made decisions about plaintiffs' fees and duties and made decisions about prior orders of Judge Curry regarding John Hughes Cooper's previously granted attorney fees. . None of which was part of this case.



2. On p. 1 of the order, the court denied all claims with regard to the equitable claims.

**RESPONSE:** Plaintiffs assert that these they are entitled to Rule 52 findings on these issues.

3. On p. 1 of the order, the court states specifically that: "I make all decisions by a standard of overwhelmingly clear and convincing evidence considering this case as a whole, ant that is the only way one can ever begin to understand this case—as a whole. [Original emphasis] (See the Appendices, testimony and evidence)

**RESPONSE:** Plaintiffs assert that this court had no right to make a decision on the "whole".

This constituted an improper investigation. Plaintiffs objected in the pre-trial brief and at trial. This mandates a new trial.

4. On p. 2 of the order, the court 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 writ about the tortuous history and undisputed facts. I leave that 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."<sup>6</sup>

**RESPONSE:** Plaintiffs assert that this court has no authority to avoid its statutory and/or legal obligations, therefore new trial is mandated.

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<sup>6</sup> Plaintiffs absolutely dispute the facts as presented in this order and as manipulated in this case. None of the "facts" are true as set forth in the order, the appendices or the additional papers made part of the order. Plaintiffs have at all times acted in good faith with regard to this case. The order has sullied their name and ignored the love and affection they had and continue to have for their loved one and RELATIVE! Alice Shaw Baker is family, such a course and foul expression of their intention in bringing this case, can't even be described as speculation, it is mere fiction

5. On p. 2 of the order, the court claims that : “[Alice Shaw Baker] 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).

**RESPONSE:** Plaintiffs assert that this finding is essentially a finding of a constructive trust, which is a finding on behalf of plaintiffs. For instance, if they were entitled to have the monies and property, they have NO OBLIGATION TO DO RIGHT! By this court’s finding, the court found that they were obligated to use the monies as they promised Alice, that is a constructive trust which they have reneged on. This mandates a new trial, or an amended judgment in plaintiffs favor.

6. On p. 3 of the order, the court decided the remaining issues and essentially apologized to Defendants. The court issued orders which later conflicted the April 3, 2018 orders.

**RESPONSE:** Plaintiffs assert they had no way of knowing that the court would make these issues or be able to expose that the court did nothing on behalf of the defendants other than is granted in will contests.

7. The court granted sanctions pursuant to S.C. Code Section 15-36-10 beginning on p. 3 of the order.

**RESPONSE:** As set forth in the memorandum of authority, Plaintiffs filed an opposition to the sanctions attorney fees. Plaintiffs are entitled to reversal of these sanctions and an amended judgement.

8. On p. 6 of the order, the Court referenced and granted sanctions under rule 11.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

9. On p. 6 of the order, the Court referenced, without citing to the case, the court's inherent authority as provided by the United States Supreme Court claiming:

"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 sanctions 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."

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

10. On p. 7, the court references "a procedural timeline" found in Appendix 1 stating "Plaintiffs have done nothing but delay justice and harass Defendants." The allegations set forth in the Appendix are countered by Plaintiff in the previously filed Affidavits of Lisa Fisher and Betty Fisher.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to this Appendix and/or declare the accuracy, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

11. On p. 7, the court makes the following findings, without any facts to support the claim:

“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.”

**RESPONSE:** Plaintiffs assert that the law set forth herein demonstrates that this conclusion is erroneous under South Carolina law. Moreover, the statements concerning Lisa Fisher are defamatory in nature and speculative. They show animosity and bias against Plaintiff Lisa Fisher. Plaintiffs did not have an opportunity to object, and their due process and equal protection rights were violated.

12. On p. 8 of the order, the court ordered Plaintiffs to pay Defendants’ attorneys fees in the amount of \$157,539.93.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

13. On p. 8 of the order, the court ordered Plaintiffs to pay Defendants “loss of opportunity costs of \$76,533.17 associated with all the assets they should have received almost nine years ago.”

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

14. On p. 8 of the order, The order combining the attorneys fees and loss of opportunity fees amounted to \$234,073.10 ordered against Plaintiffs and their attorneys, jointly and severally.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, any award would be untimely.

15. On p. 8 of the order, The court also ordered sanctions against Lisa Fisher for “...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 Judgement against her for this. These calculations have had te be made despite repeated efforts to get financial information from Plaintiffs including threats of contempt of court.”

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, any award would be untimely. Plaintiff has no idea what “unfair trade practices” she is being accused of violating. Moreover, plaintiffs contend if

the court is going to use legal authority against them, it must cite it so plaintiffs can properly respond.

16. On p. 8 of the order, The court also ordered John Hughes Cooper to “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.”

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, this court attempts to change Judge Curry’s prior award of fees. Moreover, since the court indicated it reviewed the entire file, it should know that this was an extended trial, wherein plaintiff Lisa Fisher was appointed after hearing as temporary co-conservator with Jane Orenstein, a restraining order was sought to prevent Alice from being institutionalized, and thereafter, appointed with the nomination of Alice Shaw Baker’s consent.

17. On p. 8 of the order, the court ordered: “...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.”

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, plaintiffs assert this was not within this court’s jurisdiction.

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18. On p. 9 of the order, the court summarized damages as follows:

“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.”

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the  
computation, and their due process and equal protection rights were violated.  
Additionally, any award would be untimely.

19. On p. 9 of the order, the court also ordered:

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

**RESPONSE:** Plaintiffs live in California, this court does not have jurisdiction to interfere with  
plaintiffs finances. Further, plaintiffs did not have an opportunity to object to the  
computation, and their due process and equal protection rights were violated.  
Additionally, any award would be untimely.

20. On p. 9 of the order, the court ordered: “The frivolous actions of the attorneys will be  
reported to the South Carolina Commission on Lawyer Conduct.”

**RESPONSE:** Plaintiffs assert that this order now requires Lisa Fisher to address her ethics  
before this Commission. As set forth herein, there is no evidence to support the

referral, and it should be withdrawn as to Lisa Fisher and former counsel, John Hughes Cooper. ALL OF THIS HARM BASED ON FALSE ALLEGATIONS.

21. On p. 9 of the order, the court further stated:

“On February 24, 2009, Lisa Fisher spent \$25,000.00 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.”

**RESPONSE:** Plaintiffs assert that there is no evidence to support this statement. It is patently false. It is also not correct as to the law governing conservatorships. This statement should be stricken. Further, Plaintiff Lisa Fisher was not given credit for the reimbursed portion of the trip. Also, the doctors required an air ambulance. It was difficult to arrange, and Alice only became gravely ill on the date of her death. Plaintiffs were trying to find her the best medical care.

22. On p. 9 of the order, the court finally stated: “...I give up everything to the Supreme Court of South Carolina for their greater consideration and ultimate decisions.”

**RESPONSE:** Plaintiffs assert that this court does not have authority to violate its legal responsibilities, and force the Supreme Court to resolve this matter. Plaintiffs merely wanted a fair trial.

23. In the appendix 1 attached to the order, there is a purported “Court Procedural Timeline” which admits that the court reviewed 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.”

**RESPONSE:** Plaintiffs assert that this is part of an improper independent investigation.

24. In Appendix 2 attached to the Order, it appears that the court uses some type of software to outline presumably Plaintiff Lisa Fisher’s accounting to purportedly establish damages.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated. Additionally, any award would be untimely. Plaintiffs have no information concerning the accuracy or the propriety of claiming improper expenditures from the estate, in light of the fact that she was not on notice of the fact that the court would use this as grounds for sanctions.

25. Appendix 3 is another outline of expenses.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated.

26. Appendix 4 is another outline of fiduciary expenses.

**RESPONSE:** Plaintiffs assert that they did not have an opportunity to object to the computation, and their due process and equal protection rights were violated.

27. On the last page, the court references and quotes by Lord Charles Neaves and Samuel Johnson’s “A Prayer for Lawyers”, to the extent that these quotes and the description concerning lawyers is construed to be legal findings, plaintiffs object.

Unfortunately, the aftermath of the court's consideration of the case was a blatant attack on plaintiffs, to the point where the court apologized to Defendants and decided it had authority to "punish" Plaintiff Lisa Fisher. This is not a criminal case. Accusations of perjury are detrimental to Lisa Fisher's standing in the legal community and are extreme,<sup>7</sup> especially when the court did not recognize plaintiff's evidence in this case which demonstrates latent ambiguities and support for her viable legal argument on behalf of Alice Shaw Baker and the imposition of a constructive trust or reformation, or statutory protections allowing for modification of trusts and wills and non-probate assets.

***D. Plaintiffs Good Faith Presentation of Legal Theories and Evidence Justifying the Pursuit of this Action on Behalf of Alice Shaw Baker.***

To summarize:<sup>8</sup>

- 1) There is no dispute that Alice Shaw Baker's life was her animals.
- 2) She lived a frugal life, surrounding by pictures of her animals, toys, plates, jewelry, clothes, car plates, books, credit cards, and an office filled with dozens of photo albums of her animals.

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<sup>7</sup> During the very stressful period of the conservatorship, Alice Shaw Baker communicated with Dr. Mulbry the following: "She did not feel that she needed an attorney; 'I don't see why I need one.' She reported that her great niece, Lisa Fisher, from California was going to defend her in court."

While Alice was confused about some things, she knew what this court has denied, that she could trust Lisa Fisher. Since the court has not identified the information that it reviewed, plaintiffs raise this issue because the order indicated review of the entire guardianship file.

<sup>8</sup> Plaintiffs do not waive their objection to the court's failure to inform the parties of the information that he reviewed. This independent investigation was objected to by plaintiff and formally set forth in writing in the Pre-trial briefs. Plaintiffs and Defendants compliance with the court order demanding all discovery did not make it legally correct. (See *Danley Williams v Moore*, 400 S.C. 90, 733 S.E. 2d 224 (Ct. App. 2012) explained that although these issues must be raised when first become known. However, the court stated "where the tone and tenor of the trial judge's remarks are such that any objection would have been futile." (*Id*, emphasis added).

- 3) She did not leave her estate to her purported “best friend”, instead the revoked will dated May 21, 2001 (Plaintiffs’ exhibit 4 at trial) stated that she appointed her as executer, presumably to ensure that Alice’s wishes were met.
- 4) Kay Passailague Slade admitted that Alice wanted her to buy land for animals.
- 5) Kay Passailague Slade also admitted that she never told Alice that she was NOT going to buy land.<sup>9</sup>
- 6) Documents from National Life Insurance Co. showed beneficiary changed to John Ancrum SPCA in January 29, 2001. (NLIC 31)
- 7) Records from ING stated that upon Alice Shaw Baker’s death, her “estate to charity” (ING 15) was “Custodian of pets and rescue -governed by will”. This document was dated January 14, 2000. In Alice Shaw Baker’s writing, it states clearly, “Upon Death my estate is all going to Charity.”
- 8) Records from ING said that Kay Passailague as “custodian of pets and rescue-governed by will.” (ING 28) This was handwritten by Alice Shaw Baker on February 14, 2001.
- 9) On March 13, 2008, Alice Shaw Baker contacted SC Retirement System crying about the death of her pet dog. (SCRS 6)
- 10) On September 14, 2004, Alice Shaw Baker spoke to SC Retirement System and stated that “current bene[ficiary] works on dog rescue and \$ to go to dog rescue.” (SCRS 18) This demonstrates that Alice Shaw Baker believed after she executed

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<sup>9</sup> At trial the court was convinced that Kay Passailague’s claims that she may use the property for animal charities was a “good answer”, however when the court looks at the legal standard, this is the type of answer which leads to deception. Her response that she told Alice that she did not wish to talk about it, because that would mean that she lost Alice is evasive. It also would have led Alice to believe that her requests were going to be followed

the will and presumably after she spoke to Bessie Huckabee and Kay Passailague that her intention was still to have the monies go to the dog rescue.

- 11) Efforts to report Alice Shaw Baker did not begin until her last dog died.
- 12) Neither Kay Passailague Slade nor Bessie Huckabee were willing to help Alice Shaw Baker remain in her home.
- 13) Neither Kay Passailague Slade nor Bessie Huckabee told Alice Shaw Baker that they were referring her to Elizabeth Spencer and adult protection services.
- 14) Alice Shaw Baker did not want to be conserved or placed under a guardianship.
- 15) Alice Shaw Baker had no notice that the court was taking away her rights to execute a will or revoke a will.
- 16) The Probate Court held that she had capacity to nominate Lisa Fisher as guardian and conservator. The Probate Court did not remove her right to vote.
- 17) When Alice Shaw Baker learned that Kay Passailague Slade was not part of a dog rescue, she made an effort to revoke her will.
- 18) Lisa Fisher attempted to bring Alice Shaw Baker to California to get her the best medical care, only at the demand of the hospital did she attempt to get an air ambulance. The appendix of the court fails to show that she was able to obtain a partial refund.
- 19) At the time, Lisa Fisher arranged the air ambulance, Alice Shaw Baker was cognizant. As the testimony revealed, Alice Shaw Baker had a medical emergency on the morning that she died.
- 20) No evidence was presented that supports the court's conclusion and remarks in the order of wrongdoing by plaintiff Lisa Fisher. Seeking judicial review and making strenuous argument does not justify any findings of wrong doing.

*E. Ex Parte Communications*

Plaintiff Lisa Fisher traveled to Charleston on April 12, 2018, when it became clear that the court was going to eject the caregiver (not a non-rent paying occupant) from the real property, despite an appeal from the magistrate court order and jurisdiction of the Supreme Court (2017-000743). It is important to note that Jessica Crowley knew that the allegations in the application for ejectment were not true, but she used *false* self-help methods to try and gain control of the property. She also sought damages which were not available in ejectment actions. This court does not seem to care about the impropriety of Defendants' counsel.<sup>10</sup>

On April 12, 2018, Plaintiff Lisa Fisher was at the house waiting to see if the Court of Appeals granted the writ of supersedeas, only to learn that the Supreme Court had exercised its jurisdiction over the case. At that time, the police and Defendants' counsel arrived. Attorney W. Wills Westbrook stated that this Court informed everyone that the caregiver was to be removed at the meeting. When Plaintiff Lisa Fisher asked him, What meeting? And when was this meeting, he ignored her. Plaintiff was perplexed. Jessica Crowley said that this Court had ordered it in Court, however there was no conversation where the police were present and told to get the caregiver out of the property. Plaintiff Lisa Fisher still did not fathom that this court had a secret hearing without notice to her.

Plaintiff spoke to the police who were very professional. Plaintiff informed them of the Supreme Court order and that she had emailed all parties and Judge Hughston about the new order. The police indicated that they were talking to Judge Hughston about the order. They said that the Court stated that plaintiff had to leave. Plaintiff Lisa Fisher started to leave and W. Westbrook Wills received

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<sup>10</sup> Nor does it care that Peter Kouten, now Judge, refused to recuse himself which caused delays in the litigation and was contrary to case law, *Townsend v. Townsend*, 326 S C 309, 474 S.E. 2d 424 (1996). This court imputes all delays on Lisa Fisher, yet the court fails to even acknowledge the lack of credibility of Mr. Kouten's testimony at trial wherein he indicated he was not court appointed attorney but Guardian ad litem. Plaintiff Lisa Fisher presented 2 orders related to his function as court appointed attorney. Plaintiff Lisa Fisher testified that Mr. Kouten called her on the date of Alice's death and admitted to their representation. All of the pleadings in this case over all of these years NEVER included such a statement.

a call from what plaintiff believes was from this court on and stated that he wanted the police to wait until he read my letter. I believe this was Judge Hughston, because plaintiff overheard Counsel Wills tell the police it was from Judge Hughston. Mr. Wills told the police what Judge Hughston had stated. Again, plaintiff did not know why the court was having ex parte communication with Mr. Wills. Thereafter, Plaintiff Lisa Fisher spoke to Deputy Green, Sargent Craven, and Deputy Colburn. Plaintiff was informed that on April 3, 2018, there was an emergency hearing at the court. Mr. Wills,<sup>11</sup> Supervisors of the police, and the clerk of the court were present and the orders of April 3, 2018 were made. This secret hearing is in clear violation of plaintiffs' rights. This isn't just an order that someone did not send to us, which is a violation of the law in South Carolina, this was a blatant ex parte hearing which should never have occurred.

The court in its wisdom withdrew the order for ejectment on that day, but at this point, Plaintiffs have no reasonable expectation that there will be a fair hearing on their behalf. Nevertheless, they respectfully request that the court grant this motion in its entirety.

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<sup>11</sup> As set forth in Rule 402(3), Defendants' counsel had a duty not to engage in any secret hearing. It states specifically, "I pledge fairness, integrity and civility, not only in court but also in all written and oral communications." Counsel had to have known that plaintiff Lisa Fisher was not given notice of any hearing. They should not have participated without notice to plaintiffs. Dealings with pro se plaintiffs require additional safeguards and protections. Rule 402 also states that South Carolina attorneys "will preserve, protect, and defend the Constitution of this State and/or the United States." Plaintiff Lisa Fisher is sure that they thought it was okay, due to the deep seated hatred of this court for plaintiffs, but that does not change their duty. The court's action in this case has caused plaintiffs to lose their counsel and Plaintiff Lisa Fisher to lose her standing as pro hac vice. **This was just a probate case, how anyone can believe that these types of actions are appropriate is beyond plaintiffs knowledge!**

## MEMORANDUM OF LAW

### **II. STANDARD FOR RULE 59 MOTIONS**

South Carolina Rules of Civil Procedure, Rule 59 (a) states in part that a New Trial may be granted when: "...an action tried without a jury, for any of the reasons for which rehearings have heretofore been granted in the courts of the State. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment."

Subsection (e) provides for a Motion to alter or amend a judgment.

Plaintiffs did not have an opportunity to obtain rulings on the issues set forth herein, and in some cases, plaintiffs had no idea these issues would be at issue. (*Stevens & Wilkinson of South Carolina, Inc. v. City of Columbia*, 409 S.C. 568, 762 S.E. 2d 696 (2014) ["[P]arty cannot use a Rule 59 (e) motion to present to the court an issue the party could have raised to the circuit court prior to judgment, but did not."])

If the court has ruled on issues that a party has raised, the plaintiffs must ask for a ruling. (See *Elam v. South Carolina Dep't of Transp.* 361 S.C. 9, 24, 602 S.E. 2d 772, 780-781 (2004) ["party must file such a motion when an issue or argument has been raised but not ruled on, to preserve it for appellate review."])

Finally, if the order raises new issues, plaintiffs must make a motion to alter the ruling on the new issues. (See *In re Timmerman*, 331 S.C. 455, 460, 502 S.E. 2d 920, 922 (Ct. App. 1998) ["The South Carolina Rules of Civil Procedure are applicable in the probate court to the extent that they are not inconsistent with the Probate Code or probate court rules."]).

**III.**  
**PLAINTIFFS ARE ENTITLED TO A NEW TRIAL FOR THE ERRONEOUS JUDGEMENT,  
ORDER OF SANCTIONS AGAINST PLAINTIFFS AND THEIR FORMER ATTORNEY JOHN  
HUGHES COOPER, AND FAILURE TO RULE ON THE EQUITABLE ISSUES**

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 Plaintiffs' Due Process and Equal protections rights. As the case was conducted, Plaintiff 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, Plaintiffs acted in good faith, and were entitled to a fair trial. A motion for new trial will allow the estate of Alice Shaw Baker to remain preserved and that an orderly transfer of assets to the proper person can be made upon conclusion of the trial.

As the order stands, there is no protection for Plaintiffs, nor likelihood that they can recover the assets from Defendants as they have no bond and they are receiving the monies without restraints. Plaintiff 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 grants this motion in its entirety.

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

This Court'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.**" (Order of March 21, 2018, emphasis added.)



However, Rule 52 (a), SCRCP 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)

Plaintiffs contend that this Court had no discretion to fail to provide findings of fact on the equitable issues in this case, both regarding the probate assets and the non-probate assets. For that reason, there is a reasonable likelihood that Plaintiffs will prevail on its appeal, and stay is proper.

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

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. Canon 3 commentary specifically prohibits independent investigation by the court. This supports plaintiffs’ 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 ( c) 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.”

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 plaintiffs 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 Plaintiffs' harm.

Parties are entitled to believe that the proceedings are not the subject to a secret inquiry. Plaintiffs 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).)

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

***C. 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 Plaintiffs.***

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 Plaintiff as conservator found that it should be a limited conservatorship, and included findings that she had

capacity to nominate the conservator, herein Lisa Fisher.<sup>12</sup> Also, at the bifurcated trial, Dr. Waide testified that this was a limited conservatorship, and additional testing was necessary.

Plaintiffs reiterate that the probate court was limited to the following types of orders re Conservatorship, under Section 62-5-408. To the extent that order exceeded the court's jurisdiction, "A void judgment does not create any binding obligation." Federal decisions addressing void state court judgments include *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; *Ex parte Rowland* (1882) 104 U.S. 604, 26 L.Ed. 861.<sup>13</sup>

In the *In re Estate of Weeks*, 329 S.C. 251 (1997), 495 S.E. 2d 454, 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

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<sup>12</sup> Plaintiffs reiterate that the probate court was limited to the following types of orders re Conservatorship, under Section 62-5-408. To the extent that order exceeded the court's jurisdiction, "A void judgment does not create any binding obligation." Federal decisions addressing void state court judgments include *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; *Ex parte Rowland* (1882) 104 U.S. 604, 26 L.Ed. 861

<sup>13</sup> An order that exceeds the jurisdiction of the court is void, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 L ed 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabey* (1917) 243 US 90, 37 S Ct 343, 61 L ed 608.

"If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1 Freeman on Judgments, 120c.) "A void judgment is no judgment at all and is without legal effect." (*Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (*Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972).

An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 L ed 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed 914; *McDonald v. Mabey* (1917) 243 US 90, 37 S Ct 343, 61 L ed 608 U.S. v. *Holtzman*, 762 F.2d 720 (9th Cir. 1985) ("Portion of judgment directing defendant not to import vehicles without first obtaining approval ... was not appropriately limited in duration and, thus, district court abused its discretion by not vacating it as being prospectively inequitable." Id at 722.

"A void judgment is one that, from its inception, is a complete nullity and is without legal effect and must be distinguished from one which is merely 'voidable.'" *Thomas & Howard Co.*, 318 S.C. at 291, 457 S.E.2d at 343 (1995) (citation omitted).

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..<sup>14</sup>

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.

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

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<sup>14</sup> It is well settled in South Carolina that "the paramount consideration in constructing terms used in a will is to ascertain and effectuate the intention of the testator, unless that intention contravenes some well settled rule of law or public policy." (See *McGirt v. Nelson*, 599 S E 2d 620 (S C. Ct. App 2004), *Bob Jones University v Strandell*, 344 S.C. 224, 543 S E 2d 251 (Ct. App. 2001); see also *Matter of Clark*, 308 S.C. 328, 417 S.E.2d 856 (1992).)

In construing the language of a will, the reviewing tribunal must give the words contained in the document their ordinary and plain meaning unless it is clear the testator intended a different sense or such meaning would lead to an inconsistency with the testator's declared intention ( See *In re Estate of Fabian*, 326 S.C. 349, 483 S.E.2d 474 (Ct App.1997).)

Still It is well settled that ambiguities in will/trust litigation are described as patent and latent. Patent ambiguities are when the uncertainty is one which arises upon the words of the instrument as looked at in themselves. Latent ambiguities are when "the uncertainty arises, not upon the words of the instrument as looked at in themselves, but upon those words when applied to the object or subject which they describe " *Fabian, supra*, 326 S.C. at 353, 483 S E 2d at 476 (quoting *Jennings v Talbert*, 77 S C. 454, 456, 58 S E. 420, 421 (1907)).

In South Carolina, the seminal case of *Shelley v Shelley*, 244 S C 598, 602, 137 S.E.2d 851, 853 (1964) explains that "When a latent ambiguity exists, the lower court must resolve the ambiguity by ascertaining the decedent's intent. To do this, "A will must be so construed as to carry out the real intention of the testator as gathered from all attendant circumstances."

Later, this legal concept was codified under S.C Code § 62-2-601 which mandates that this Court reforms the will "even if unambiguous, to conform the terms to the testator's intention if it is proved by clear and convincing evidence that the testator's intent and the terms of the will were affected by a mistake of fact or law, whether in expression or inducement " These include the doctrines of Constructive Trusts and Equitable Deviation.

In South Carolina, a constructive trust may be broadly imposed when a party obtains a benefit "which does not equitably belong to him and which he 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." *Smith v. S.C. Ret. Sys.*, 336 S C. 505, 529, 520 S.E.2d 339, 352 (Ct App 1999) In contrast with express trusts, the existence of a constructive trust can be established through parol evidence, despite the statue of frauds. *Lollis v Lollis*, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (S.C. 1987)

These are the principles and legal authority which this court must consider in deciding this case, and plaintiffs were entitled to rulings under Rule 52.

***D. Plaintiff 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, Plaintiff 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.”

Plaintiff 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. Plaintiffs expended more monies to properly prosecute this case. Plaintiffs merely want a fair trial and to ensure that no additional losses or costs are imposed on the estate.

***E. The Trial Court Had No Legal Authority to Order Plaintiffs' 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, Plaintiffs are likely to have this matter reversed on their motion for new trial and are likely to be successful on appeal.

***F. The Court Improperly Sought Information re Sanctions During Trial.***

In this Case, Defendants 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 Plaintiffs' 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, Plaintiffs 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 Plaintiffs' affidavit file 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 Plaintiffs did not take any action to harass or injure the other party. Plaintiffs did not and do not believe that the case was frivolous in fact, interposed for delay, or brought for any improper purpose. Plaintiffs 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 Defendant Slade owned a dog rescue. There was the judicial admission of Defendant 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 Defendant 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 favorable to Defendants.

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....”

Plaintiffs 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.] Therefore this court’s denial was error as a matter of law.

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)

For all these reasons, Plaintiffs contend reversal is mandated, or that they will be successful on appeal.

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***H. The Courts Hatred for Plaintiff 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.***

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. ( See also South Carolina constitutional provision, Article V, §19, which deals with the subject of disqualification.)

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 Defendant Huckabee's disregard of his order regarding bond. The court isn't concerned that Defendants 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 Plaintiffs' 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 Plaintiffs request that this Court grant a new trial or amend the judgement in plaintiffs' favor.

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***I. The Sanctions and Judgement are Excessive and in Violation of plaintiffs' rights.***

The plaintiffs acted in good faith throughout these proceedings. The fact that the time was extended by judicial review is not controlling, sometimes cases take longer. The court failed to rule on any of the objections of plaintiffs with regard to the original motion for sanctions after the jury trial.

Plaintiffs request that the court make findings on these objections. They were not minor objections. Plaintiff Lisa Fisher asks this court to take judicial notice of the affidavits attached to the opposition to the motion for sanctions.

She at all times acted in good faith or reasonable argument for extension, modification or reversal of existing law, and that this was not intended to delay, harass, or injure Defendants.

This court failed to review on plaintiffs' arguments that Peter Kouten's bills were replete with double, triple billing, billing for ancillary and appellate matters, and billing to secure and protect the rights of all defendants, not merely Bessie Huckabee after he was substituted out.

Plaintiff complained and objected to the billings of W. Westbrook Wills and Jessica Crowley, as Ms. Crowley indicated that she was not representing the Defendants, only Bessie Huckabee.

Finally, Plaintiffs asserted that issues before the South Carolina Supreme Court relating to the probate court and well settled trust law regarding the conservator's duties to preserve the assets pending determination of the proper person to take possession of assets established the this court lacked jurisdiction or was in excess of jurisdiction.

The court never ruled on these important objections and issues. For that reason, a Motion for New trial must be granted.

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***J. The Independent Investigation of the Case Mandates a New Trial.***

This court conducted an independent investigation, and thereafter sanctioned plaintiffs to over half a million dollars in sanctions. Plaintiffs have no knowledge of the material reviewed by the court. The court failed to give plaintiffs' judicial notice. The court's action caused plaintiffs' to lose their attorney, and caused plaintiff Lisa Fisher to lose standing as pro hac vice. Most disturbing, this court essentially acted as counsel for defendants, not requiring them to file any motions (save the sanctions motion, which this court decided during trial) or even mere pleadings seeking request of the relief granted by this court.

As the United States Supreme court in *Williams v. Pennsylvania*, 579 U.S. \_\_\_, 136 S.Ct. 1899 (2016) found "impermissible bias occurs when the same person serves as both 'accuser' and 'adjudicator' in a case. It is true that this is a criminal case wherein the prosecutor did not recuse himself on appeal in a capital case, the underlying problem of "accuser" v. "adjudicator" is present in this case. This court, not defendants, conducted an independent investigation, and sought enforcement of the orders.

South Carolina Judicial Canon 3(B)(7) prohibits ex parte communications. Even if it were permissible to speak to the Court Clerk or the police, it was not permissible to allow Attorney Wills to appear without notice to plaintiffs.

Finally, the court in *Ellis v. Proctor & Gamble*, 315 S.C. 283 held that "a judge's impartiality might reasonably be questioned when his factual findings are not supported by the record." This court refused to issue findings of fact under Rule 52 regarding the *legal* issues in this case. The second part of the case related to the equitable issues. This court required pre trial hearing briefs. This court considered pleadings from the conservatorship case, the probate case, the elder abuse/legal malpractice case, all discovery in this case—over my objection. The court did not require Defendants to put on their

case, neither here or in the jury trial. The court ignored Alice Shaw Baker's due process rights to revoke her will, because the court held that she was demented and that the original order for conservatorship precluded her from executing a new will. The court, not defendants, put on their case. This is when factual findings are not supported by the record.

***K. The Personal Bias of Judge Hughston coupled with the Ex Parte Communications with Defendants' Counsel mandates Recusal or Disqualification.***

Plaintiff's discovery of a secret hearing on April 3, 2018 reveals that Judge Hughston's actions have reached the point where it is dangerous for counsel Lisa Fisher to appear before him. His comments have compromised her reputation, in a way that she could not have imagined. He no longer can even make the pretense of being fair.

Despite Plaintiff Lisa Fisher's extreme efforts to respect the decisions of the court, she and her mother were subjected to inquiry about their finances before finishing their case. It appears that the court had someone go over Lisa Fisher's accounting. She has no way of knowing who this person was, and why she was not be given an opportunity to be heard (as promised by Judge Fulp).

Judge Hughston's anger and rage at Plaintiff Lisa Fisher is evident in the order, in the April 3, 2018 order, and in his untoward, irrational, retaliatory conduct with continued threats of contempt.<sup>15</sup>

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<sup>15</sup> Plaintiffs 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 Plaintiffs 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. 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 Plaintiff 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, Plaintiff Lisa Fisher's filing of papers, assertion of arguments,

Plaintiffs should not have lost their attorney, based on his commitment to assist them in a difficult case such as this. Moreover, plaintiffs and counsel should not be punished for their efforts to preserve constitutional rights, secure statutory protections, and avoid harm.

By having a secret meeting/hearing, by discussing the case with counsel W. Wills Westbrook, by involving the clerk of the court, and the officers and their superiors, Plaintiffs have lost all hope in fairness in this trial. The attorneys certainly have not abided by their Lawyer's oath, instead standing with Judge Hughston as he "punishes" Lisa Fisher for doing her job, maybe not to his liking, but that does not mean she violated any law. However, Peter Kouten violated the law by taking his client to the bank and opening a bank account without a bond. W. Westbrook Wills and Jessica Crowley violated the law by clasp hands with this court, and failing to ensure that plaintiffs had notice.

Plaintiffs need protection from the consequences of this Court's actions, the attorneys' action, and those who support this type of conduct. Judicial Canon's preclude independent investigation, and plaintiffs thought this was the height of illegal conduct in this case. ***Plaintiffs can not believe that in America, there are secret court hearing April 24, 2018—This mandates reversal and of the orders.***

However, more importantly, it precludes this court from hearing further evidence or being involved in this case at all. Judge Fulp was appointed by the Supreme Court to act, and plaintiff Lisa Fisher had hopes that she would have a fair hearing and opportunity to be heard over the issues involved in the conservatorship, accountings, and her right to fees. Yet, this court informed him of all these proceedings and the orders. Plaintiffs do not have evidence that Judge Fulp was part of the secret

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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. With regard to the false allegations referenced in the March 21, 2018 order purportedly supporting Sanction governed by S.C. Code § 15-36-10

meeting, however by the court's inclusion of the probate court in these proceedings (when these proceedings were statutorily removed from the probate court) merely complicates the case.

**REMEDY SOUGHT**

WHEREFORE, Plaintiffs respectfully pray that this Court grant a new trial, in its entirety; alternatively, that this court alter or amend its orders to conform with the law of South Carolina; and that the Honorable Judge Hughston recuse himself or grant this motion for his disqualification, and any other relief as the Court may deem proper. Plaintiffs respectfully request that the court consider the affidavits filed with regard to the motion to stay and Order to Show Cause.

April 24, 2018

RESPECTFULLY SUBMITTED,

LISA FISHER (*Pro Se*)

P.O. Box 91112

Long Beach, CA 90809-1112

562-965-3267

lfisher6736@yahoo.com

attached JOINDER OF BETTY FISHER

|                         |   |                                                    |
|-------------------------|---|----------------------------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS                       |
|                         | ) | FOR THE NINTH JUDICIAL CIRCUIT                     |
| COUNTY OF CHARLESTON    | ) | CASE NO. 2009-CP-10-3010                           |
|                         | ) |                                                    |
|                         | ) | <b>JOINDER and VERIFICATION BY BETTY FISHER</b>    |
|                         | ) | <b>TO</b>                                          |
| Betty Fisher et al.,    | ) | <b>PLAINTIFFS' MOTION FOR THE FOLLOWING</b>        |
|                         | ) | <b>ORDERS: 1) RULE 59 (A) MOTION FOR NEW</b>       |
| Plaintiffs,             | ) | <b>TRIAL; 2) RULE 59 (E) TO ALTER OR AMEND THE</b> |
|                         | ) | <b>JUDGMENT; 3) RECUSING AND/OR</b>                |
| vs.                     | ) | <b>DISQUALIFYING HONORABLE THOMAS L.</b>           |
|                         | ) | <b>HUGHSTON FROM FURTHER PROCEEDINGS IN</b>        |
| Bessie Huckabee et al., | ) | <b>THIS MATTER</b>                                 |
|                         | ) |                                                    |
| Defendants,             | ) |                                                    |
|                         | ) |                                                    |
| In the Matter of        | ) |                                                    |
| Alice Shaw-Baker.       | ) |                                                    |
| _____                   | ) |                                                    |

I BETTY FISHER do hereby join *Plaintiffs' Motion for the Following Orders: 1) Rule 59 (A) Motion for New Trial; 2) Rule 59 (E) to Alter or Amend the Judgment; 3) Recusing And/or Disqualifying Honorable Thomas L. Hughston from Further Proceedings in this Matter; Joinder and Verification by Betty Fisher .*

I have requested that this joinder be part of the record and agree and verify the petition. My affidavit filed in support of the Motion for Stay has been previously filed in this court and attached herein.

April 24, 2018

RESPECTFULLY SUBMITTED,



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

BY

JULIE J. ARMSTRONG  
CLERK OF COURT

2018 APR 25 AM 11:33

FILED

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
BETTY FISHER and LISA FISHER, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
BESSIE HUCKABEE, et al., )  
 )  
Defendants, )  
 )  
In the Matter of )  
Alice Shaw-Baker. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2009-CP-10-3010

**DEFENDANTS' JOINT MOTION  
TO RECONSIDER, ALTER OR  
AMEND JUDGMENT**

2018 MAY 31 PM 2:30  
CLERK OF COURT

**COMES NOW** Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd, pursuant to Rule 59(e), SCRCPP, and respectfully move the Court to reconsider, alter or amend its Order of Judgment, signed and filed on May 29, 2018 (attached hereto as Exhibit "A"), for the reasons set out below, showing as follows:

1. The Court awarded Defendants their attorneys' fees in this matter in the amount of \$157,539.93, which represents the Defendants' attorneys' fees, as reflected in counsels' amended attorneys' fees affidavits they submitted on March 13, 2018 at the time of trial on the bifurcated equitable claims, which included their time through the hearing. That amount does not, however, reflect the attorneys' fees Defendants necessarily incurred in defending the remainder of matters before the Court, including Plaintiffs' post-trial motions and the hearing thereof, which total a combined **additional \$15,953.75**. Attached hereto are the affidavits of fees since March 13, 2018 of W. Westbrook Wills, III, attorney for Bessie Huckabee, Kay Passailaigue Slade and Sandra Byrd (Exhibit "B"), and attorney Jessica L. Crowley, attorney for Bessie Huckabee as



Personal Representative of the Estate of Alice Shaw-Baker (Exhibit "C"). Defendants believe it was the intention of the Court, in its Order of Judgment, to award Defendants the totality of their attorneys' fees and costs, and respectfully request the Court reconsider, alter, or amend its judgment to include a judgment against Plaintiffs, jointly and severally, for those additional attorneys fees, if the Court finds them reasonable, for a **total attorneys' fee award of \$173,493.69.**

2. The Court, in its May 29, 2018 Order of Judgment, holds Lisa Fisher in Contempt of Court for her failure to supply ordered financial information. The Court previously issued its Order and Rule to Show Cause on April 4, 2018 (attached hereto as Exhibit "D"), after Lisa Fisher failed to comply with its orders to turn over not only her financial information, but also "all assets belonging to the Estate of Alice Shaw-Baker." The Court's Order and Rule to Show Cause specifies that Lisa Fisher "can avoid this by immediately delivering the keys, the jewelry, and the savings bonds to the Charleston County Clerk of Court . . . [a]lso, she still needs to supply the ordered financial information." In addition to failing to produce to the Court her financial information, Ms. Fisher has also failed to produce to the Court all other assets belonging to the Estate of Alice Shaw-Baker, including, without limitation, the jewelry (including according to accountings 8 rings), the keys to the house at 306 Cassina Rd., all bonds (which according to accountings total \$123,000), original and copied documents from Mrs. Shaw-Baker's home, multiple boxes of photos, a large sack of silver dollars, and her address book.

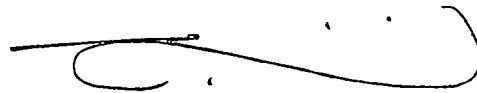
Defendants respectfully request the Court reconsider, alter, or amend its Order of Judgment to hold Lisa Fisher in contempt of Court for also failing to deliver those items to the Court, as ordered, and that she be penalized in the same manner, although that she be also

required to deliver to the Clerk of Court "all assets belonging to the Estate of Alice Shaw-Baker," including the above-listed items, in order to purge her contempt.

Dated this 31<sup>st</sup> Day of May 2018.

Respectfully submitted,

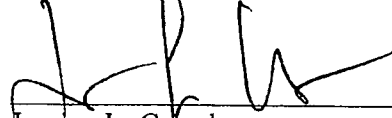
LAW OFFICE OF  
W. WESTBROOK WILLS, III



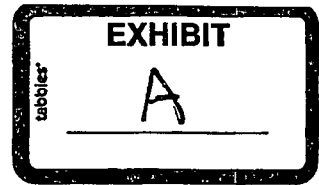
W. Westbrook Wills, III  
P.O. Box 822  
Folly Beach, SC 29439  
Tel. (843) 805-6300  
wwills@wwillslaw.com  
*Attorney for Bessie Huckabee, Kay  
Paissailaigue Slade, and Sandra Byrd*

-and-

CROWLEY LAW FIRM, LLC



Jessica L. Crowley  
P.O. Box 30189  
Charleston, SC 29417  
Tel. (843) 789-9614  
jcrowleylawfirm@gmail.com



STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
BETTY FISHER and LISA FISHER, )  
As Conservator for ALICE SHAW- )  
BAKER, )  
Plaintiffs, )  
vs. )  
BESSIE HUCKABEE, et al. )  
Defendants. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2009-CP-10-3010

**ORDER**

FILED  
MAR 25 11 25 AM '18  
CLERK OF COURT

This case is before me following a jury verdict upholding the Will of Alice Shaw-Baker, and my verdicts against the equitable claims of the Plaintiffs. I wrote my Order affirming the jury's decision and ruling against Plaintiffs' claims and filed it on March 21, 2018, and it was available on-line on March 22, 2018. I issued my next Order more than 10 days later on April 3, 2018, without Plaintiffs filing any post-trial motions. The Supreme Court issued its Order on April 10, 2018, and I conducted a hearing pursuant to it on May 21, 2018. I took additional testimony following another review by me of the entire record pertaining to this dispute beginning with the filing for a Conservatory/Guardian on July 31, 2008. One cannot fully comprehend the total waste of time and expense in this case without reading everything including all the discovery of each side. It takes me two days to read these voluminous files, and I have read them two times trying to fully understand this case, and particularly, the claims of the Plaintiffs. The bottom line of it all is that there are no facts supporting these claims made up by essentially strangers to Alice Shaw-Baker and her friends.

#4  
T.H.H.

Prior to the non-jury trial, Defendants moved to dismiss this case following the Supreme Court's decision in the companion case involving these parties filed 2/28/18. I should have granted this. However, out of an abundance of caution, and my own preference for a full factual development, and since the parties were present and ready to proceed, I reserved ruling and took testimony. I now grant Defendants' Motion to Dismiss these equitable claims for lack of standing. Plaintiffs do not own these claims for "animal welfare" interests. One can only imagine the scope of additional litigation and attorneys fees if I should mandate a constructive trust to benefit "animal welfare and rescue organizations." Plaintiffs do not represent such groups. They have no standing to bring these claims.

Alice Shaw-Baker was a 79 year old lady suffering from undisputed physical and mental problems. Friends became concerned about her welfare and contacted an elder support hotline through the City of Charleston. Plaintiffs were notified in writing and this nightmare began. Plaintiffs had practically no contacts with Alice Shaw-Baker prior to this. Lisa Fisher successfully maneuvered the professional elder care Co-Conservator/Guardian, Jane Orenstein out, and her actions as sole Conservator/Guardian begin and continue to this day according to her. It is important to read the Order of Judge Curry of November 19, 2008, for it is dispositive of Plaintiffs' contention that Alice Shaw-Baker revoked her Will. She was an "Incapacitated Person". Section 62-5-101 (1) S.C. Code of Laws. Among other things, Judge Curry Ordered, "neither Alice Shaw-Baker nor anyone on her behalf may revise or revoke her Will or execute a new Will, unless specifically ordered by this Court." No one sought to change this Order. This alone should have told Plaintiffs not to claim the Will was revoked under extremely suspicious and questionable circumstances shown in the record and recited in my prior Order. This Order is in addition to the settled law that a

#2  
T.L.H.

mentally incompetent person lacks capacity to revoke a Will. Without question, Alice Shaw-Baker lacked capacity to revoke her Will.

“The one who first states a case seems right, until the other comes and cross-examines.” Proverbs 18:17. Or as C. Tolbert Goolsby, Jr. says in Sweet Potato Biscuits and Other Stories, p. 113. “A man’s story seems right, until you look into it.”

In Plaintiffs twenty six page Verified Complaint they allege eleven causes of action in one hundred and forty six paragraphs. However, at the non-jury trial Plaintiffs only claimed and presented evidence in an attempt to support a constructive trust over her entire estate. Since the Will has been upheld, this claim relates to the non-probate assets being Alice Shaw-Baker’s deferred compensation, pension and life insurance. Plaintiffs claim a constructive trust to “go to animal welfare and rescue projects only.” It is true that Alice Shaw-Baker had dogs as her family, and wanted to ensure that any that survived her were taken care of by Kay Passailaigue Slade. None survived her, the last pre-deceasing her in 2008. This was very upsetting to her, and is reflected in various ways in the record. However, she never changed her Will leaving the residue of her estate (after specific bequests) to Kay Passailaigue “to be hers in fee simple absolute, to include the care of my dogs....” It is hard to imagine anything more clear than that. Further, it is clear that Alice Shaw-Baker through notes and records regarding her deferred compensation, retirement and insurance, discussed leaving these to various “animal welfare” organizations by Will and/or by contract. However, it is finally established clearly by the memorandum of a call from her to her insurance company: “I have received your letter dated March 6, 1996 and the beneficiary forms naming the John Ancrum Society for the Prevention of Cruelty to Animals and have discussed this with my attorney. We have decided not to change the beneficiary and name my estate as beneficiary. Ok. I

\*3  
7.1.16. J.

will order the file to make sure your estate is named as beneficiary and if it isn't, I will prepare beneficiary forms accordingly." Likewise, the beneficiary of her deferred compensation was shown on a form of 2/14/01 to be "Kay Passailaigue, Relationship Custodian of Pets and Rescue—Governed by Will." Also, a prior form of 7/24/90 had her estate as beneficiary. The combination of her Will and these contracts are entirely contrary to Plaintiffs claims of a constructive trust to benefit unnamed "animal welfare" organizations. The course of these contracts might be somewhat confusing, but the final result is not. After consulting with her attorney, she decided to leave these to her estate as governed by her Will, that is, Kay Passailaigue. As much as Plaintiffs profess it should be otherwise, it is not so by Alice Shaw-Baker's own words spoken prior to her dementia.

I again address the issue of sanctions for this soon to be nine years old frivolous suit. The standard for determining this is an objective one. Plaintiffs may subjectively say, "We are just doing what Alice Shaw-Baker wanted us to do." Intent and result are shown by their acts, not their words.

This should have been a simple guardian/conservator/personal representative case. Instead it has by Plaintiffs' frivolous acts gone on for nine years and counting. This is unconscionable and an abuse of the court system. Every avenue available to delay has been used and abused by Plaintiffs for no good reason.

I have condensed the history of this case as follows: Over the past nine years, in this and other related cases, Plaintiffs have appealed and asked for reconsideration of almost every decision of every Court. They have filed nine appeals, four Writs of Certiorari, three petitions for rehearing, and seven motions for reconsideration. To date, they have not prevailed on any substantive matters with the exception of one remand on the issue of conservator fees.

*Handwritten:*  
#4  
T.L.B. J.

I now turn to the monetary figures used in factoring my sanctions award. According to Family Services' inventory and appraisal, The Estate of Alice Shaw-Baker was originally valued at \$388,055.63. That figure includes the value of real estate, investments, life insurance, annuities, and anticipated annual receipts. After subtracting anticipated receipts, the Estate's initial value was \$353,746.81. According to Lisa Fisher's own accounting, \$39,549.43 was spent following Judge Curry's May 11, 2009 Order terminating her conservatorship. She also unreasonably spent \$25,000 for an air ambulance on the day of Alice Shaw-Baker's death, after being told by a medical doctor that she would not survive the trip, and violated § 62-5-424(C)(9) by making twenty unauthorized charitable donations in the amount of \$2,555, and of this \$105 came before the termination of the conservatorship.

The Probate Court has approved fees amounting to \$67,185.92. An additional \$20,621.34 was spent on unapproved fees, \$13,941.59 coming before the termination of the conservatorship, totaling \$87,807.26 in paid fees, which amounts to 25% of the Estate's value. However, there remains pending requests for approval of fees totaling \$74,422.00. Assuming those requests are approved, the total fees paid would amount to \$162,229.26 or 46% of the Estate. As it currently stands, a total of \$173,148.66 from the Estate has been spent, which represents 49% of the Estate. Approval of the outstanding fee request would almost completely deprive the Estate of its value. That comes without any consideration of the amount of attorney's fees accumulated from Feb. 2009–Feb. 2018 which totals \$314, 837.35 or 89.25% of the Estate. After totaling all the paid, unpaid, requested, and accumulated fees, the total amounts to \$564,873.87, which represents 160% of the Estate.

\*5  
T.H.B.

Despite the many egregious acts that occurred in this case, Lisa Fisher did care for Alice Shaw-Baker and her home by employing caregivers, landscapers, and by continuing to pay the taxes and insurance. For this, I credit her \$11,462.85 towards the sanctions award—\$1,000 for the caregiver expenses after the date of Alice Shaw-Baker's death, \$200 for hair charge, \$2,370 for lawn care, and \$7,892.85 for taxes and insurance. I have also decided to remove the \$7,000 loss of opportunity costs and treble damages against Lisa Fisher. As a result, the new sanctions award comes from \$13,941.59 spent of unapproved fees after the termination of the conservatorship, \$39,549.43 for monies spent after the termination of the conservatorship, \$13,941.59 for unapproved fees prior to termination of conservatorship, \$25,000 for an air ambulance on day of Alice Shaw-Baker's death, and \$105 for unauthorized charitable contributions before the order terminating the conservatorship. I have also decided to award the Defendants their reasonable attorney's fees in this action. Factors to be considered by the trial court in making a determination as to attorney's fees are: (1) the nature, extent and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained. After careful consideration of these factors, I find Defendants' attorney's fees in the amount of \$157,539.93 are, unfortunately, justified under that analysis. As a result, I am imposing judgment against Plaintiffs for a total of \$236,135.95, jointly and severally, in favor of Defendants and their attorneys

#6  
T.L.H.P.  
Again, I reference Bleak House. Jarndyce vs. Jarndyce ended when the money in the estate was consumed by attorneys' fees, etc., after many years of litigation. I now doubt if even that would stop Plaintiffs from pursuing this frivolous litigation given what has now "boxed them in"



...sanctions, damages, and costs which they must pay unless somehow they are successful on their appeals for the first time in nine years.

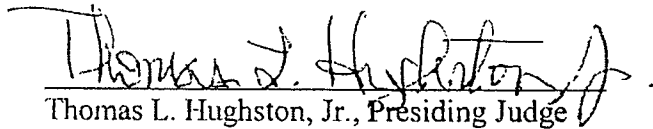
I cannot conclude without saying that I have sympathies for Lisa Fisher. It is painful for me to see and hear her put herself and others through this. She is well educated with a law degree and other degrees. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help—legal and perhaps otherwise. I hope she gets it.

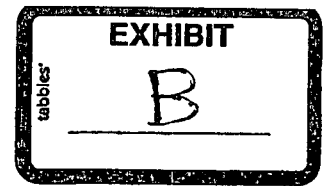
Plaintiffs are in Contempt of Court for repeatedly refusing to supply Ordered financial information. I Order them confined in the Charleston County Detention Center and fined \$100.00 per day starting today until they comply. I have never in 33 years held an attorney or party in Contempt of Court. I stay this during the Plaintiffs' appeal.

Plaintiffs' post-trial motions are denied and my previous Order affirmed except as modified herein.

#7  
IT IS SO ORDERED.

May 29, 2018  
Charleston, South Carolina

  
Thomas L. Hughston, Jr., Presiding Judge



STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
  
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 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 09-CP-10-3010

**AMENDED ATTORNEY'S FEES  
AFFIDAVIT OF  
W. WESTBROOK WILLS III**

**PERSONALLY APPEARED** before me W. Westbrook Wills III, who, being first duly sworn, deposes and says as follows:

1. I am the attorney for Defendants Bessie Huckabee, Kay Passailaigue, and Sandra Byrd, as beneficiaries of the Last Will and Testament of Alice Shaw-Baker in the above captioned matter.
2. I was admitted to the South Carolina Bar in 2007 and since that time have been engaged in the private practice of law. Since March of 2010 I have practiced in Charleston with the firms Austin, Fowler & Wills, LLP and the Law Office of W. Westbrook Wills III.
3. I am an active member of the South Carolina and Charleston Bars, and the Georgia Bar. I am engaged in practice in the State and Federal Courts of Georgia and South Carolina with approximately 90% of my practice devoted to civil litigation.
4. That I incorporate herein Rule 32, Rules of Practice of the South Carolina Supreme Court, which contains the Canons of Professional Ethics and further calls the attention of the

Court to the holdings in Glasscock v. Glasscock, 304 S.C. 158, 403 S.E. 2d 313 (1991) and Epperly v. Epperly, 440 S.E.2d 884 (1994) concerning the factors and criteria which should be considered in the awarding and setting of attorney's fees.

I rely on the discretion of this Court in the determining the reasonableness of the amount of the fees, based upon the Court's file, the Court's knowledge of the litigation between these parties, the time necessarily expended, the result accomplished, and the fees customarily charged in this area for similar legal services.

5. That my client has had a need for the current representation.

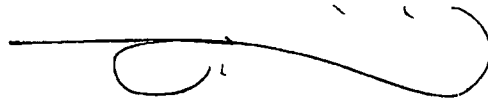
7. That am informed and believe an award of legal fees and costs is appropriate and warranted in this matter in accordance with S.C. Code Ann. §§ 15-36-10 and 62-1-111.

8. That the time spent in preparing and trying the case, as set forth more fully hereinafter, was necessary for the defense of Plaintiffs' claims.

9. That my rate for legal services is \$225.00 per hour. Since the trial of the matter in the above-captioned case and since March 13, 2018 I have expended 31:41 hours, as reflected in the attached itemization on behalf of Defendants in this and related Magistrate ejection action.

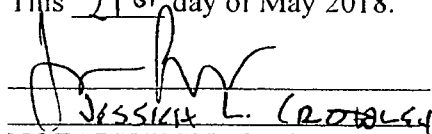
10. That based upon the time necessarily devoted to this case and the other criteria which have been held to be relevant in the setting of attorney's fees and costs of suit, I, on behalf of my clients, request this Court review the file herein, together with this Affidavit, and award attorney's fees and costs in favor of the undersigned or his clients, Bessie Huckabee and Kay Passailaigue in the amount of **\$7,178.75**, as indicated in the attached fee itemization, or a sum which this Court determines to be reasonable to compensate Defendants for my attorney's fees incurred as a result of defending this action, and that Plaintiffs be required to pay the same within a reasonable time as determined by this Court.

**FURTHER THE AFFIANT SAYETH NOT!**



W. Westbrook Wills III  
*Attorney for Defendants*  
*Huckabee, Passailaigue, and Byrd*

SUBSCRIBED and SWORN TO before me  
This 21<sup>ST</sup> day of May 2018.



Jessica L. Corley  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission expires: 10/2/2022

THE LAW OFFICE OF  
W. WESTBROOK WILLS III

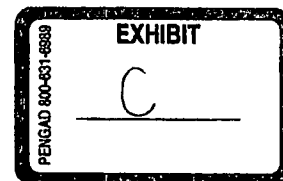
W. WESTBROOK WILLS III  
Admitted in Georgia & South Carolina

CIVIL TRIAL LAWYER  
P.O. BOX 822  
FOLLY BLACH, SC 29439

TELEPHONE (843) 805-6300  
FACSIMILE (866) 922-8596  
wwills@wwillslaw.com

## FEE ITEMIZATION

| Project Name: Fisher v. Huckabee |                                                                                                      | Project No: 260 |              |                   |
|----------------------------------|------------------------------------------------------------------------------------------------------|-----------------|--------------|-------------------|
| Date                             | Task                                                                                                 | Rate            | Time         | Fee               |
| 3/21/18                          | Review Bond information;                                                                             | 225.00          | 00:20        | 75.00             |
| 4/4/18                           | Meeting with Kay and Clerk of Court to receive funds from Court; Speak with deputies re ejectment    | 225.00          | 02:00        | 450.00            |
| 4/19/18                          | Review Motion for Stay and For Supersedeas, outline response                                         | 225.00          | 01:21        | 303.75            |
| 4/20/18                          | Continued review of motion for supersedeas and accompanying affidavits, review related law           | 225.00          | 00:43        | 161.25            |
| 4/20/18                          | Review Remittitur from Sup Ct (1332); phone conf Crowley re effect                                   | 225.00          | 00:27        | 101.25            |
| 4/26/18                          | Review Lisa Fisher's Motion for Stay and Rule 59 Motion for New Trial and rel. law for response      | 225.00          | 00:48        | 180.00            |
| 4/30/18                          | review and reply to Motion for new trial and affidavits                                              | 225.00          | 06:24        | 1,440.00          |
| 5/14/18                          | Receive and review subpoena to produce from Lisa Fisher; research and draft and file motion to quash | 225.00          | 01:06        | 247.50            |
| 5/16/18                          | Letter to Judge Hughston re assets                                                                   | 225.00          | 01:20        | 300.00            |
| 5/17/18                          | Finalize and file Ds' reply to Ps' Rule 59 mtn                                                       | 225.00          | 03:00        | 675.00            |
| 5/17/18                          | Finalize Mtn. to Quash and affidavits; coord. Atty Crowley                                           | 225.00          | 02:30        | 562.50            |
| 5/17/18                          | Motion filing fee: Motion to Strike                                                                  | 25.00           | NA           | 25.00             |
| 5/17/18                          | Motion Filing Fee: Motion to Quash                                                                   | 25.00           | NA           | 25.00             |
| 5/19/18                          | Prepare for Motions hearings 5/21/18                                                                 | 225.00          | 04:42        | 1,057.50          |
| 5/23/18                          | Draft revised Atty Fee affidavit and motion for fees                                                 | 225.00          | 01:00        | 225.00            |
| 5/23/18                          | Hearing on Motion for new trial, motion for stay, motions to quash subpoenas.                        | 225.00          | 06:00        | 1,350.00          |
| <b>Time</b>                      |                                                                                                      |                 | <b>31:41</b> |                   |
| <b>Total</b>                     |                                                                                                      |                 |              | <b>\$7,178.75</b> |



|                          |   |                                 |
|--------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS    |
|                          | ) | FOR THE NINTH JUDICIAL CIRCUIT  |
| COUNTY OF CHARLESTON     | ) | Case No.: 2009-CP-10-3010       |
|                          | ) |                                 |
| Betty Fisher, et al.,    | ) |                                 |
|                          | ) |                                 |
| Plaintiffs,              | ) |                                 |
|                          | ) |                                 |
| vs.                      | ) | AMENDED ATTORNEY'S FEES         |
|                          | ) | AFFIDAVIT OF JESSICA L. CROWLEY |
| Bessie Huckabee, et al., | ) |                                 |
|                          | ) |                                 |
| Defendants,              | ) |                                 |
|                          | ) |                                 |
| In the Matter of         | ) |                                 |
| Alice Shaw-Baker.        | ) |                                 |
| _____                    | ) |                                 |

PERSONALLY APPEARED before me, Jessica L. Crowley, Esquire, who being duly sworn deposes and says:

1. I am the attorney for Defendant, Bessie Huckabee, Personal Representative in the above referenced matter.
2. This case is an action for Contest of the Last Will and Testament of Alice Shaw Baker, in the above matter, which was tried in October 2017 and March 2018 in a bifurcated trial. Defendants prevailed on all matters and Plaintiffs have filed multiple post-trial pleadings.
3. That fees total \$8,775.00 in connection with this action. The hourly rate charged was \$175.00 per hour.
4. The Supreme Court has set forth the factors to be considered in a grant of attorney's fees in *Glasscock v. Glasscock*, 304 S.C. 158 (1991), concerning the law in setting reasonable attorney's fees. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:
  - a) Nature, Extent and Difficulty of the Legal Services Rendered. This case involved multiple issues of civil law. Accordingly, the factual and legal issues presented required the extent of the work performed necessary to adequately prepare.
  - b) Time and Labor Necessarily Devoted to the Case. No less than 50 hours were devoted to the case by my firm. This is reflected through the facts stated earlier, as well as from the listing of

services performed in the Exhibit. Accordingly, the time and labor devoted to this case were necessary to properly prepare for this case.

c) Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina and I am a member of the Charleston County Bar Association and the American Bar Association. Approximately 90% of my practice consists of Probate matters, including commitment representation, special administrator appointments, probating estates, and contested and uncontested Guardianship and Conservatorships. Accordingly, I submit that I have a high professional standing in general and in this area of practice.

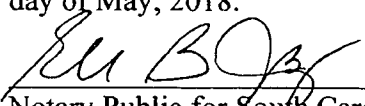
d) Contingency of Compensation. Compensation in this case is based on the hourly rate of \$175.00 per hour and is not contingent.

e) Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Charleston area, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are, in the Charleston area, from \$120.00 to \$300.00 per hour. As stated earlier, my hourly rate is within this range in this case. Accordingly, this hourly rate is the fee customarily charged in this locality for similar services.

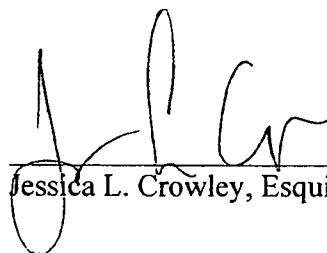
f) Beneficial Results Obtained. This attorney has continued to obtain beneficial results for the Defendant and interested parties in this action. Accordingly, it is submitted that beneficial results have been obtained by this firm on client's behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees and costs to the full extent set forth in this Affidavit is appropriate; therefore, Jessica L. Crowley, Esquire, is entitled to \$8,775.00 in attorney's fees.

SWORN to before me this 31  
day of May, 2018.

  
Notary Public for South Carolina

My Commission Expires: 11/14/2024

  
Jessica L. Crowley, Esquire

# Crowley Law Firm, LLC

PO Box 30189  
Charleston, SC 29417

# INVOICE

Invoice # 47  
Date: 05/31/2018  
Due On: 06/30/2018

Bessie Huckabee  
5319 Paramount Drive  
N Charleston, SC 29418

**00008-Huckabee**

## Estate of Alice Shaw-Baker

| Type    | Date       | Notes                                                                                                                                                                                           | Quantity | Rate     | Total    |
|---------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------|
| Service | 03/13/2018 | JLC attend hearing, meet with client                                                                                                                                                            | 4.00     | \$175.00 | \$700.00 |
| Service | 03/27/2018 | JLC rec Mot to Vacate, review                                                                                                                                                                   | 0.50     | \$175.00 | \$87.50  |
| Service | 03/27/2018 | JLC ltr to JHC re Candy vacate w/in 7 days, fwd to parties via EM, mail to JHC                                                                                                                  | 0.40     | \$175.00 | \$70.00  |
| Service | 04/03/2018 | JLC notice of Motion to Withdraw by JHC, response from Wills re personal property, response to ltr demanding Candy to move, rec Order from Hughston re property, TC from Wills re meet with Kay | 0.50     | \$175.00 | \$87.50  |
| Service | 04/04/2018 | JLC meet Wills and Kay, to CCPC to pick up interpleader check from clerk, talk to deputies re eviction                                                                                          | 1.50     | \$175.00 | \$262.50 |
| Service | 04/05/2018 | JLC rec Motion to be Relieved as Counsel, Hughston's new order, TC to Wills re bond and eviction, look up bond co info, EM to JHC re inventory of property                                      | 0.70     | \$175.00 | \$122.50 |
| Service | 04/09/2018 | JLC TC from Bessie re update                                                                                                                                                                    | 0.20     | \$175.00 | \$35.00  |
| Service | 04/09/2018 | JLC rec notice of appeal, notice to Ct App Motion to Withdraw, notice of entry of judgment                                                                                                      | 0.40     | \$175.00 | \$70.00  |
| Service | 04/10/2018 | JLC tc to Wills re eviction on Thursday, schedule Melody to meet, TC to locksmith, payment, TC to attorney                                                                                      | 0.70     | \$175.00 | \$122.50 |
| Service | 04/10/2018 | JLC review Pet'n for Supersedeas, review rule 204, EMs between parties, review dates of filings, research Lisa's motion to vacate - case law                                                    | 1.00     | \$175.00 | \$175.00 |
| Service | 04/12/2018 | JLC to 306 Cassina to meet police and locksmith, review new order from SCSC dismissing Pet'n for Writ and allowing extension, call from Hughston's office saying wait to evict                  | 1.00     | \$175.00 | \$175.00 |



|         |            |                                                                                                                                                                           |      |              |                   |
|---------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|--------------|-------------------|
| Service | 04/16/2018 | JLC rec corr from Appeals Court, Sup Court, Circuit Court and Probate Court re recent Orders, Withdrawal of counsel                                                       | 0.40 | \$175.00     | \$70.00           |
| Service | 04/19/2018 | JLC rec notice of filing in 3010- Petn for Writ and req to stay RTSC, begin timeline                                                                                      | 0.40 | \$175.00     | \$70.00           |
| Service | 04/25/2018 | JLC EM from Judge re setting hearing, respond                                                                                                                             | 0.30 | \$175.00     | \$52.50           |
| Service | 04/26/2018 | JLC rec filings from Fisher, review motions, research bifurcation re rule 59 motion, tc to Wills re next steps, law on filing appeal                                      | 1.00 | \$175.00     | \$175.00          |
| Service | 04/27/2018 | JLC research requirements for joinder of pro se parties                                                                                                                   | 1.00 | \$175.00     | \$175.00          |
| Service | 04/27/2018 | JLC draft post-judgment interrogatories to Lisa and Betty and RTP                                                                                                         | 6.00 | \$175.00     | \$1,050.00        |
| Service | 04/30/2018 | JLC research supersedeas law, requirement of bond, review law on affidavits re Mot to Strike, review orders and standing law, begin draft response to Mot for Supersedeas | 8.00 | \$175.00     | \$1,400.00        |
| Service | 04/30/2018 | JLC rec Rule 59 motion and request for Judicial Notice, review                                                                                                            | 0.50 | \$175.00     | \$87.50           |
| Service | 04/30/2018 | JLC complete draft reply to P's motion for supersedeas, edit, file, fwd to parties                                                                                        | 4.00 | \$175.00     | \$700.00          |
| Service | 05/02/2018 | JLC CL and scans of Disc Req to Lisa and Betty                                                                                                                            | 0.50 | \$175.00     | \$87.50           |
| Service | 05/03/2018 | JLC check Cassina property, look up car parked in driveway                                                                                                                | 0.50 | \$175.00     | \$87.50           |
| Expense | 05/17/2018 | Reimbursable expense Mot to Quash subpoena                                                                                                                                | 1.00 | \$25.00      | \$25.00           |
| Service | 05/18/2018 | JLC prep for hearing, finalize Motion to Quash Subpoena, research subpoenas                                                                                               | 3.00 | \$175.00     | \$525.00          |
| Service | 05/20/2018 | JLC prep for hearing                                                                                                                                                      | 4.00 | \$175.00     | \$700.00          |
| Service | 05/21/2018 | JLC hearing on post trial motions                                                                                                                                         | 6.00 | \$175.00     | \$1,050.00        |
| Service | 05/23/2018 | JLC to Cassina Drive to check property, conversation with Lisa - refused to open door, rec 226 page petition for supersedeas, review                                      | 2.00 | \$175.00     | \$350.00          |
| Service | 05/25/2018 | JLC rec order for supersedeas- discuss next steps                                                                                                                         | 0.50 | \$175.00     | \$87.50           |
| Service | 05/30/2018 | JLC corr from Judge Hughston, review order                                                                                                                                | 1.00 | \$175.00     | \$175.00          |
|         |            |                                                                                                                                                                           |      | <b>Total</b> | <b>\$8,775.00</b> |

## Detailed Statement of Account

### Other Invoices

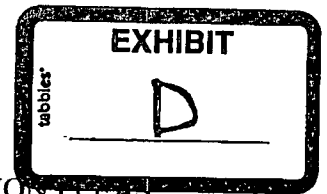
| Invoice Number | Due On     | Amount Due  | Payments Received | Balance Due |
|----------------|------------|-------------|-------------------|-------------|
| 25             | 03/28/2018 | \$10,434.25 | \$0.00            | \$10,434.25 |
| 27             | 04/11/2018 | \$5,950.00  | \$0.00            | \$5,950.00  |

### Current Invoice

| Invoice Number           | Due On     | Amount Due | Payments Received | Balance Due |
|--------------------------|------------|------------|-------------------|-------------|
| 47                       | 06/30/2018 | \$8,775.00 | \$0.00            | \$8,775.00  |
| Outstanding Balance      |            |            |                   | \$25,159.25 |
| Total Amount Outstanding |            |            |                   | \$25,159.25 |

Please make all amounts payable to: Crowley Law Firm, LLC

Please pay within 30 days



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**

2018 APR -4 PH 3:55  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

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

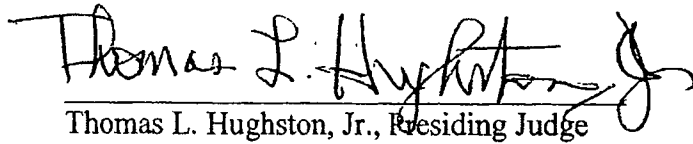
#1  
7-6-18

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., Residing Judge

## FORM 4

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<br>(List name(s) below)                                 | Judgment Against<br>(List name(s) below) | Judgment Amount To be<br>Enrolled<br>(List amount(s) below) |
|------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------|
| Bessie Huckabee, Kay<br>Passailaigue Slade, and the Estate<br>of Sandra Byrd | Betty Fisher and Lisa Fisher             | \$236,135.95                                                |

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.

T. L. Hughes Jr.  
Circuit Court Judge

2008  
Judge Code

5/29/18  
Date

019  
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 et al., )  
Plaintiffs, )  
vs. )  
Bessie Huckabee et al., )  
Defendants, )  
In the Matter of )  
Alice Shaw-Baker. )  
\_\_\_\_\_ )

**PLAINTIFF LISA FISHER'S RETURN TO  
AND OBJECTIONS TO JOINT MOTION TO  
RECONSIDER, ALTER, OR AMEND JUDGMENT**  
  
**AND**  
  
**JOINDER BY BETTY FISHER**

**FILED**  
**JUN 11 PM 2:42**  
**CLERK OF COURT**

COMES NOW, the Plaintiff Lisa Fisher file this Return to Defendants Joint Motion to  
Reconsider, Alter, or Amend Judgment,  
  
and

Attached hereto is a joinder by Betty Fisher in this return seeking the same relief and requesting  
that the court deny the joint motion in its entirety:

**I.**  
**OPPOSITION TO JOINT MOTION**  
**TO RECONSIDER, ALTER OR AMEND JUDGMENT**

The United States Supreme Court decision in *West Virginia State Bd. of Educ. v. Barnette*, 319  
U.S. 624, 642 (1943) regarding children's rights to object to mandate to salute flag and pledge of  
allegiance, stated:

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//

"[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.  
[¶]If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, **or other matters of opinion**, or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us." <sup>1</sup>

Plaintiffs Betty Fisher and Lisa Fisher ("Plaintiffs") have been vilified by this Court and by Defendants, now Defendants (as here) fail to follow statutory procedures and seek assistance by the court to gain an advantage over Plaintiffs and obtain additional attorney fees in this litigation. Additionally, they ask the court to hold Plaintiff Lisa Fisher in contempt for refusing to comply with the order to return the assets to the Circuit Court. Plaintiffs *again* vehemently object.

In an effort to gain proper judicial review, Plaintiffs have properly appealed and filed a petition for writ of Supersedeas to protect Alice Shaw Baker's assets and to obtain meaningful review of this court's prior orders. On June 1, 2018, the South Carolina Supreme Court confirmed the "stay of all orders and proceedings in all cases related to the estate of Alice Shaw Baker so as to allow the Court time to consider the merits... the previously ordered stay [dated May 24, 2018] remains in place." The order of May 24, 2018 also ordered defendants to return all property and monies to Lisa Fisher.

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<sup>1</sup> In *West Virginia State Bd*, the Supreme Court further held: "That those who refused compliance did so on religious grounds **does not control the decision of this question, and it is unnecessary to inquire into the sincerity of their views**." Further stating, "many citizens who do not share these religious views hold such a compulsory rite to infringe constitutional liberty of the individual." (*Id* at 635, emphasis added) Therefore, as argued herein, Plaintiffs' own religious views may impact their rationale in seeking justice for Alice Shaw Baker, however Plaintiff Lisa Fisher has made a practice of relying solely on legal arguments which are reasonable, based on viable legal principles, or seek appropriate extensions of the law.

Therefore, Defendants filed this frivolous proceeding demanding relief contrary to the South Carolina Supreme Court's decision for stay, and they want additional fees for this injustice. This court ignores Defendants' counsels' impropriety, instead making vague claims as to Plaintiff Lisa Fisher's "egregious" acts.<sup>2</sup>

Plaintiffs believe that any further orders by this court related to this case would be in violation of the above order, therefore this Court should refrain from issuing any orders.

Nevertheless, to preserve their objection and ensure that there is no purported waiver by Plaintiffs file these objections to Defendants' Joint Motion to Reconsider, Alter or Amend the Court's order of May 29, 2018 on the following grounds:

***A. Defendants' Joint Motion is Fatally Defective in that it Fails to Cite to any Legal Authority, Violates the Statutory Mandates of Rule 69, and Does Not Meet the Due Process Safeguards for Contempt.***

Their joint motion cites no legal authority for its improper motion. It certainly does not follow the dictates of Rule 69 for relief, and it seeks relief on an expedited motion without time to object to the unfounded claims. Further, it seeks an order of contempt against Plaintiff Lisa Fisher to "purge" her contempt. (Moving papers, p. 3)

The motion further seeks approval of attorney fees for ancillary wrongful acts by Defendants' counsel who sought an ejectment action, when they knew that the caregiver was not the holder of the

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<sup>2</sup> Moreover, this court indicates that it should have granted the Defendants' Summary Judgment. Plaintiffs should not be charged with this court's "error". In its analysis, this court did not weigh the statutory and trust law regarding constructive trusts, etc. Instead, the analysis consisted solely of the finding: "Plaintiffs do not own these claims for 'animal welfare' interests. One can only imagine the scope of additional litigation and attorney fees if I should mandate a constructive trust to benefit 'animal welfare and rescue organizations.'"

The court does reference a letter dated March 6, 1996, however Defendants did not rely on this document in any of their memorandum, so again Plaintiff objects to the advocacy of this court and "independent investigation" which prejudices Plaintiffs.

There was no analysis of the legal elements for constructive trusts, the public policy for constructive trust, or the other remedies sought, merely the implication that "justice costs too much." Plaintiffs can not accept such a proposition and therefore submit these objections.



real property. Therefore, they initiated wrongful judicial process without informing the magistrate of the correct details about the case. This process also sought to deprive Plaintiff of her right to ensure proper distribution of the property and could have subjected her to further wrongful accusations.

The court has failed to credit Lisa Fisher with conservator fees or fees for protecting the real property. Plaintiffs do not contend that this is the correct forum to make these decision, however granting "damages" via sanctions or attorneys fees is also improper.

Plaintiffs respectfully request that the court deny this motion in its entirety, as it is not based on any proper legal authority. Moreover, the failure to cite to authority is a violation of due process under the United States and South Carolina Constitutions, as it permits the court to issue orders without a meaningful opportunity of plaintiffs to object. They are instead required to "guess" or "speculate" on the legal authority by which the parties rely. (*See Ellis v. Proctor & Gamble*, 315 S.C. 283[" a judge's impartiality might reasonably be questioned when his factual findings are not supported by the record."]))

***B. Defendants Sought Attorney Fees in their Sanction Motion dated November 6, 2017 under § 62-1-111 from 2009 to the present , however that Statute was not effective until January, 2014 and as Such the Court Abused its discretion in awarding Attorney Fees for the entire period.***

Defendants sought attorneys' fees in their post trial motions filed on November 6, 2017 under S.C. Code Ann. 62-1-111. This code was enacted in 2013, effective on January 2014. There is a presumption that in the absence of a specific provision or clear legislative intent to the contrary, statutes are to be applied prospectively rather than retroactively unless the statute is remedial or procedural in nature. (*See Bartley v . Bartley Logging Co.*, 293 S.C. 88, 359 S.E.2d 55 (1987).)

Plaintiffs contend that it is inappropriate to grant this relief for any fees incurred prior to 2014. Moreover, the code is not mandatory, and the court's rationale and order does not support a finding that "justice and equity" require the payment of attorney fees.

Plaintiffs are blamed for the length of time of these proceedings, however the length of time of proceedings does not support a finding that: "This is unconscionable and an abuse of the court system. Every avenue available to delay has been used and abused by Plaintiffs for no good reason."

Yet, Plaintiffs sought judicial review in a case where there were legitimate legal claims. Plaintiffs have no control over the length of time, and what this court asks is that plaintiffs forego judicial review.

Plaintiffs have rights, and they should not be compelled to forego those rights which "infringe [on the] constitutional liberty of the individual."

If Lisa Fisher did not have a Law Degree, her rights would be susceptible to "bullying" by Defendants, but here she can stand up, and does stand up, to the failure of the system to require legal authority for the acts of defendants and their counsel. Without legal authority, their actions are nothing more than harassment and extortion, which require Plaintiffs to use their time and money to oppose a motion without any legal foundation.

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**C. *The Court's Original Calculations for Attorneys Fees and Sanctions was erroneous, and again is erroneous in the New Order of May 29, 2018—It is not based on Lisa Fisher's Accounting. Further, Plaintiff Lisa Fisher was Deprived of Her Right to Due Process by the Court's Independent Investigation, Calculation, and Review.***

Defendants did not raise any question about Plaintiff Lisa Fisher's accounting—NONE.<sup>3</sup>

Plaintiff Lisa Fisher has a right to answer any objections to her accounting, if properly raised, and not have the Court review the accounting without an opportunity to be heard.

Judge Fulp was appointed as a Special Probate Judge to handle these types of proceedings. Due process mandates the ability to answer to the false representations set forth in the order. For instance, Alice Shaw Baker's doctor never said that she would not survive the trip to California, at the time of arranging the air ambulance. Alice was in good spirits and able to travel to California-- when it was arranged. Plaintiff Lisa Fisher was trying to get her proper medical care and relieve her stress. There is no conflicting evidence in the record.

Another error in the order is that this court failed to even give Lisa Fisher credit for the partial refund for the air ambulance that she was able to obtain.

Other facts set forth in the order are just wrong, plaintiff Lisa Fisher does not have time based on this expedited review to address them all. Lisa Fisher was never granted conservator fees and the order referenced on p. 5 of the May 29, 2018 order is ambiguous as to the "fees" approved.

The May 29<sup>th</sup> order is also unclear whether it is in fact an amended order relieving Betty Fisher, Lisa Fisher and John Hughes Cooper of the prior judgment.

Therefore, Plaintiffs object to the original fees in the orders and the new fees outlined by counsel in their amended affidavits.

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<sup>3</sup> SCAR, Rule 501 Judicial Conduct, Canon 3, B (7) [A judge must not independently investigate facts in a case and must consider only the evidence presented.].

***D. The Attorney Affidavits include Improper Fees, and seek Fees in Violation of Rule 69.***

The amended affidavits of Defendants Counsel Jessica Crowley seek fees related to the appeal, and as such this court does not have jurisdiction to grant those fees at this time. (See Invoice #47, dates 4/10, 4/16, 4/19, 4/30, 5/25/18, etc.) If Defendants are entitled to fees after the appeal, they are limited to the Fees under Rule 222, unless authorized by court order of the Supreme Court or upon remand pursuant to statute.

Fees related to the ejectment /eviction are improper and do not relate to this case directly for purpose of the grant of any fees. Plaintiff Lisa Fisher contends and the facts, if before this court, would support dismissal as Attorney Crowley knew that the landlord tenant law did not apply in this situation, and she was merely trying to harass plaintiff.

Attorney Crowley seeks fees as to a “locksmith” and time “looking up car parked in driveway”, this is not part of this litigation. Plaintiffs can not be charged for regular “administration” of the estate.

The fees are exorbitant. For instance, Attorney Crowley charges 18 minutes for receiving an email from the judge regarding setting of the hearing and responding. Further ,she spent 6 hours on April 27, 2018 drafting post judgement interrogatories which were premature and contrary to Rule 69.

With regard to Attorney Wills’ fee itemization, he too seeks fees that are not authorized at this time under Rule 69 and are excessive.

Moreover, both counsel actually seek fees associated with the secret hearing before this court. This court admitted, as did both counsel, that there was a meeting or hearing without the presence of Lisa Fisher and without notice to her. Plaintiffs should not be forced to pay for this illegal proceeding. Defendants and their counsel have unclean hands. (South Carolina Judicial Canon 3(B)(7)-prohibits ex parte communications)

Plaintiffs should not be required to pay any further attorney fees, and the fees awarded should be withdrawn.

The Supreme Court has issued a stay, and plaintiffs claim that no further orders for fees may be imposed.

Due to the lack of time, plaintiffs reserve further objection to the impropriety of these charges.

## II. REMEDY SOUGHT

In the recent case, *Masterpiece Cakeshop, Ltd v. Colorado Civil Rights*, Slip opinion, decided June 4, 2018, the United States Supreme Court made an important ruling about tolerance of other's beliefs as follows:

"The outcome of cases like this in other circumstances must await further elaboration in the courts, all in the context of recognizing that these disputes must be resolved with tolerance, without undue disrespect to sincere religious beliefs, and without subjecting gay persons to indignities when they seek goods and services in an open market."

Although Plaintiffs were seeking justice for their loved one, Alice Shaw Baker, the same rationale in the *Masterpiece case* decrying intolerance can be applied here with slight variation:

"The outcome of cases like this in other circumstances must await further elaboration in the courts, all in the context of recognizing that these disputes must be resolved with tolerance, without undue disrespect to sincere [legal and personal beliefs], and without subjecting [out of state litigants] to indignities when they seek [justice in the courts.]"

(Emphasis setting forth variance in original opinion)

Plaintiffs have been subjected to animus and intolerance in this court. First, Plaintiff Lisa Fisher was accused of essentially abusing her great aunt and committing perjury, and now she receives

"sympathy" of this court with a paternalistic view of her, where she "needs help--legal and perhaps otherwise", <sup>4</sup> a mere waif begging for this court's mercy, rather than an officer of the court,<sup>5</sup> who loves the law, and more importantly fights the good fight with her mother for justice for her great aunt.

Plaintiffs are not strangers, they are family who lived afar, but rushed to Alice Shaw Baker when she was in need-- to help her and avoid institutionalization. This is not an "obsession", this is the definition of family. Not all families are so homogenized as this Court appears to mandate, families live across different states and even countries, they do not stop loving their relatives due to distance. This is 2018!

Plaintiffs remind this court that defendants refused to help despite their admitted knowledge that Alice Shaw Baker emphatically did not want to be placed in an institution and their prior promises to help.

While Plaintiffs agree (in principle) that the order should be amended, because it is fraught with inconsistencies and false findings based on this court's improper independent investigation and interference with the probate court's evaluation of Lisa Fisher' accounting, this does not support the modification/amendment as requested by Defendants to award additional attorney fees and subject Plaintiff Lisa Fisher to further contempt charges in violation of Due Process.

Defendants' Joint motion should be denied in its entirety. It fails to meet the requirements under Rule 69. It seeks attorney fees that are improper and were not initially sought. It seeks to deprive

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<sup>4</sup> Normally, Plaintiff Lisa Fisher would not address an ad hominem attack of this nature, she contends that the *implication* of this statement is so detrimental that she raises it for the record. Plaintiffs further object to the contempt charges for failing to produce financial documents which was appealed *and should be stayed pursuant to Rule 241 (a), SCACR*. Contempt charges for appealing an order does violence to the very basic principals of due process and equal protection. It is important to note that the court postponed the Rule to Show Cause prior to an actual hearing, therefore the court found Plaintiffs in contempt without a hearing in violation of the law (See email dated April 17, 2018 from Jonathan S. Arndt, Law clerk).

Also, see *State v. Blackwell*, 10 S.C. 35 (1878), *State v. Johnson* 249 S.C. 1, 152 S.E. 2d 669 (1967); *Hornsby v. Hornsby*, 87 S.C. 463, 198 S.E. 29 (1938). Plaintiffs do not waive the defect in the court's ruling.

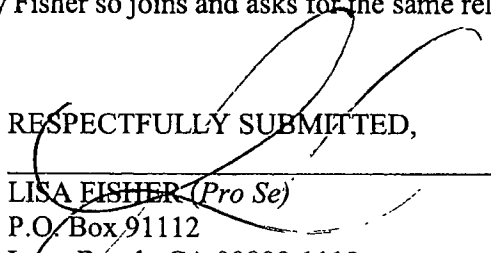
<sup>5</sup> Although Plaintiff Lisa Fisher is licensed in California, she remains obligated as an "officer of the court" and subject to the rules of professional responsibility.

Plaintiff Lisa Fisher of her due process rights related to contempt. Defendants' counsel sought personal attention in this matter, by sending this matter to Judge Hughston by email. By doing so, they sought preference to obtain an expedited ruling over Plaintiffs' objections herein.

WHEREFORE, Plaintiff Lisa Fisher respectfully requests that the court deny the joint motion in its entirety. As set forth below, Betty Fisher so joins and asks for the same relief.

June 7, 2018

RESPECTFULLY SUBMITTED,

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


STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BETTY FISHER and LISA FISHER,

Plaintiffs,

vs.

BESSIE HUCKABEE, et al.,

Defendants,

In the Matter of  
Alice Shaw-Baker.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2009-CP-10-3010

DEFENDANTS' JOINT MOTION  
TO RECONSIDER, ALTER OR  
AMEND JUDGMENT

FILED  
2018 JUL -9 PM 4:45  
CLERK OF COURT  
J. ARMSTRONG

COMES NOW Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd, pursuant to Rule 59(e), SCRPC, and respectfully move the Court to reconsider, alter or amend its Order of Judgment, signed and filed on June 29, 2018 (attached hereto as Exhibit "A"), for the reasons set out below, showing as follows:

In the Court's Order dated May 29, 2018, the Court awarded Defendants their attorneys' fees in this matter in the amount of \$157,539.93, which represented the Defendants' attorneys' fees, as reflected in counsels' amended attorneys' fees affidavits submitted on March 13, 2018 at the time of trial on the bifurcated equitable claims, which included their time through that date. However, the fees indicated therein did not include fees Defendants necessarily incurred in defending the remaining matters before the Court, including those associated with Plaintiffs' post-trial motions for reconsideration and for supersedeas, and a six-hour hearing on those motions.



On May 31, 2018, Defendants' counsel filed Motion to Reconsider, Alter or Amend Judgment requesting a combined additional \$15,953.75 in fees time necessarily spend defending against Plaintiffs' post trial motions for reconsideration and supersedeas.

On June 14, 2018, the Supreme Court issued an order denying Plaintiffs' motion for supersedeas, lifting the temporary stay it had issued on May 24, 2018, and vacating this Court's May 29, 2018 Order. Subsequently, on June 29, 2018, this Court executed a new Order significantly reducing its award of attorneys' fees. The Court's reduction in its attorneys' fee award appears to have been based, at least in part, on Plaintiffs' objections to Defendants' Motion to Reconsider they filed on June 11, 2018. The Court indicates in its June 29<sup>th</sup> Order that it subtracted from its award of fees amounts attributable to other related actions. However, the specified amounts reflect fees necessarily incurred or attributable to this action, and not to other actions as suggested by Plaintiffs in their objections. In its most recent Order, the Court reduces the fees awarded to Peter Kouten, by \$43,557.43, purportedly due to the fact that Attorney Wills was substituted as counsel on October 14, 2013. However, Attorney Wills appeared as separate counsel for the beneficiaries of the estate only in response to Plaintiffs' insistence that Peter Kouten's representation of both the Estate and the beneficiaries created a non-waivable conflict of interest. Subsequent to attorney Wills's appearance on behalf of the beneficiaries, attorney Kouten continued in his representation of Bessie Huckabec as Personal Representative of the Estate of Alice Shaw-Baker until such time as he was appointed Probate judge in 2017. Thereafter, attorney Crowley was substituted for attorney Kouten as counsel of record for the Personal Representative of the Estate of Alice Shaw-Baker. (See Affidavit of Peter A. Kouten attached hereto as Exhibit "B"). The affidavit of fees submitted by Peter Kouten reflects legal fees directly related to Fisher v. Huckabee, 2009-CP-10-3010, and are properly \$78,872.43.

As to Attorney Crowley's hours, the Court, in its Order dated June 29, 2018, reduced her award of fees by \$9,819.25 because of the Court's understanding that that amount corresponded to fees incurred in other related actions, specifically the ejectment action in the Magistrate Court against Candace Rickborn, an unauthorized occupant of real property belonging to the Estate. However, Attorney Crowley's hours, as reflected in her attorney fee affidavit, were all directly and necessarily related to this matter. All actions regarding ejecting the unauthorized tenant from the real property of the Estate were in furtherance of this Court's April 3, 2018 Order requiring unauthorized occupant to vacate within seven days, and to coordinate with the Sherriff to effectuate the transfer and possession of the property to the Estate. The related ejectment action in the Magistrate's Court concerned parties other than the Plaintiffs in this action, and work done on that matter was segregated and itemized in a separate invoice. (See Affidavit of Jessica L. Crowley, Esq., attached herein as Exhibit C). Attorney Crowley's Affidavit of Attorney's Fees and combined invoices in the amount of \$34,981.75 are properly attributable to this case and not to the related actions, which are separately invoiced.

Defendants believe it was the intention of the Court, in its Order of Judgment, to award Defendants the totality of their attorneys' fees and costs related to this action, and respectfully request the Court reconsider, alter, or amend its judgment to include a judgment against Plaintiffs, jointly and severally, for attorneys fees, if the Court finds them reasonable, in the total amount of \$173,143.69. [See Affidavits of Crowley and Kouten attached hereto (Crowley signaling a reduction of \$350.00 for fees related to proceedings in the Supreme Court inadvertently included in her prior affidavit of fees)].

The Court, in its May 29, 2018 Order of Judgment, holds Lisa Fisher in Contempt of Court for her failure to supply ordered financial information. The Court previously issued its

Order and Rule to Show Cause on April 4, 2018 (attached hereto as Exhibit "D"), after Lisa Fisher failed to comply with its orders to turn over not only her financial information, but also "all assets belonging to the Estate of Alice Shaw-Baker." The Court's Order and Rule to Show Cause specifies that Lisa Fisher "can avoid this by immediately delivering the keys, the jewelry, and the savings bonds to the Charleston County Clerk of Court . . .[a]lso, she still needs to supply the ordered financial information." In addition to failing to produce to the Court her financial information, Ms. Fisher has also failed to produce other assets belonging to the Estate of Alice Shaw-Baker, including, without limitation, all of the jewelry (8 rings according to accountings), *all* bonds, totaling \$142,750.00, original and copied documents from Mrs. Shaw-Baker's home, multiple boxes of photos, a large sack of silver dollars, and her address book.

Defendants respectfully request the Court reconsider, alter, or amend its Order of Judgment to hold Lisa Fisher in contempt of Court for also failing to deliver those items as ordered, and that she be penalized in the same manner, although that she be also required to deliver "all assets belonging to the Estate of Alice Shaw-Baker," including the above-listed items, in order to purge her contempt.

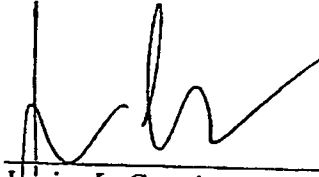
Finally, to clarify and properly respond to any objections to the above matters, and particularly any issues regarding counsel for Defendants' attorney's fees, Defendants respectfully request a hearing on the present motion.

[Signatures on following page]

Dated this 9<sup>th</sup> Day of July, 2018.

Respectfully Submitted,

CROWLEY LAW FIRM, LLC

A handwritten signature in black ink, appearing to read 'Jessica L. Crowley', written over a horizontal line.

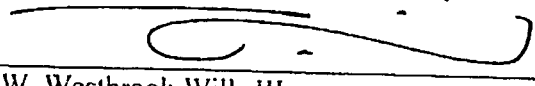
Jessica L. Crowley  
PO Box 30189  
Charleston, SC 29417  
Tel. (843) 789-9614  
jcrowleylawfirm@gmail.com

Folly Beach, South Carolina  
This 9 day of July 2018

Respectfully submitted,

LAW OFFICE OF  
W. WESTBROOK WILLS III

BY:

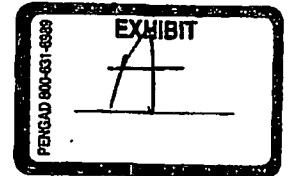
  
\_\_\_\_\_  
W. Westbrook Wills III  
S.C. Bar # 76681  
P.O. Box 822  
Folly Beach, SC 29439  
Tel. (843) 805-6300  
wwills@wwillslaw.com

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

FORM 4

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 : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant |
|               | or<br><input type="checkbox"/> 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, 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:

**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<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below) | Judgment Amount To be<br>Enrolled<br>(List amount(s) below) |
| The Estate of Alice-Shaw Baker                                                                                                                                                                               | Betty Fisher and Lisa Fisher             | \$78,596.02                                                 |
| Peter A. Kouten                                                                                                                                                                                              | Lisa Fisher and John Hughes<br>Cooper    | \$35,315.00                                                 |
| W. Westbrook Wills, III                                                                                                                                                                                      | Lisa Fisher and John Hughes<br>Cooper    | \$59,289.50                                                 |
| Jessica L. Crowley                                                                                                                                                                                           | Lisa Fisher and John Hughes<br>Cooper    | \$25,512.50                                                 |
| If applicable, describe the property, including tax map information and address, referenced in the order:<br>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.

T.L. Huckster, Jr.  
Circuit Court Judge

2008  
Judge Code

6/29/18  
Date

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

BETTY FISHER and LISA FISHER, )  
As Conservator for ALICE SHAW- )  
BAKER, )

Plaintiffs, )

vs. )

BESSIE HUCKABEE, et al. )

Defendants. )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2009-CP-10-3010

ORDER

2018 JUL 29 AM 11:12

This case is before me following a jury verdict upholding the Will of Alice Shaw-Baker, and my verdicts against the equitable claims of the Plaintiffs. I wrote my Order affirming the jury's decision and ruling against Plaintiffs' claims and filed it on March 21, 2018, and it was available online on March 22, 2018. I issued my next Order more than 10 days later on April 3, 2018, without Plaintiffs filing any post-trial motions. The Supreme Court issued its Order on April 10, 2018, and I conducted a hearing pursuant to it on May 21, 2018. I took additional testimony following another review by me of the entire record pertaining to this dispute beginning with the filing for a Conservator/Guardian on July 31, 2008. One cannot fully comprehend the total waste of time and expense in this case without reading everything including all the discovery of each side. It takes me two days to read these voluminous files, and I have read them two times trying to fully understand this case, and particularly, the claims of the Plaintiffs. The bottom line of it all is that there are no facts supporting these claims made up by essentially strangers to Alice Shaw-Baker and her friends.

#1  
7-1-18



Prior to the non-jury trial, Defendants moved to dismiss this case following the Supreme Court's decision in the companion case involving these parties filed 2/28/18. I should have granted this. However, out of an abundance of caution, and my own preference for a full factual development, and since the parties were present and ready to proceed, I reserved ruling and took testimony. I now grant Defendants' Motion to Dismiss these equitable claims for lack of standing. Plaintiffs do not own these claims for "animal welfare" interests. One can only imagine the scope of additional litigation and attorney's fees if I should mandate a constructive trust to benefit "animal welfare and rescue organizations." Plaintiffs do not represent such groups. They have no standing to bring these claims.

I have also considered the equitable principles that relate to a constructive trust and find by the overwhelming weight of the evidence that Plaintiffs have failed to prove the need for a constructive trust. *See* Cases from S.C., re: constructive trust. Alice Shaw-Baker's property will go exactly as she intended for it to go, both by her Will and by contract.

Alice Shaw-Baker was a 79 year old lady suffering from undisputed physical and mental problems. Friends became concerned about her welfare and contacted an elder support hotline through the City of Charleston. Plaintiffs were notified in writing and this nightmare began. Plaintiffs had practically no contacts with Alice Shaw-Baker prior to this. Lisa Fisher successfully maneuvered the professional elder care Co-Conservator/Guardian, Jane Orenstein out, and her actions as sole Conservator/Guardian begin and continue to this day, according to her. It is important to read Judge Curry's November 19, 2008 Order for it is dispositive of Plaintiffs' contention that Alice Shaw-Baker revoked her Will. She was an "Incapacitated Person". Section 62-5-101 (1) S.C. Code of Laws. Among other things, Judge Curry Ordered, "neither Alice Shaw-Baker nor anyone on

#2  
T.L.H.

her behalf may revise or revoke her Will or execute a new Will, unless specifically ordered by this Court." No one sought to change this Order. This alone should have told Plaintiffs not to claim the Will was revoked under extremely suspicious and questionable circumstances shown in the record and recited in my prior Order. This Order is in addition to the settled law that a mentally incompetent person lacks capacity to revoke a Will. Without question, Alice Shaw-Baker lacked capacity to revoke her Will.

"The one who first states a case seems right, until the other comes and cross-examines." Proverbs 18:17. Or as C. Tolbert Goolsby, Jr. says in Sweet Potato Biscuits and Other Stories, p. 113, "A man's story seems right, until you look into it."

In Plaintiffs twenty six page Verified Complaint they allege eleven causes of action in one hundred and forty six paragraphs. However, at the non-jury trial Plaintiffs only claimed and presented evidence in an attempt to support a constructive trust over her entire estate. Since the Will has been upheld, this claim relates to the non-probate assets being Alice Shaw-Baker's deferred compensation, pension and life insurance. Plaintiffs claim a constructive trust to "go to animal welfare and rescue projects only." It is true that Alice Shaw-Baker had dogs as her family, and wanted to ensure that any that survived her were taken care of by Kay Passailaigue Slade. None survived her, the last pre-deceasing her in 2008. This was very upsetting to her, and is reflected in various ways in the record. However, she never changed her Will leaving the residue of her estate (after specific bequests) to Kay Passailaigue "to be hers in fee simple absolute, to include the care of my dogs...." It is hard to imagine anything more clear than that. Further, it is clear that Alice Shaw-Baker through notes and records regarding her deferred compensation, retirement and insurance, discussed leaving these to various "animal welfare" organizations by Will and/or by contract.

#3  
T.L.H.

However, it is finally established clearly by the memorandum of a call from her to her insurance company: "I have received your letter dated March 6, 1996 and the beneficiary forms naming the John Ancrum Society for the Prevention of Cruelty to Animals and have discussed this with my attorney. We have decided not to change the beneficiary and name my estate as beneficiary. Ok. I will order the file to make sure your estate is named as beneficiary and if it isn't, I will prepare beneficiary forms accordingly." Likewise, the beneficiary of her deferred compensation was shown on a form of 2/14/01 to be "Kay Passailaigue, Relationship Custodian of Pets and Rescue—Governed by Will." Also, a prior form of 7/24/90 had her estate as beneficiary. The combination of her Will and these contracts are entirely contrary to Plaintiffs claims of a constructive trust to benefit unnamed "animal welfare" organizations. The course of these contracts might be somewhat confusing, but the final result is not. After consulting with her attorney, she decided to leave these to her estate as governed by her Will, that is, Kay Passailaigue. As much as Plaintiffs profess it should be otherwise, it is not so by Alice Shaw-Baker's own words spoken prior to her dementia.

I again address the issue of sanctions for this soon to be nine year old frivolous suit. The standard for determining this is an objective one. Plaintiffs may subjectively say, "We are just doing what Alice Shaw-Baker wanted us to do." Intent and result are shown by their acts, not their words.

Frivolous determinations are governed by a reasonable attorney standard. Here, two questions arise. One, would a reasonable attorney bring and maintain a suit now in its ninth year claiming that an undoubtedly incompetent person had revoked her otherwise valid will by tearing it on January 1, 2009, following Judge Curry's Order of November 19, 2008, when only that attorney supposedly witnessed the tearing and no proof of such an act exist other than that attorneys say so, and that attorney's mother is an heir if the Will was revoked along with some other heirs who are not parties,

#4  
T.L.H.

or notified of this suit, and whose existence was just revealed? The answer is an unqualified "No". Two, would a reasonable attorney bring and maintain a suit now in its ninth year claiming an equitable constructive trust over the entire Estate given all the clear facts and circumstances in the record contrary to such a claim? Again, the answer is an unqualified "No".

This should have been a simple guardian/conservator/personal representative case. Instead it has by Plaintiffs' frivolous acts gone on for nine years and counting. This is unconscionable and an abuse of the court system. Every avenue available to delay has been used and abused by Plaintiffs for no good reason.

I have condensed the history of this case as follows: Over the past nine years, in this and other related cases, Plaintiffs have appealed and asked for reconsideration of almost every decision of every Court. They have filed nine appeals, four Writs of Certiorari, three petitions for rehearing, and seven motions for reconsideration. To date, they have not prevailed on any substantive matters with the exception of one remand on the issue of conservator fees. It should be noted that Plaintiffs' first appeal was from what was essentially a mutual restraining Order. Imagine that! As I have previously written, I deeply regret signing that Order.

I now turn to the monetary figures used in factoring my sanctions award. According to Family Services' inventory and appraisal, The Estate of Alice Shaw-Baker was originally valued at \$388,055.63. That figure includes the value of real estate, investments, life insurance, annuities, and anticipated annual receipts. After subtracting anticipated receipts, the Estate's initial value was \$353,746.81. According to Lisa Fisher's own accounting, \$39,549.43 was spent following Judge Curry's May 11, 2009 Order terminating her conservatorship. She also unreasonably spent \$25,000 for an air ambulance on the day of Alice Shaw-Baker's death, after being told by a medical doctor

#5  
T.V. (H)

that she would not survive the trip. She does, however, claim that she obtained a partial refund but such a refund is not reflected by her accounting.

Pursuant to § 62-5-424(C)(9), a conservator must obtain court approval prior to making charitable donations from the Estate. Lisa Fisher failed to observe this statute by making twenty unauthorized charitable donations in the amount of \$2,555—\$105 coming before the termination of the conservatorship—to various animal charities

The Probate Court has approved fees amounting to \$67,185.92. An additional \$20,621.34 was spent on unapproved fees, \$13,941.59 coming before the termination of the conservatorship, totaling \$87,807.26 in paid fees, which amounts to 25% of the Estate's value. However, there remains pending requests for approval of fees totaling \$74,422.00. If those requests are approved, the total fees paid would amount to \$162,229.26 or 46% of the Estate. As it currently stands, a total of \$173,148.66 from the Estate has been spent, which represents 49% of the Estate. Approval of the outstanding fee request would almost completely deprive the Estate of its value. That comes without any consideration of the amount of attorney's fees accumulated from Feb. 2009–Feb. 2018 which totals \$314,837.35 or 89.25% of the Estate. After totaling all the paid, unpaid, requested, and accumulated fees, the total amounts to \$564,873.87, which represents 160% of the Estate.

Despite the many egregious acts that occurred in this case, Lisa Fisher did care for Alice Shaw-Baker and her home by employing caregivers, landscapers, and by continuing to pay the taxes and insurance. For this, I credit her \$11,462.85 towards the sanctions award—\$1,000 for the caregiver expenses after the date of Alice Shaw-Baker's death, \$200 for hair charge, \$2,370 for lawn care, and \$7,892.85 for taxes and insurance. I have also decided to remove the \$7,000 loss of opportunity costs and treble damages against Lisa Fisher. As a result, the new sanctions award comes

#6  
T.L.A.

from \$13,941.59 spent of unapproved fees after the termination of the conservatorship, \$39,549.43 for monies spent after the termination of the conservatorship, \$25,000 for an air ambulance on day of Alice Shaw-Baker's death, and \$105 for unauthorized charitable contributions before the Order terminating the conservatorship for a total of \$78,596.02. I impose this as a judgment against Betty and Lisa Fisher, jointly and severally, in favor of Defendants.

I have also decided to award the Defendants' attorneys their reasonable attorney's fees in this action. Factors to be considered by the trial court in making a determination as to attorney's fees are: (1) the nature, extent and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained.

According the Defendants' three attorneys' affidavits, they are requesting fees in the amount of \$173,493.68 for services performed through May 30, 2018. Lisa Fisher has objected to this amount on the basis that some of the fees pertain to hours worked for the separate, but related, actions. I have subtracted the amount I believe is attributed to those actions. As for attorney Peter A. Kouten, he has requested \$78,872.43 for services rendered from February 2009–October 2017. I have deducted those fees accumulated after the October 14, 2013 Order for Substitution of Counsel in addition to fees for services performed in relation to actions required for probating the Estate, the Conservatorship (GC) action, and the related circuit court actions. I therefore find his reasonable attorney's fees to be \$35,315.00. As for attorney W. Westbrook Will, III, he has requested \$59,289.50 in attorney's fees. I find this amount to be reasonable. As for attorney Jessica L. Crowley, she has requested \$35,331.75 in attorney's fees. After subtracting those fees related to the ejectment

#7  
TLH

action and conservatorship action, I find her reasonable attorney's fees to be \$25,512.50. Thus, after careful consideration of the factors set forth above for assessing attorney's fees, I find Defendants' total attorneys' fees in the amount of \$120,117.00 are, unfortunately, justified under that analysis. I impose this as a judgment against Lisa Fisher and John Hughes Cooper, jointly and severally, in favor of Defendants' attorneys—\$35,315.00 in favor of attorney Peter A. Kouten, \$59,289.50 in favor of attorney W. Westbrook Wills, III, and \$25,512.50 in favor of attorney Jessica L. Crowley.

Again, I reference Bleak House. Jarndyce vs. Jarndyce ended when the money in the estate was consumed by attorneys' fees, etc., after many years of litigation. I now doubt if even that would stop Plaintiffs from pursuing this frivolous litigation given what has now "boxed them in" . . . sanctions, damages, and costs which they must pay unless somehow they are successful on their appeals for the first time in nine years.

I cannot conclude without saying that I have sympathies for Lisa Fisher. It is painful for me to see and hear her put herself and others through this. She is well educated with a law degree and other degrees. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help—legal and perhaps otherwise. I hope she gets it.

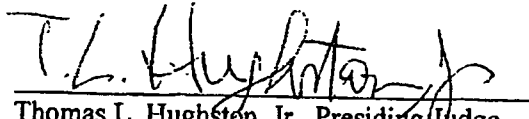
Plaintiffs are in Contempt of Court for repeatedly refusing to supply Ordered financial information. I Order them confined in the Charleston County Detention Center and fined \$100.00 per day starting today until they comply. I have never in 33 years held an attorney or party in Contempt of Court. I stay this during the Plaintiffs' appeal.

#8  
T.L.H.

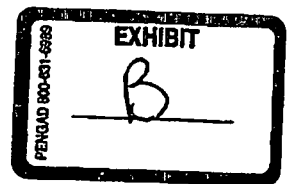
Plaintiffs' post-trial motions are denied and my previous Order affirmed except as modified herein.

IT IS SO ORDERED.

#9  
June 29, 2018  
Charleston, South Carolina

  
Thomas L. Hughston, Jr., Presiding Judge





STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Betty Fisher and Lisa Fisher,  
Plaintiffs, )

v. )

Bessie Huckabee, et al.,  
Defendants, )

In the Estate of Alice Shaw-Baker. )

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

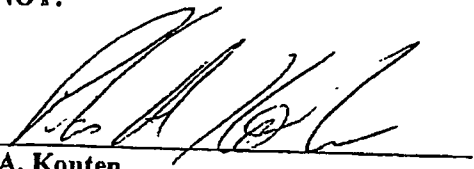
**AFFIDAVIT OF PETER A. KOUTEN  
SEEKING RECONSIDERATION  
OF FEES**

The Affiant, after being duly sworn, deposes and says as follows:

1. My name is Peter A. Kouten.
2. I am a licensed attorney in the State of South Carolina.
3. I have represented the named Defendants in this matter individually and I have represented the estate and the court-appointed personal representative from 2009.
4. The Court recognized my substitution of counsel motion executed October 14, 2013, which sought to have Attorney Wills substitute representation of the named defendants individually.
5. The Plaintiffs objected to the substitution of counsel motion and my representation continued in the face of the objection.
6. During this time, I remained in a representative capacity for the estate and the personal representative until Attorney Crowley assumed such representation in mid-2017.
7. I have provided affidavit for fees reflecting my work on behalf of the Defendants, the estate and the personal representative in the amount of \$78,872.43.

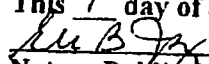
8. The Court's June 29, 2018 Order reduced the award of my attorney fees by \$43,557.43 after initially approving my fees in a prior order.
9. The Plaintiffs have sought, through multiple legal actions, to disparage the Defendants for the sole purpose of having a final determination that the Last Will was invalid.
10. The Plaintiffs have failed in every action, at every level, to be successful in their frivolous crusade.
11. I am asking reconsideration of the June 29, 2018 Order reducing my fees because
  - a. I remained in a representative capacity for the estate and the personal representative long after the substitution of counsel motion filed in October 2013,
  - b. All work devoted to this file by me was in direct response to the continued legal actions of the Plaintiffs in their pursuit to discredit the Last Will and Testament of Alice Shaw-Baker,
  - c. The Defendants have been victimized by the Plaintiff's legal musings over the last ten years and the current Order further victimizes them as they would ultimately have to pay the legal fees not attributed to the actions of the Plaintiffs and their counsel.
12. Affiant seeks hearing on the matter of reconsideration so as to review line item by line item the fees billed as he was not properly served with either the May 29, 2018 order or the June 29, 2018 Order.
13. The Affiant seeks reconsideration of the June 29, 2018 Order and seeks the grant of all costs and fees for his services in the amount of \$78,872.43.

**FURTHER AFFIANT SAYETH NOT!**

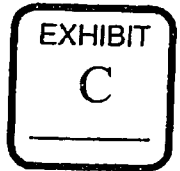


**Peter A. Kouten**  
**PO Box 340**  
**Johns Island, SC 29455**

**Sworn and subscribed before me**  
**This 7 day of July, 2018.**

  
**Notary Public for South Carolina**

**My commission expires: 1/14/2024**



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, et al.,

Plaintiffs,

vs.

Bessie Huckabee, et al.,

**Defendants,**

In the Matter of  
Alice Shaw-Baker.

AFFIDAVIT OF JESSICA L. CROWLEY

1. My name is Jessica L. Crowley, I am over the age of eighteen and competent to make this affidavit.
2. I am the attorney for Defendant, Bessie Huckabee, Personal Representative in the above referenced matter.
3. I am submitting this affidavit in support of Defendants' Joint Motion to Reconsider, Alter or Amend Judgment.
4. On April 25, 2018, I was substituted as counsel for Peter A. Kouten in the above referenced matter when he was appointed as a judge in the Charleston County Probate Court and was no longer able to handle cases in Charleston County.
5. Thereafter, I began rendering legal services to Bessie Huckabee at a rate of \$175.00 per hour.
6. The time that I necessarily devoted to work specifically designated to the above captioned action is accurately reflected in the Affidavits of Attorney's Fees and attached

invoices submitted to this Court and dated October 26, 2017, March 13, 2018, and May 31, 2018.

7. While there are several matters closely related to this action, the fees I have billed in those actions are separately invoiced and properly attributed to those actions.

8. Plaintiffs contested certain portions of my invoice dated May 31, 2018, however, the work itemized in that invoice relates to this Court's Orders, and the Motions and Petitions and other relief sought by Plaintiffs in this action.

9. In review of my invoice dated May 31, 2018, there is one charge, on May 23, 2018, which should properly have been attributed to the appeal, for a total cost of \$350.00.

10. All of time invoiced for ejecting the unauthorized tenant residing at 306 Cassina Road, Charleston, was directly related to this Court's Order dated April 4, 2018. Likewise, other itemized time reflected in my invoices was attributable to work completed in this matter.

11. I believe the fees as reflected in my affidavits and attached invoices are fees necessarily related to this action, and not to other related actions, except where indicated in item 9 above, and are proper for consideration in the present case.

12. My total fees in the amount of \$34,981.75, which reflects reduction by \$350.00 for inadvertently misattributed fees, are properly attributed to this action and not to any of the related actions.

)  
)

Dated this 9<sup>th</sup> Day of July, 2018.

Respectfully Submitted,

CROWLEY LAW FIRM, LLC



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Jessica L. Crowley

PO Box 30189

Charleston, SC 29417

Tel. (843) 789-9614

jcrowleylawfirm@gmail.com

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BETTY FISHER and LISA FISHER,

Plaintiffs,

vs.

BESSIE HUCKABEE, et al.,

Defendants.

In the Matter of  
Alice Shaw-Baker.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2009-CP-10-3010

**DEFENDANTS' JOINT MOTION  
TO RECONSIDER, ALTER OR  
AMEND MODIFIED ORDER OF  
JUDGMENT**

FILED  
2018 JUL 19 PM 4:51  
JULIE J. ARMSTRONG  
CLERK OF COURT

COMES NOW Bessie Huckabee, Kay Passailaigue Slade, and Sandra Byrd, pursuant to Rule 59(e), SCRPC, and respectfully move the Court to reconsider, alter or amend its Order of Judgment, signed and filed on July 9, 2018 (attached hereto as Exhibit "A"), for the reasons set out below, showing as follows:

In the Court's Order dated April 21, 2018, following bifurcated trial on a will contest, this Court entered a judgment against Plaintiffs and their attorney in the amount of \$548,720.16. The judgment included award of attorney's fees in the amount of \$157,539.93, which represented the Defendants' attorneys' fees, as reflected in counsels' amended attorneys' fees affidavits submitted on March 13, 2018 at the time of trial on the bifurcated equitable claims, which included their time through that date. Additional judgments against the plaintiffs and their attorneys were awarded in the amount of \$391,180.23 as sanctions pursuant to the Frivolous Claims Proceedings Act, as requested by Defendants in post trial motions filed following the jury trial on the will contest. Plaintiffs filed post-trial motion for reconsideration and a six-hour hearing was held on said motion on May 21, 2018, wherein additional testimony was taken. On

May 29, 2018, this Court entered an order, with amended judgment in the amount of \$236,135.95, but which Defendants believed only applied to the award of damages against Betty and Lisa Fisher to include their attorneys' fees, and not to the award of damages against John Hughes Cooper in the amount of \$65,151.34. On May 31, 2018, Defendants' counsel filed Motion for Reconsideration because the fees indicated therein did not include fees Defendants necessarily incurred in defending the remaining matters before the Court, including those associated with Plaintiffs' post-trial motions for reconsideration and for supersedeas, and a six-hour hearing on those motions. Defendants' motion requested additional fees incurred in the amount of \$15,953.75.

On June 14, 2018, the Supreme Court issued an order denying Plaintiffs' motion for supersedeas, lifting the temporary stay it had issued on May 24, 2018, and vacating this Court's May 29, 2018 Order. Subsequently, on June 29, 2018, this Court executed a new Order appearing to have awarded the additional fees requested in the previous motion for reconsideration, but then reducing its award of attorneys' fees in favor of attorney's Crowley and Kouten as well as other sanctions it had previously awarded assessed against the Plaintiffs and their attorney.

Following this Court's most recent Order, counsel for John Hughes Cooper sent a letter asking for clarification as to the final judgment and the Court clarified that the total final judgment amount was in fact the \$236,135.95, a 43% reduction. Furthermore, the Court, in its most recent Order of July 9, 2018, appears to have removed the sanctions against John Hughes Cooper individually for \$64,151.34. The Court's latest Order does not address or discuss the removal of that sanction against Mr. Cooper, and Defendants' ask the Court to reconsider that removal, or clarify its basis for doing so.



The Court's reduction in its attorneys' fee award appears to have been based, at least in part, on Plaintiffs' objections to Defendants' Motion to Reconsider they filed on June 11, 2018. The Court indicates in its June 29<sup>th</sup> Order that it subtracted from its award of fees amounts attributable to other related actions. However, the specified amounts reflect fees necessarily incurred or attributable to this action, and not to other actions as suggested by Plaintiffs in their objections. In its most recent Order, the Court reduces the fees awarded to Peter Kouten, by \$43,557.43, purportedly due to the fact that Attorney Wills was substituted as counsel on October 14, 2013. However, Attorney Wills appeared as separate counsel for the beneficiaries of the estate only in response to Plaintiffs' insistence that Peter Kouten's representation of both the Estate and the beneficiaries created a non-waivable conflict of interest. Subsequent to attorney Wills's appearance on behalf of the beneficiaries, attorney Kouten continued in his representation of Bessie Huckabee as Personal Representative of the Estate of Alice Shaw-Baker until such time as he was appointed Probate judge in 2017. Thereafter, attorney Crowley was substituted for attorney Kouten as counsel of record for the Personal Representative of the Estate of Alice Shaw-Baker. (See Affidavit of Peter A. Kouten attached hereto as Exhibit "B") The affidavit of fees submitted by Peter Kouten reflects legal fees in the amount of \$78,872.43 related to Fisher v. Huckabee, 2009-CP-10-3010 or cases born of or related to it, and Defendants would argue are properly awardable under the Uniform Frivolous Litigation Act. Defendants would ask the Court to reconsider removing those portions of Mr. Kouten's fees which will otherwise remain chargeable to the Estate.

As to Attorney Crowley's hours, the Court, in its Order dated June 29, 2018, reduced her award of fees by \$9,819.25 because of the Court's understanding that that amount corresponded to fees incurred in other related actions, specifically the ejectment action in the Magistrate Court

against Candace Rickborn, an unauthorized occupant of real property belonging to the Estate. However, Attorney Crowley's hours, as reflected in her attorney fee affidavit, were all directly and necessarily related to this matter. All actions regarding ejecting the unauthorized tenant from the real property of the Estate were in furtherance of this Court's April 3, 2018 Order requiring unauthorized occupant to vacate within seven days, and to coordinate with the Sherriff to effectuate the transfer and possession of the property to the Estate. The related ejectment action in the Magistrate's Court concerned parties other than the Plaintiffs in this action, and work done on that matter was segregated and itemized in a separate invoice. (See Affidavit of Jessica L. Crowley, Esq., attached herein as Exhibit C). Attorney Crowley's Affidavit of Attorney's Fees and combined invoices in the amount of \$32,461.75 are properly attributable to this case and not to the related actions, which are separately invoiced.

Defendants believe it was the intention of the Court, in its Order of Judgment, to award Defendants the totality of their attorneys' fees and costs related to this action, and respectfully request the Court reconsider, alter, or amend its judgment to include a judgment against Plaintiffs, jointly and severally, for attorneys fees, if the Court finds them reasonable, in the total amount of \$171,793.69 [See Affidavits of Crowley and Kouten attached hereto (Crowley signaling a reduction of \$1350.00 for fees related to proceedings in the Magistrate and Supreme Courts inadvertently included in her prior affidavit of fees)].

The Court, in its May 29, 2018 Order of Judgment, holds Lisa Fisher in Contempt of Court for her failure to supply ordered financial information. The Court previously issued its Order and Rule to Show Cause on April 4, 2018 (attached hereto as Exhibit "D"), after Lisa Fisher failed to comply with its orders to turn over not only her financial information, but also "all assets belonging to the Estate of Alice Shaw-Baker." The Court's Order and Rule to Show

Cause specifies that Lisa Fisher "can avoid this by immediately delivering the keys, the jewelry, and the savings bonds to the Charleston County Clerk of Court . . . [a]lso, she still needs to supply the ordered financial information." In addition to failing to produce to the Court her financial information, Ms. Fisher has also failed to produce certain other assets belonging to the Estate of Alice Shaw-Baker.

Defendants respectfully request the Court reconsider, alter, or amend its Order of Judgment to hold Lisa Fisher in contempt of Court for also failing to deliver those items as ordered, and that she be penalized in the same manner, although that she be also required to deliver "all assets belonging to the Estate of Alice Shaw-Baker," including the above-listed items, in order to purge her contempt.

Finally, to clarify and properly respond to any objections to the above matters, and particularly any issues regarding counsel for Defendants' attorney's fees, Defendants respectfully request a hearing on the present motion. Defendants' Memorandum of Law and points of authority in support of this Motion will follow.

Respectfully submitted,

LAW OFFICE OF  
W. WESTBROOK WILLS, III



W. Westbrook Wills, III

P.O. Box 822

Folly Beach, SC 29439

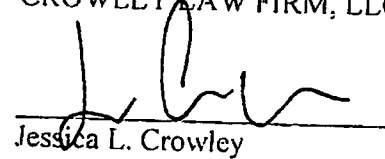
Tel. (843) 805-6300

wwills@wwillslaw.com

*Attorney for Bessie Huckabee, Kay  
Passailaigue Slade, and Sandra Byrd*

-and-

CROWLEY LAW FIRM, LLC

A handwritten signature in black ink, appearing to read 'J. Crowley', is written over a horizontal line.

Jessica L. Crowley

P.O. Box 30189

Charleston, SC 29417

Tel. (843) 789-9614

[jcrowleylawfirm@gmail.com](mailto:jcrowleylawfirm@gmail.com)

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, et al.,  
Plaintiffs,

CERTIFICATE OF SERVICE

vs.

Bessie Huckabee, et al.,  
Defendants,

In the Matter of  
Alice Shaw-Baker.

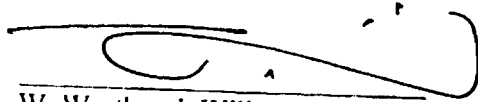
FILED  
2018 JUL 19 PM 4:52  
JULIE J. ARMSTRONG  
CLERK OF COURT

I certify that on this date I served a copy of the foregoing pleading on each party or counsel of record via United States Mail with sufficient postage to the following addresses:

Lisa Fisher  
Betty Fisher  
PO Box 91112  
Long Beach, CA 90809

Barbara Seymour, Esq.  
for John Hughes Cooper  
1612 Marion Street, Suite 200  
Columbia SC 29201

Dated: July 18, 2018  
Charleston, South Carolina

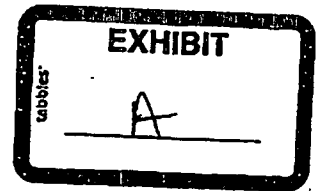
  
W. Westbrook Wills III

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

FORM 4

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 : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant<br>or<br><input type="checkbox"/> 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(d), 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, 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: Upon discovery of a scrivener's error, this Order modifies the previous June 29, 2018 Order to add judgment against Betty Fisher.

**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<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below)          | Judgment Amount To be<br>Enrolled<br>(List amount(s) below) |
| The Estate of Alice-Shaw Baker                                                                                                                                                                               | Betty Fisher and Lisa Fisher                      | \$78,596.02                                                 |
| Peter A. Kouten                                                                                                                                                                                              | Lisa Fisher, Betty Fisher, and John Hughes Cooper | \$35,315.00                                                 |
| W. Westbrook Wills, III                                                                                                                                                                                      | Lisa Fisher, Betty Fisher, and John Hughes Cooper | \$59,289.50                                                 |
| Jessica L. Crowley                                                                                                                                                                                           | Lisa Fisher, Betty Fisher, and John Hughes Cooper | \$25,512.50                                                 |
| If applicable, describe the property, including tax map information and address, referenced in the order:<br>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.

T. L. Hyatt  
Circuit Court Judge

2018  
Judge Code

7/9/18  
Date

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

BETTY FISHER and LISA FISHER, )  
As Conservator for ALICE SHAW- )  
BAKER, )

Plaintiffs, )

vs )

BESSIE HUCKABEE, et al. )

Defendants. )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2009-CP-10-3010

ORDER

FILED  
2018 JUL -9 AM 11:33  
JULIE J. ARISTIDE  
Clerk of Court

This case is before me following a jury verdict upholding the Will of Alice Shaw-Baker, and my verdicts against the equitable claims of the Plaintiffs. I wrote my Order affirming the jury's decision and ruling against Plaintiffs' claims and filed it on March 21, 2018, and it was available online on March 22, 2018. I issued my next Order more than 10 days later on April 3, 2018, without Plaintiffs filing any post-trial motions. The Supreme Court issued its Order on April 10, 2018, and I conducted a hearing pursuant to it on May 21, 2018. I took additional testimony following another review by me of the entire record pertaining to this dispute beginning with the filing for a Conservator/Guardian on July 31, 2008. One cannot fully comprehend the total waste of time and expense in this case without reading everything including all the discovery of each side. It takes me two days to read these voluminous files, and I have read them two times trying to fully understand this case, and particularly, the claims of the Plaintiffs. The bottom line of it all is that there are no facts supporting these claims made up by essentially strangers to Alice Shaw-Baker and her friends.

#1  
T.L.H.



Prior to the non-jury trial, Defendants moved to dismiss this case following the Supreme Court's decision in the companion case involving these parties filed 2/28/18. I should have granted this. However, out of an abundance of caution, and my own preference for a full factual development, and since the parties were present and ready to proceed, I reserved ruling and took testimony. I now grant Defendants' Motion to Dismiss these equitable claims for lack of standing. Plaintiffs do not own these claims for "animal welfare" interests. One can only imagine the scope of additional litigation and attorney's fees if I should mandate a constructive trust to benefit "animal welfare and rescue organizations." Plaintiffs do not represent such groups. They have no standing to bring these claims.

I have also considered the equitable principles that relate to a constructive trust and find by the overwhelming weight of the evidence that Plaintiffs have failed to prove the need for a constructive trust. *See Cases from S C , re: constructive trust.* Alice Shaw-Baker's property will go exactly as she intended for it to go, both by her Will and by contract.

Alice Shaw-Baker was a 79 year old lady suffering from undisputed physical and mental problems. Friends became concerned about her welfare and contacted an elder support hotline through the City of Charleston. Plaintiffs were notified in writing and this nightmare began. Plaintiffs had practically no contacts with Alice Shaw-Baker prior to this. Lisa Fisher successfully maneuvered the professional elder care Co-Conservator/Guardian, Jane Orenstein out, and her actions as sole Conservator/Guardian begin and continue to this day, according to her. It is important to read Judge Curry's November 19, 2008 Order for it is dispositive of Plaintiffs' contention that Alice Shaw-Baker revoked her Will. She was an "Incapacitated Person". Section 62-5-101 (1) S.C. Code of Laws. Among other things, Judge Curry Ordered, "neither Alice Shaw-Baker nor anyone on

her behalf may revise or revoke her Will or execute a new Will, unless specifically ordered by this Court." No one sought to change this Order. This alone should have told Plaintiffs not to claim the Will was revoked under extremely suspicious and questionable circumstances shown in the record and recited in my prior Order. This Order is in addition to the settled law that a mentally incompetent person lacks capacity to revoke a Will. Without question, Alice Shaw-Baker lacked capacity to revoke her Will.

"The one who first states a case seems right, until the other comes and cross-examines." Proverbs 18:17. Or as C. Tolbert Goolsby, Jr. says in Sweet Potato Biscuits and Other Stories, p. 113, "A man's story seems right, until you look into it."

In Plaintiffs twenty six page Verified Complaint they allege eleven causes of action in one hundred and forty six paragraphs. However, at the non-jury trial Plaintiffs only claimed and presented evidence in an attempt to support a constructive trust over her entire estate. Since the Will has been upheld, this claim relates to the non-probate assets being Alice Shaw-Baker's deferred compensation, pension and life insurance. Plaintiffs claim a constructive trust to "go to animal welfare and rescue projects only." It is true that Alice Shaw-Baker had dogs as her family, and wanted to ensure that any that survived her were taken care of by Kay Passailaigue Slade. None survived her, the last pre-deceasing her in 2008. This was very upsetting to her, and is reflected in various ways in the record. However, she never changed her Will leaving the residue of her estate (after specific bequests) to Kay Passailaigue "to be hers in fee simple absolute, to include the care of my dogs...." It is hard to imagine anything more clear than that. Further, it is clear that Alice Shaw-Baker through notes and records regarding her deferred compensation, retirement and insurance, discussed leaving these to various "animal welfare" organizations by Will and/or by contract.

#3  
T.L.H. 9

However, it is finally established clearly by the memorandum of a call from her to her insurance company: "I have received your letter dated March 6, 1996 and the beneficiary forms naming the John Ancrum Society for the Prevention of Cruelty to Animals and have discussed this with my attorney. We have decided not to change the beneficiary and name my estate as beneficiary. Ok. I will order the file to make sure your estate is named as beneficiary and if it isn't, I will prepare beneficiary forms accordingly." Likewise, the beneficiary of her deferred compensation was shown on a form of 2/14/01 to be "Kay Passailaigue, Relationship Custodian of Pets and Rescue—Governed by Will." Also, a prior form of 7/24/90 had her estate as beneficiary. The combination of her Will and these contracts are entirely contrary to Plaintiffs claims of a constructive trust to benefit unnamed "animal welfare" organizations. The course of these contracts might be somewhat confusing, but the final result is not. After consulting with her attorney, she decided to leave these to her estate as governed by her Will, that is, Kay Passailaigue. As much as Plaintiffs profess it should be otherwise, it is not so by Alice Shaw-Baker's own words spoken prior to her dementia.

I again address the issue of sanctions for this soon to be nine year old frivolous suit. The standard for determining this is an objective one. Plaintiffs may subjectively say, "We are just doing what Alice Shaw-Baker wanted us to do." Intent and result are shown by their acts, not their words.

Frivolous determinations are governed by a reasonable attorney standard. Here, two questions arise. One, would a reasonable attorney bring and maintain a suit now in its ninth year claiming that an undoubtedly incompetent person had revoked her otherwise valid will by tearing it on January 1, 2009, following Judge Curry's Order of November 19, 2008, when only that attorney supposedly witnessed the tearing and no proof of such an act exist other than that attorneys say so, and that attorney's mother is an heir if the Will was revoked along with some other heirs who are not parties,

or notified of this suit, and whose existence was just revealed? The answer is an unqualified "No". Two, would a reasonable attorney bring and maintain a suit now in its ninth year claiming an equitable constructive trust over the entire Estate given all the clear facts and circumstances in the record contrary to such a claim? Again, the answer is an unqualified "No".

This should have been a simple guardian/conservator/personal representative case. Instead it has by Plaintiffs' frivolous acts gone on for nine years and counting. This is unconscionable and an abuse of the court system. Every avenue available to delay has been used and abused by Plaintiffs for no good reason.

I have condensed the history of this case as follows: Over the past nine years, in this and other related cases, Plaintiffs have appealed and asked for reconsideration of almost every decision of every Court. They have filed nine appeals, four Writs of Certiorari, three petitions for rehearing, and seven motions for reconsideration. To date, they have not prevailed on any substantive matters with the exception of one remand on the issue of conservator fees. It should be noted that Plaintiffs' first appeal was from what was essentially a mutual-restraining Order. Imagine that! As I have previously written, I deeply regret signing that Order.

I now turn to the monetary figures used in factoring my sanctions award. According to Family Services' inventory and appraisal, The Estate of Alice Shaw-Baker was originally valued at \$388,055.63. That figure includes the value of real estate, investments, life insurance, annuities, and anticipated annual receipts. After subtracting anticipated receipts, the Estate's initial value was \$353,746.81. According to Lisa Fisher's own accounting, \$39,549.43 was spent following Judge Curry's May 11, 2009 Order terminating her conservatorship. She also unreasonably spent \$25,000 for an air ambulance on the day of Alice Shaw-Baker's death, after being told by a medical doctor

#5  
T.L.H. J

that she would not survive the trip. She does, however, claim that she obtained a partial refund but such a refund is not reflected by her accounting.

Pursuant to § 62-5-424(C)(9), a conservator must obtain court approval prior to making charitable donations from the Estate. Lisa Fisher failed to observe this statute by making twenty unauthorized charitable donations in the amount of \$2,555—\$105 coming before the termination of the conservatorship—to various animal charities

The Probate Court has approved fees amounting to \$67,185.92. An additional \$20,621.34 was spent on unapproved fees, \$13,941.59 coming before the termination of the conservatorship, totaling \$87,807.26 in paid fees, which amounts to 25% of the Estate's value. However, there remains pending requests for approval of fees totaling \$74,422.00. If those requests are approved, the total fees paid would amount to \$162,229.26 or 46% of the Estate. As it currently stands, a total of \$173,148.66 from the Estate has been spent, which represents 49% of the Estate. Approval of the outstanding fee request would almost completely deprive the Estate of its value. That comes without any consideration of the amount of attorney's fees accumulated from Feb. 2009–Feb. 2018 which totals \$314,837.35 or 89.25% of the Estate. After totaling all the paid, unpaid, requested, and accumulated fees, the total amounts to \$564,873.87, which represents 160% of the Estate.

Despite the many egregious acts that occurred in this case, Lisa Fisher did care for Alice Shaw-Baker and her home by employing caregivers, landscapers, and by continuing to pay the taxes and insurance. For this, I credit her \$11,462.85 towards the sanctions award—\$1,000 for the caregiver expenses after the date of Alice Shaw-Baker's death, \$200 for hair charge, \$2,370 for lawn care, and \$7,892.85 for taxes and insurance. I have also decided to remove the \$7,000 loss of opportunity costs and treble damages against Lisa Fisher. As a result, the new sanctions award comes

#6  
TLB

from \$13,941.59 spent of unapproved fees after the termination of the conservatorship, \$39,549.43 for monies spent after the termination of the conservatorship, \$25,000 for an air ambulance on day of Alice Shaw-Baker's death, and \$105 for unauthorized charitable contributions before the Order terminating the conservatorship for a total of \$78,596.02. I impose this as a judgment against Betty and Lisa Fisher, jointly and severally, in favor of Defendants.

I have also decided to award the Defendants' attorneys their reasonable attorney's fees in this action. Factors to be considered by the trial court in making a determination as to attorney's fees are: (1) the nature, extent and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained.

According to the Defendants' three attorneys' affidavits, they are requesting fees in the amount of \$173,493.68 for services performed through May 30, 2018. Lisa Fisher has objected to this amount on the basis that some of the fees pertain to hours worked for the separate, but related, actions. I have subtracted the amount I believe is attributed to those actions. As for attorney Peter A. Kouten, he has requested \$78,872.43 for services rendered from February 2009–October 2017. I have deducted those fees accumulated after the October 14, 2013 Order for Substitution of Counsel in addition to fees for services performed in relation to actions required for probating the Estate, the Conservatorship (GC) action, and the related circuit court actions. I therefore find his reasonable attorney's fees to be \$35,315.00. As for attorney W. Westbrook Will, III, he has requested \$59,289.50 in attorney's fees. I find this amount to be reasonable. As for attorney Jessica L. Crowley, she has requested \$35,331.75 in attorney's fees. After subtracting those fees related to the ejectment

#7  
T.L.F.

action and conservatorship action, I find her reasonable attorney's fees to be \$25,512.50. Thus, after careful consideration of the factors set forth above for assessing attorney's fees, I find Defendants' total attorneys' fees in the amount of \$120,117.00 are, unfortunately, justified under that analysis. I impose this as a judgment against Lisa Fisher, Betty Fisher, and John Hughes Cooper, jointly and severally, in favor of Defendants' attorneys—\$35,315.00 in favor of attorney Peter A. Kouten, \$59,289.50 in favor of attorney W. Westbrook Wills, III, and \$25,512.50 in favor of attorney Jessica L. Crowley.

Again, I reference Bleak House. Jarndyce vs. Jarndyce ended when the money in the estate was consumed by attorneys' fees, etc., after many years of litigation. I now doubt if even that would stop Plaintiffs from pursuing this frivolous litigation given what has now "boxed them in" . . . sanctions, damages, and costs which they must pay unless somehow they are successful on their appeals for the first time in nine years.

I cannot conclude without saying that I have sympathies for Lisa Fisher. It is painful for me to see and hear her put herself and others through this. She is well educated with a law degree and other degrees. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help—legal and perhaps otherwise. I hope she gets it.

Plaintiffs are in Contempt of Court for repeatedly refusing to supply Ordered financial information. I Order them confined in the Charleston County Detention Center and fined \$100.00 per day starting today until they comply. I have never in 33 years held an attorney or party in Contempt

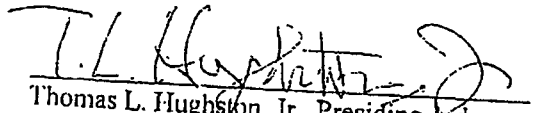
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TLB

of Court. I stay this during the Plaintiffs' appeal.

Plaintiffs' post-trial motions are denied and my previous Order affirmed except as modified herein.

IT IS SO ORDERED.

#9  
July 9, 2018  
Charleston, South Carolina

  
Thomas L. Hughston, Jr., Presiding Judge



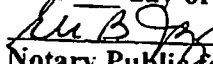


8. The Court's June 29, 2018 Order reduced the award of my attorney fees by \$43,557.43 after initially approving my fees in a prior order.
9. The Plaintiffs have sought, through multiple legal actions, to disparage the Defendants for the sole purpose of having a final determination that the Last Will was invalid.
10. The Plaintiffs have failed in every action, at every level, to be successful in their frivolous crusade.
11. I am asking reconsideration of the June 29, 2018 Order reducing my fees because
  - a. I remained in a representative capacity for the estate and the personal representative long after the substitution of counsel motion filed in October 2013,
  - b. All work devoted to this file by me was in direct response to the continued legal actions of the Plaintiffs in their pursuit to discredit the Last Will and Testament of Alice Shaw-Baker.
  - c. The Defendants have been victimized by the Plaintiff's legal musings over the last ten years and the current Order further victimizes them as they would ultimately have to pay the legal fees not attributed to the actions of the Plaintiffs and their counsel.
12. Affiant seeks hearing on the matter of reconsideration so as to review line item by line item the fees billed as he was not properly served with either the May 29, 2018 order or the June 29, 2018 Order.
13. The Affiant seeks reconsideration of the June 29, 2018 Order and seeks the grant of all costs and fees for his services in the amount of \$78,872.43.

FURTHER AFFIANT SAYETH NOT!

  
\_\_\_\_\_  
Peter A. Kouten  
PO Box 340  
Johns Island, SC 29455

Sworn and subscribed before me  
This 9 day of July, 2018.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires: 1/17/2024

\_\_\_\_\_



submitted to this Court and dated October 26, 2017 and May 31, 2018, with corrections reflected in attached Amended Attorney's Fees Affidavit and revised invoices [*Annex A & B*].

7. There are several matters closely related to this action, and review of the invoices submitted in this matter reveal time inadvertently attributed to this matter which should have been attributed to other related matters.

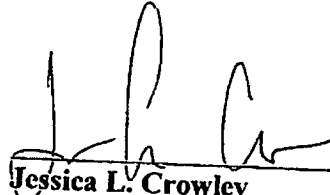
8. Plaintiffs contested certain portions of my invoice dated May 31, 2018, however, the work itemized in that invoice relates to this Court's Orders, and the Motions and Petitions and other relief sought by Plaintiffs in this action.

9. All of the time reflected in the attached revised invoices for ejecting the unauthorized tenant residing at 306 Cassina Road, Charleston, was directly related to this Court's Order dated April 3, 2018. Likewise, other itemized time reflected in my revised invoices is attributable to work completed in this matter.

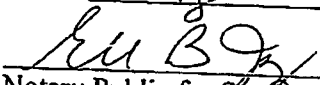
10. I believe the fees as reflected in my revised affidavit and attached revised invoices are fees necessarily related to this action, and not to other related actions, and are proper for consideration in the present case.

11. My total fees in the amount of \$32,461.75, which reflects reduction by \$1,350.00 for inadvertently misattributed fees, are properly attributed to this action and not to any of the related actions.

RESPECTFULLY SUBMITTED,

  
\_\_\_\_\_  
Jessica L. Crowley

SWORN to before me this 17  
day of July, 2018

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 1/14/2024

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON PLEAS    |
|                          | ) | FOR THE NINTH JUDICIAL CIRCUIT  |
| COUNTY OF CHARLESTON     | ) | Case No.: 2009-CP-10-3010       |
|                          | ) |                                 |
| Betty Fisher, et al.,    | ) |                                 |
|                          | ) |                                 |
| Plaintiffs,              | ) |                                 |
|                          | ) |                                 |
| vs.                      | ) | AMENDED ATTORNEY'S FEES         |
|                          | ) | AFFIDAVIT OF JESSICA L. CROWLEY |
| Bessie Huckabee, et al., | ) |                                 |
|                          | ) |                                 |
| Defendants,              | ) |                                 |
|                          | ) |                                 |
| In the Matter of         | ) |                                 |
| Alice Shaw-Baker.        | ) |                                 |
|                          | ) |                                 |

PERSONALLY APPEARED before me, Jessica L. Crowley, Esquire, who being duly sworn deposes and says:

1. I am the attorney for Defendant, Bessie Huckabee, Personal Representative of the Estate of Alice Shaw-Baker, in the above referenced matter.
2. This case is an action for Contest of the Last Will and Testament of Alice Shaw Baker, in the above matter, which was tried in October 2017 and March 2018 in a bifurcated trial. Defendants prevailed on all matters and Plaintiffs have filed multiple post-trial pleadings.
3. That fees total \$32,461.75 in connection with this action. The hourly rate charged was \$175.00 per hour.
4. The Supreme Court has set forth the factors to be considered in a grant of attorney's fees in *Glasscock v. Glasscock*, 304 S.C. 158 (1991), concerning the law in setting reasonable attorney's fees. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:
  - a) Nature, Extent and Difficulty of the Legal Services Rendered. This case involved multiple issues of civil law and probate law. Accordingly, the factual and legal issues presented required the extent of the work performed necessary to adequately prepare.
  - b) Time and Labor Necessarily Devoted to the Case. No less than 185.21 hours were devoted to the case by my firm. This is reflected through the facts stated earlier, as well as from the listing

of services performed in the Exhibits. Accordingly, the time and labor devoted to this case were necessary to properly prepare for this case.

c) Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina and I am a member of the Charleston County Bar Association and the American Bar Association. Approximately 90% of my practice consists of Probate matters, including commitment representation, court appointments, probating estates, and contested and uncontested Guardianship and Conservatorships. Accordingly, I submit that I have a high professional standing in general and in this area of practice.

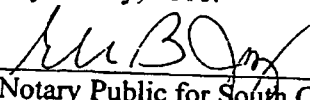
d) Contingency of Compensation. Compensation in this case is based on the hourly rate of \$175.00 per hour and is not contingent.

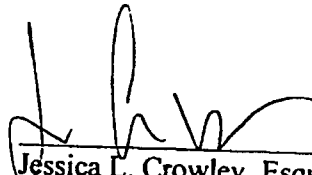
e) Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Charleston area, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are, in the Charleston area, from \$120.00 to \$300.00 per hour. As stated earlier, my hourly rate is within this range in this case. Accordingly, this hourly rate is the fee customarily charged in this locality for similar services.

f) Beneficial Results Obtained. This attorney has continued to obtain beneficial results for the Defendant and interested parties in this action. Accordingly, it is submitted that beneficial results have been obtained by this firm on client's behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees and costs to the full extent set forth in this Affidavit is appropriate; therefore, Jessica L. Crowley, Esquire, is entitled to \$32,461.75 in attorney's fees.

SWORN to before me this 17  
day of July, 2018.

  
Notary Public for South Carolina  
My Commission Expires: 1/14/2024

  
Jessica L. Crowley, Esquire



CROWLEY LAW FIRM, LLC  
PO Box 30189  
CHARLESTON, SC 29417

Invoice Submitted to:  
October 26, 2017  
Lisa Fisher, Esquire and Betty Fisher  
Client: Bessie Huckabee

Invoice #10Bak26

| Date       | Professional Services                                                                                                                             | Hours       |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 5/21/2017  | meet with Brook to discuss next steps, review file, research case law                                                                             | 15          |
| 8/2/2017   | meet with Brook to draft Mot for SJ, research case law                                                                                            | 3.0         |
| 10/9/2017  | TC to Wills re meet to plan, rec pleading, rec notice of status conference                                                                        | 0.5         |
| 10/10/2017 | JLC EM from Brook re update, TC to Bessie re update                                                                                               | 0.4         |
| 10/11/2017 | JLC meet with Brook, review file, TC to Solomon re original will                                                                                  | 4.0         |
| 10/12/2017 | JLC to Soloman Budman to review LWAT of ASB                                                                                                       | 0.5         |
| 10/16/2017 | JLC reply to JHC EM re consent to transfer                                                                                                        | 0.1         |
| 10/17/2017 | JLC status conference with Judge Jefferson re Mot to Change venue, work on response to motion                                                     | 25          |
| 10/18/2017 | JLC to Budman office to pick up affidavits, file with CCPC, conference hearing with Judge Jefferson re motion                                     | 15          |
| 10/18/2017 | JLC TC to client re trial next week, discuss trial prep                                                                                           | 10          |
| 10/19/2017 | JLC rec roster notice from CP, Em Ct re order on motion hearing                                                                                   | 02          |
| 10/20/2017 | JLC status conference re mot for reconsideration x2                                                                                               | 05          |
| 10/21/2017 | JLC work on trial prep, case research, meet with clients                                                                                          | 80          |
| 10/23/2017 | JLC prep for trial, trial, research on revocation, review files                                                                                   | 120         |
| 10/24/2017 | JLC prep for trial, trial, research                                                                                                               | 10.0        |
| 10/25/2017 | JLC research law regarding revocation for jury charges, review depositions, review rules of evidence, trial, review SC Probate Code re P's Motion | 9.0         |
| 10/26/2017 | JLC trial                                                                                                                                         | 4.0         |
| 10/26/2017 | Professional Services Rendered 58.7 @ \$175.00/hr                                                                                                 | 10,272.50   |
|            | Costs                                                                                                                                             | \$ 0.00     |
|            | Total This Invoice                                                                                                                                | \$10,272.50 |

Please forward payment with this lower portion to:  
CROWLEY LAW FIRM, LLC  
PO Box 30189  
CHARLESTON, SC 29417

Client: Huckabee  
Invoice Date: October 26, 2017  
Previous Balance: \$0.00  
Retainer Received: \$0.00  
This Invoice: \$10,272.50  
Balance Due: \$10,272.50

# Crowley Law Firm, LLC

PO Box 30189  
Charleston, SC 29417

## INVOICE

Invoice # 59  
Date: 07/17/2018  
Due On: 08/16/2018

Bessie Huckabee  
5319 Paramount Drive  
N. Charleston, SC 29418

**00008-Huckabee**

### Estate of Alice Shaw-Baker

| Type    | Date       | Notes                                                                                                                                                                                                                         | Quantity | Rate     | Total    |
|---------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|----------|
| Service | 10/31/2017 | JLC EM JH Cooper req to turn over estate assets                                                                                                                                                                               | 0.40     | \$175.00 | \$70.00  |
| Service | 11/01/2017 | JLC rec response from JH Cooper refusing to turn over estate assets                                                                                                                                                           | 0.20     | \$175.00 | \$35.00  |
| Service | 11/02/2017 | JLC draft Mot to Dissolve TRO post trial                                                                                                                                                                                      | 1.00     | \$175.00 | \$175.00 |
| Expense | 11/06/2017 | Reimbursable expense: Fee for Motion to Dissolve TRO                                                                                                                                                                          | 1.00     | \$25.00  | \$25.00  |
| Service | 11/09/2017 | JLC TC to Bessie re inventorying estate property                                                                                                                                                                              | 0.20     | \$175.00 | \$35.00  |
| Service | 11/16/2017 | JLC print conservatorship file and organize into binder for review of accounts                                                                                                                                                | 2.00     | \$175.00 | \$350.00 |
| Service | 12/11/2017 | JLC rec reply motion from JHC                                                                                                                                                                                                 | 0.20     | \$175.00 | \$35.00  |
| Service | 01/25/2018 | JLC EM from Judge Hughston requesting accountings                                                                                                                                                                             | 0.20     | \$175.00 | \$35.00  |
| Service | 01/29/2018 | JLC rec Order from Judge Houghston re accounting, TC to Bessie req bank statements                                                                                                                                            | 0.40     | \$175.00 | \$70.00  |
| Service | 01/30/2018 | JLC rec bank statements from Bessie, scan and review, draft accounting                                                                                                                                                        | 0.50     | \$175.00 | \$87.50  |
| Service | 02/05/2018 | JLC work on accounting summary per Judge Houghston order, review Brook's letter, draft accounting of WF account held in Estate                                                                                                | 1.50     | \$175.00 | \$262.50 |
| Service | 02/05/2018 | JLC rec filed accounting summary from Wills, rec notice of hearing from Beaufort County, rec Return from Magistrate Court, review, fwd to Brook                                                                               | 1.00     | \$175.00 | \$175.00 |
| Service | 02/06/2018 | JLC TC to Bessie re update, rec Order from Judge Hughston re accountings and funds, review attorneys fees for JHC and Lisa Fisher's invoices prior to death of ASB - no mention of Will revocation, TC to Brook re next steps | 1.50     | \$175.00 | \$262.50 |

Invoice # 59 - 07/17/2018

|         |            |                                                                                                                                                                                                                                                  |      |          |          |
|---------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|----------|
| Service | 02/07/2018 | JLC review all invoices from Lisa Fisher and JHC, scan and fwd to Wills, TC to Wills re their invoicing, note Jan 2, 2009 does not mention revocation of will                                                                                    | 1.00 | \$175.00 | \$175.00 |
| Service | 02/08/2018 | JLC rec EM ltr from Lisa Fisher objecting to Order, TC to Brook re status of accountings, jurisdiction of court regarding GC case, upcoming hearing in Beaufort                                                                                  | 0.50 | \$175.00 | \$87.50  |
| Service | 02/12/2018 | JLC EM from JHC re discovery req from ING and retirement plan                                                                                                                                                                                    | 0.20 | \$175.00 | \$35.00  |
| Service | 02/12/2018 | JLC TC from Brook re stipulating to authenticity of documents, pros and cons, discuss their strategy, whether they have standing                                                                                                                 | 0.70 | \$175.00 | \$122.50 |
| Service | 02/13/2018 | JLC rec package from JHC, Order filed from Judge Houghston, review                                                                                                                                                                               | 0.40 | \$175.00 | \$70.00  |
| Service | 02/13/2018 | JLC work on accounting summary per Judge Houghston order, review Brook's letter, draft accounting of WF account held in Estate                                                                                                                   | 0.01 | \$175.00 | \$1.75   |
| Service | 02/13/2018 | JLC rec accounting from JHC 2008-2018, review, tc to Wills to discuss                                                                                                                                                                            | 0.70 | \$175.00 | \$122.50 |
| Service | 02/15/2018 | JLC EM from Lisa Fisher re changed pre-trial date, Corr from JHC re notice of filing, Corr from CCCP re Hughston's response to Fisher ltr, TC to Brook re our response to Lisa's request                                                         | 0.70 | \$175.00 | \$122.50 |
| Service | 02/16/2018 | JLC review accounting, total each subcategory, create summary of expenses, incl post-death and post-discharge expenses                                                                                                                           | 5.00 | \$175.00 | \$875.00 |
| Service | 02/20/2018 | JLC to CCPC to review GC file, rec Order from J. Hughston, revise accounting summary                                                                                                                                                             | 1.00 | \$175.00 | \$175.00 |
| Service | 02/23/2018 | JLC search file for Motion for fees in amount of \$6,090, copy, compare previously filed accountings with 2018 filed accounting                                                                                                                  | 1.00 | \$175.00 | \$175.00 |
| Service | 02/23/2018 | JLC rec resp to MSJ from JHC, pretrial brief from JHC, research applicable law per their filings; review discovery, review issues on appeal, review probate code re non-probate assets - jurisdiction of court, revise notes for probate hearing | 4.00 | \$175.00 | \$700.00 |
| Service | 02/25/2018 | JLC review file- cases on appeal, continue prep for hearing, review of accountings, add review of Fam Svc accounting, review caretaker notes                                                                                                     | 2.00 | \$175.00 | \$350.00 |
| Service | 02/25/2018 | JLC research re equitable estoppel and standing/ wills, review code re "real representative"                                                                                                                                                     | 0.50 | \$175.00 | \$87.50  |
| Service | 02/26/2018 | JLC TC to Wills re equitable estoppel, real representative, priority statute, discovery to Hughston                                                                                                                                              | 0.40 | \$175.00 | \$70.00  |

|         |            |                                                                                                                                                                                                                                                        |      |          |            |
|---------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|------------|
| Service | 02/26/2018 | JLC rec bank statements from JHC, review, prep for hearing, respond to Return to MSJ, research standing, revise hearing notes re breach of trust and request for receipts, research their arguments in pre-trial brief                                 | 6.00 | \$175.00 | \$1,050.00 |
| Service | 02/26/2018 | JLC draft amended affidavit of fees, update hours                                                                                                                                                                                                      | 0.70 | \$175.00 | \$122.50   |
| Service | 02/26/2018 | JLC to Bessie's to sign letter, to RMC for deed to Cassina, to 306 Cassina to deliver notice of intent to inspect property and Notice to Vacate                                                                                                        | 2.00 | \$175.00 | \$350.00   |
| Service | 02/26/2018 | JLC copy exhibits for magistrate's court, review JHC response, review law on his claims, TC to WWW re hearing                                                                                                                                          | 1.00 | \$175.00 | \$175.00   |
| Service | 02/27/2018 | JLC to Beaufort for pre-trial hearing for 3010 and post-trial motions                                                                                                                                                                                  | 4.50 | \$175.00 | \$787.50   |
| Service | 03/01/2018 | JLC rec Supreme Court decision re standing, review law, meet with Wills, rec Judge Hughston email re MSJ - review claims and law                                                                                                                       | 2.00 | \$175.00 | \$350.00   |
| Service | 03/02/2018 | JLC rec Depo of John Smoak, review                                                                                                                                                                                                                     | 0.40 | \$175.00 | \$70.00    |
| Service | 03/05/2018 | JLC req from Wills to review causes of action in 1332 for comparison to 3010 - create summary and email; rec Order from Beaufort Court, rec Order from Judge Hughston                                                                                  | 1.00 | \$175.00 | \$175.00   |
| Service | 03/05/2018 | JLC rec P's exhibit and witness list - review                                                                                                                                                                                                          | 0.40 | \$175.00 | \$70.00    |
| Service | 03/06/2018 | JLC review exhibits proposed by JHC, review file to search for info on appointment of PR                                                                                                                                                               | 1.50 | \$175.00 | \$262.50   |
| Service | 03/06/2018 | JLC rec EM objection from Wills, respond re I join                                                                                                                                                                                                     | 0.50 | \$175.00 | \$87.50    |
| Service | 03/07/2018 | JLC prep for trial - review depositions, research case law re remaining issues and potential issues, prep trial notebook                                                                                                                               | 6.00 | \$175.00 | \$1,050.00 |
| Service | 03/08/2018 | JLC continue to prep for trial, review all depositions and research objections, review all evidence and research objections, review Byrd depo for objections and additional inclusions if necessary, review values and types of policies at issue      | 6.00 | \$175.00 | \$1,050.00 |
| Service | 03/10/2018 | JLC meet with client, review all insurance policy docs, summary of beneficiary changes, finish objections to Byrd depositions                                                                                                                          | 3.00 | \$175.00 | \$525.00   |
| Service | 03/11/2018 | JLC research collateral estoppel, review complaint for factual allegations, rec em from Wills re objections, review, research on SCRS and deferred comp jurisdiction, law on business records exception re testimony, create summary of applicable law | 5.00 | \$175.00 | \$875.00   |
| Service | 03/12/2018 | JLC bench trial, print exhibits, objections, and case law, meet with defendants                                                                                                                                                                        | 8.00 | \$175.00 | \$1,400.00 |

|         |            |                                                                                                                                                                                                 |      |          |          |
|---------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|----------|
| Service | 03/13/2018 | JLC attend hearing, meet with client                                                                                                                                                            | 4.00 | \$175.00 | \$700.00 |
| Service | 03/27/2018 | JLC rec Mot to Vacate, review                                                                                                                                                                   | 0.50 | \$175.00 | \$87.50  |
| Service | 03/27/2018 | JLC ltr to JHC re Candy vacate w/in 7 days, fwd to parties via EM, mail to JHC                                                                                                                  | 0.40 | \$175.00 | \$70.00  |
| Service | 04/03/2018 | JLC notice of Motion to Withdraw by JHC, response from Wills re personal property, response to ltr demanding Candy to move, rec Order from Hughston re property, TC from Wills re meet with Kay | 0.50 | \$175.00 | \$87.50  |
| Service | 04/04/2018 | JLC meet Wills and Kay, to CCPC to pick up interpleader check from clerk, talk to deputies re eviction                                                                                          | 1.50 | \$175.00 | \$262.50 |
| Service | 04/05/2018 | JLC rec Motion to be Relieved as Counsel, Hughston's new order, TC to Wills re bond and eviction, look up bond co info, EM to JHC re inventory of property                                      | 0.70 | \$175.00 | \$122.50 |
| Service | 04/05/2018 | JLC review accountings with Wills                                                                                                                                                               | 1.00 | \$175.00 | \$175.00 |
| Service | 04/09/2018 | JLC TC from Bessie re update                                                                                                                                                                    | 0.20 | \$175.00 | \$35.00  |
| Service | 04/09/2018 | JLC rec notice of appeal, notice to Ct App Motion to Withdraw, notice of entry of judgment                                                                                                      | 0.40 | \$175.00 | \$70.00  |
| Service | 04/09/2018 | JLC rec Motion for Sub of Counsel                                                                                                                                                               | 0.20 | \$175.00 | \$35.00  |
| Service | 04/10/2018 | JLC tc to Wills re eviction on Thursday, schedule Melody to meet, TC to locksmith, payment, TC to attorney                                                                                      | 0.70 | \$175.00 | \$122.50 |
| Service | 04/10/2018 | JLC review Pet'n for Supersedeas, review rule 204, EMs between parties, review dates of filings, research Lisa's motion to vacate - case law                                                    | 1.00 | \$175.00 | \$175.00 |
| Service | 04/12/2018 | JLC to 306 Cassina to meet police and locksmith, review new order from SCSC dismissing Pet'n for Writ and allowing extension, call from Hughston's office saying wait to evict                  | 1.00 | \$175.00 | \$175.00 |
| Service | 04/16/2018 | JLC rec corr from Appeals Court, Sup Court, Circuit Court and Probate Court re recent Orders, Withdrawal of counsel                                                                             | 0.40 | \$175.00 | \$70.00  |
| Service | 04/18/2018 | JLC Rec Notice of Appeal from JHC                                                                                                                                                               | 0.20 | \$175.00 | \$35.00  |
| Service | 04/19/2018 | JLC rec notice of filing in 3010- Pet'n for Writ and req to stay RTSC, begin timeline                                                                                                           | 0.40 | \$175.00 | \$70.00  |
| Service | 04/25/2018 | JLC EM from Judge re setting hearing, respond                                                                                                                                                   | 0.30 | \$175.00 | \$52.50  |
| Service | 04/26/2018 | JLC rec filings from Fisher, review motions, research bifurcation re rule 59 motion, tc to Wills re next steps, law on filing appeal                                                            | 1.00 | \$175.00 | \$175.00 |

Invoice # 59 - 07/17/2018

|              |            |                                                                                                                                                                           |      |                    |            |
|--------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|--------------------|------------|
| Service      | 04/27/2018 | JLC conference call with Wills and Atty for JHC re sanctions                                                                                                              | 0.50 | \$175.00           | \$87.50    |
| Service      | 04/27/2018 | JLC research requirements for joinder of pro se parties                                                                                                                   | 1.00 | \$175.00           | \$175.00   |
| Service      | 04/27/2018 | JLC draft post-judgment interrogatories to Lisa and Betty and RTP                                                                                                         | 6.00 | \$175.00           | \$1,050.00 |
| Service      | 04/30/2018 | JLC research supersedeas law, requirement of bond, review law on affidavits re Mot to Strike, review orders and standing law, begin draft response to Mot for Supersedeas | 8.00 | \$175.00           | \$1,400.00 |
| Service      | 04/30/2018 | JLC rec Rule 59 motion and request for Judicial Notice, review                                                                                                            | 0.50 | \$175.00           | \$87.50    |
| Service      | 04/30/2018 | JLC complete draft reply to P's motion for supersedeas, edit, file, fwd to parties                                                                                        | 4.00 | \$175.00           | \$700.00   |
| Service      | 05/01/2018 | JLC EMs from JHC re withdrawal as counsel                                                                                                                                 | 0.20 | \$175.00           | \$35.00    |
| Service      | 05/02/2018 | JLC CL and scans of Disc Req to Lisa and Betty                                                                                                                            | 0.50 | \$175.00           | \$87.50    |
| Service      | 05/03/2018 | JLC check Cassina property, look up car parked in driveway                                                                                                                | 0.50 | \$175.00           | \$87.50    |
| Service      | 05/08/2018 | JLC review Circuit Court Roster, TC to Clerk re update attorney info, review Notice of Appeal and pleadings, Ltr to Judge H re consolidation                              | 1.00 | \$175.00           | \$175.00   |
| Service      | 05/08/2018 | JLC Em to Judge Hughston re request for consolidated hearing, EM to Lisa re inventory of property                                                                         | 0.70 | \$175.00           | \$122.50   |
| Expense      | 05/17/2018 | Reimbursable expense: Mot to Quash subpoena                                                                                                                               | 1.00 | \$25.00            | \$25.00    |
| Service      | 05/18/2018 | JLC prep for hearing, finalize Motion to Quash Subpoena, research subpoenas                                                                                               | 3.00 | \$175.00           | \$525.00   |
| Service      | 05/20/2018 | JLC prep for hearing                                                                                                                                                      | 4.00 | \$175.00           | \$700.00   |
| Service      | 05/21/2018 | JLC hearing on post trial motions                                                                                                                                         | 6.00 | \$175.00           | \$1,050.00 |
| Service      | 05/30/2018 | JLC corr from Judge Hughston, review order                                                                                                                                | 1.00 | \$175.00           | \$175.00   |
| <b>Total</b> |            |                                                                                                                                                                           |      | <b>\$22,189.25</b> |            |

## Detailed Statement of Account

### Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|----------------|--------|------------|-------------------|-------------|
|----------------|--------|------------|-------------------|-------------|

Invoice # 59 - 07/17/2018

|                                 |            |             |        |                    |
|---------------------------------|------------|-------------|--------|--------------------|
| 59                              | 08/16/2018 | \$22,189.25 | \$0.00 | \$22,189.25        |
| <b>Outstanding Balance</b>      |            |             |        | <b>\$22,189.25</b> |
| <b>Total Amount Outstanding</b> |            |             |        | <b>\$22,189.25</b> |

Please make all amounts payable to: Crowley Law Firm, LLC

Please pay within 30 days.

and messages, documents, photos, etc.

ies: Emma L. ... sl ... we ... do ... h ... Alice Shaw, B ... this ... L. Hu

Back ... Archive ... Move ... Delete ... Spam ...

Re: RE: Fisher v. Huckabee

**lisa fisher** <fisherb736@yahoo.com>  
To: Barbara Seymour, Hughston, Thomas L.,  
Nicholson, J. C. Law Clerk (Jonathan Arndt)  
Cc: W. Westbrook Wills III, Jessica Crowley,  
mjfowers@scag.gov

I was not given an opportunity to respond. This was not set for hearing as requested by counsel, and the facts and information set forth are incorrect.

On Monday, July 23, 2018 08:42:07 AM PDT, Nicholson, J. C. Law Clerk (Jonathan Arndt) <JNicholsonLC@sccourts.org> wrote:

Ms. Fisher  
It is Judge Hughston's Order on Defendants' Motion to Reconsider the issue of attorney's fees and to clarify the judgments imposed by him. I have attached a copy in a different format. Please let me know if you are able to access it now.  
Best regards,

**Jonathan S. Arndt**  
Law Clerk to The Honorable J. C. Nicholson, Jr.  
Circuit Court Judge  
100 Broad Street  
Charleston, South Carolina 29401  
Tel: (843) 958-5047  
[JNicholsonLC@sccourts.org](mailto:JNicholsonLC@sccourts.org)

**From:** lisa fisher [mailto:fisherb736@yahoo.com]  
**Sent:** Monday, July 23, 2018 11:30 AM  
**To:** Nicholson, J. C. Law Clerk (Jonathan Arndt) <JNicholsonLC@sccourts.org>; Barbara Seymour <bseymour@clawsonandstaubes.com>; Hughston, Thomas L. <thughston@sccourts.org>  
**Cc:** W. Westbrook Wills III <wwills@wwillslaw.com>; Jessica Crowley <jcrowleylawfirm@gmail.com>; mjfowers@scag.gov  
**Subject:** RE: Fisher v. Huckabee

I can not open. What is this about? I received a new motion that had the wrong address on it, so if there was something I'm supposed to oppose, I haven't had an opportunity. Please clarify as soon as possible. Thank you.

Lisa Fisher  
Sent from Yahoo Mail on Android

On Mon, Jul 23, 2018 at 8:26 AM, Nicholson, J. C. Law Clerk (Jonathan Arndt) <JNicholsonLC@sccourts.org> wrote:

Hello all  
  
Please find attached a courtesy clocked copy of Judge Hughston's Order in the subject heading case.  
  
Please let me know if you have any questions or concerns.  
  
Best regards,



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

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21

Denise J. Lauder, RPR

22

Ninth Judicial Circuit

23

24

25

1                   A P P E A R A N C E S

2

3       REPRESENTING THE PLAINTIFF:

4               JOHN HUGHES COOPER, ESQUIRE

5               John Hughes Cooper, PA

6               1476 Ben Sawyer Boulevard

7               Suite 11

8               Mount Pleasant, SC 29464

9

10      REPRESENTING THE DEFENDANTS:

11             W. WESTBROOK WILLS, III, ESQUIRE

12             The Law Office of W. Westbrook Wills, III

13             P. O. Box 822

14             Folly Beach, SC 29439

15

16             JESSICA LYNN CROWLEY, ESQUIRE

17             Crowley Law Firm, LLC

18             P. O. Box 30189

19             Charleston, SC, 29417-0189

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21

22

23

24

25

|    |                                    |      |
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| 18 |                                           |          |    |
| 19 |                                           |          |    |
| 20 |                                           |          |    |
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| 22 |                                           |          |    |
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| 24 |                                           |          |    |
| 25 |                                           |          |    |

1                   (The following proceedings were had  
2   October 23, 2017, 11:11 a.m., Charleston County  
3   Court of Common Pleas.)

4                   THE COURT: All right. We're here  
5   today to try the case of Betty Fisher, et al.,  
6   against Bessie Huckabee, et al., in the matter of  
7   an estate. And so we're ready to go forward.  
8   Anything before we send for the jury to come up?

9                   MR. COOPER: Your Honor, John Hughes  
10   Cooper for the Plaintiffs, Betty Fisher and Lisa  
11   Fisher. The Plaintiffs filed before Judge  
12   Jefferson a motion for change of venue, to vacate  
13   the trial date, and to stay the proceedings. That  
14   was denied on Thursday, 19th.

15                   We filed a Rule 59(e) motion, which was  
16   denied this morning. And we have filed a notice of  
17   interlocutory appeal.

18                   THE COURT: You filed an appeal from  
19   what?

20                   MR. COOPER: From the orders denying  
21   our motion for change of venue, denying our motion  
22   to vacate the trial date, and our motion to stay  
23   the proceedings.

24                   THE COURT: And tell me who you are.

25                   MR. WILLS: Your Honor, my name is

1 Brooks Wills. I represent the Defendants in this  
2 matter.

3 THE COURT: Okay. And what do you have  
4 to say in response to their position?

5 MR. WILLS: Well, I can say, first off,  
6 that their motion is not an appeal of an order that  
7 is interlocutory. A notice of appeal for a motion  
8 to transfer venue does not take supersedeas away  
9 from this Court or act as supersedeas to deprive  
10 this Court of jurisdiction, nor does it act to stay  
11 any proceedings in the lower court.

12 This is an appeal that, if they wish to  
13 appeal it, would be taken up after the trial. So  
14 there would be no reason to stop the trial at this  
15 point, especially since we've got a date certain  
16 here that was at their request. The second date  
17 certain that's been set per their request.

18 And, also --

19 THE COURT: I would think that would be  
20 true. Anything you want to add in response to  
21 that?

22 MR. COOPER: Yes, Your Honor. We did  
23 -- all parties asked for a date certain. Early on,  
24 there was a motion filed. And after that time in  
25 June or July, one of the main witnesses for the

1 Defendant, Peter Kouten, was appointed as probate  
2 judge, appointed judge in the mental health court,  
3 and based on that and based on the South Carolina  
4 Supreme Court hearing last Thursday in a related  
5 case, we made the motions to change venue, to  
6 vacate the trial date, and to stay the proceedings.

7 Essentially, those motions, of course,  
8 were denied by Judge Jefferson and, again, when we  
9 filed Rule 59(e) for her to alter or amend, and our  
10 notice of appeal today removes this Court's  
11 jurisdiction and puts it in the jurisdiction of the  
12 court of appeals.

13 THE COURT: Okay. I appreciate the  
14 position, but I don't think so. I deny your  
15 motion. Anything else?

16 MR. COOPER: Well, there's -- I didn't  
17 have a motion, Your Honor.

18 THE COURT: Well, your request to not  
19 let it go forward because you think it's on appeal  
20 now and shouldn't be heard now, so the trial is  
21 going forward as far as I can tell. Anything else?

22 MR. COOPER: Well, we would object to  
23 that, Your Honor --

24 THE COURT: Well, okay, you can object.  
25 You can appeal that too, but it's going forward



1 today unless you have some other reason.

2 MS. FISHER: Your Honor, Lisa Fisher.

3 I'm pro hac vice.

4 MR. WILLS: I object to her  
5 participating at all in this trial. She's right  
6 now a Plaintiff. She can't participate as an  
7 attorney.

8 MS. FISHER: I can participate in  
9 anything that's not --

10 THE COURT: I didn't realize that.  
11 Tell me who you are.

12 MS. FISHER: I'm Lisa Fisher; I'm pro  
13 hac vice.

14 THE COURT: I'm sorry, I can't  
15 understand your name.

16 MS. FISHER: Lisa Fisher.

17 THE COURT: Fisher. Okay. You're one  
18 of the Plaintiffs.

19 MS. FISHER: I am. And I can  
20 participate --

21 THE COURT: I'm sorry?

22 MS. FISHER: I can participate in this  
23 case.

24 THE COURT: Is there -- have you paid  
25 the fee? Is there an order admitting you to

1 practice in South Carolina in connection with this  
2 case?

3 MS. FISHER: Yes, Your Honor.

4 THE COURT: Okay. I haven't seen that.  
5 Do you have a copy of that?

6 MS. FISHER: We'll see if we have it  
7 with us, Your Honor.

8 THE COURT: Hold on a second, and let's  
9 see if you have a copy of it.

10 MS. FISHER: Sure.

11 THE COURT: Do you have a copy of it?

12 MR. WILLS: I don't have a copy in the  
13 file that I brought.

14 THE COURT: Do you know if she's been  
15 admitted?

16 MR. WILLS: She was admitted, but only  
17 for purposes of pretrial stuff. She was not to  
18 participate as a Plaintiff and an attorney. Just a  
19 natural -- it's a natural fundamental.

20 MS. FISHER: Your Honor, if I could be  
21 heard.

22 THE COURT: Sure.

23 MS. FISHER: This is a pretrial  
24 situation, isn't it? So in the event that the  
25 trial was to go forward, I can participate as long

1 as I'm not participating before this jury.

2 So this deals with a substantial right,  
3 and if they have a problem with the appeal, you  
4 have lost jurisdiction on prima filing. If they  
5 have a problem, they can go to the court of appeals  
6 and file something saying that it didn't stop, but  
7 at this point, if this Court takes the position  
8 that we're going to go forward with the trial and  
9 then orders are issued that -- either way, you  
10 know, all it's doing is causing further problem in  
11 the future.

12 You know, we're asking the Court to  
13 look at this as a substantial right, and it takes  
14 away this Court's jurisdiction upon the filing.  
15 Upon the filing -- you know, if the Court wants to  
16 give me one moment, I can give you a little bit  
17 more information.

18 So, in any event, I will get you the  
19 exact rule, but if the Court takes the position  
20 that you can go forward after we've filed a notice  
21 of appeal, then you are interfering with the  
22 jurisdiction of the appellate court.

23 THE COURT: I'll worry about that.

24 MS. FISHER: I appreciate that.

25 THE COURT: It's going forward now,

1 unless you can give me some other reason.

2 MS. FISHER: Well, I'm going to give  
3 you the reason that is set forth under immediate  
4 appeal. There are situations where the cases must  
5 take -- excuse me, we must take an immediate appeal  
6 or our rights are waived. That's why this was  
7 done, Your Honor.

8 It's not to not have the trial. It's  
9 to ensure that we are not waiving that right. And  
10 by filing the notice of appeal, we are insuring  
11 that we are not waiving that right. That was the  
12 only way that we could do that.

13 Cases that -- cases that involve  
14 substantial rights allow a party under Section  
15 14-3-330 to go forward on immediate appeal. There  
16 are appeals regarding -- sorry, if you give me one  
17 moment, Your Honor.

18 For instance, in Edwards v. Timmons,  
19 where appellant was denied, appealed the order  
20 referring matters to masters in equity, could not  
21 complain after the final order that she was  
22 deprived of her rights. Where appellant failed to  
23 timely appeal an order referring to this matter in  
24 Crete v. Stokes, the plaintiff could not complain.

25 These are issues of immediate appeal,

1 and for the Court to force this case when you don't  
2 have jurisdiction, this Court, I'm sure, is aware  
3 that once the notice of appeal is filed, the Court  
4 loses jurisdiction.

5 THE COURT: I appreciate it, but I  
6 don't think the issues that you're appealing from  
7 is appealable now, and the trial is going forward.

8 MS. FISHER: If you don't think that,  
9 Your Honor --

10 THE COURT: I don't think that.

11 MS. FISHER: -- so then -- but you have  
12 still lost jurisdiction.

13 THE COURT: I don't think so. I don't  
14 agree with you.

15 MS. FISHER: If you've lost your --

16 THE COURT: I don't agree with you.  
17 I'm not going to hear any more from you. I don't  
18 agree with you. The case is going forward to trial  
19 today. Have a seat.

20 Anything else?

21 MR. WILLS: Your Honor --

22 THE COURT: Over here.

23 MR. WILLS: I'm sorry, Your Honor.

24 THE COURT: I see you've filed a motion  
25 in regard to recusing myself -- recusing me. Do

1     you want to go forward with that?

2                 MR. COOPER: Not at this time, Your  
3     Honor. The Court doesn't have --

4                 THE COURT: This is the time if you're  
5     going to do it.

6                 MR. COOPER: The Court doesn't have  
7     jurisdiction to hear it.

8                 THE COURT: If you want to take that  
9     position, that's fine. It just might say -- as I  
10    understand it, you're asking me to disqualify  
11    myself because I granted your motion -- temporary  
12    motion; is that correct?

13                MR. COOPER: No, Your Honor.

14                THE COURT: It's not?

15                MR. COOPER: That's not correct.

16                THE COURT: What is it then?

17                MR. COOPER: Well, Your Honor, the  
18    motion has been filed, but the notice of appeal  
19    removes that from the jurisdiction of the Court.

20                THE COURT: I read what you sent in.  
21    As I understand it, you want me to recuse myself  
22    because I granted your request for a temporary  
23    order.

24                MR. COOPER: No, Your Honor, that's not  
25    the gravamen of it. Mr. Kouten, who is now Judge

1 Kouten, submitted an order to you years ago ex  
2 parte --

3 THE COURT: Wait a minute. What order  
4 are you talking about? The only order I've seen is  
5 the order I signed apparently on your request  
6 asking for a temporary restraining order.

7 MR. COOPER: Right. And then after  
8 that, Mr. Kouten submitted another order --

9 THE COURT: Where is that?

10 MR. COOPER: I don't know.

11 THE COURT: Show it to me.

12 MR. COOPER: I don't have it.

13 THE COURT: Show it to me.

14 MR. COOPER: I don't have it here.

15 THE COURT: I haven't seen it in the  
16 file. Are you talking about an order -- an order  
17 that modified my order?

18 MR. COOPER: I believe that's correct.

19 THE COURT: And wasn't that document  
20 sent?

21 MR. COOPER: No, Your Honor.

22 THE COURT: Well, show it to me.

23 MS. FISHER: Your Honor, it's part of  
24 the file.

25 THE COURT: Okay. Let's look for it.

1 THE CLERK: I'm looking now, sir. It  
2 was filed June 10th of 2009. I'm sending it to  
3 you.

4 We're having printer issues. I'm  
5 having Robin print it out.

6 THE COURT: Okay.

7 THE CLERK: Order granting modification  
8 of TRO? Is that the one you're referring to?

9 MR. COOPER: I believe so. Are we  
10 going to be able to print it out?

11 THE CLERK: They're printing it out  
12 now.

13 MR. COOPER: Okay. Great. Thank you.

14 THE COURT: I have a copy now, so it  
15 will be part of the record. As far as this is  
16 concerned, on June 9, 2009, you know, it came  
17 before me on Defendant Huckabee's motion to  
18 reconsider and modify the temporary order that I  
19 issued on May 22, and present were Denny Cain  
20 representing the Plaintiffs, and Peter Kouten,  
21 however you pronounce it, K-O-U-T-E-N, representing  
22 the Defendant Bessie Huckabee.

23 I have absolutely no recollection in  
24 regard to any of this except for this order as far  
25 as the thing is concerned. If you're asking me to



1     disqualify myself based on the fact that I issued  
2     this order, I deny your motion. Anything else?

3                 MS. FISHER: Yes, Your Honor. So in  
4     the event that this Court is intent on proceeding  
5     when the Court has lost jurisdiction, I am asking  
6     this Court to stay this decision pending our rights  
7     to file a petition supersedeas, or a petition for  
8     mandate, or prohibition, or any appropriate  
9     petition.

10                Forcing this case to go to trial when  
11     we have the absolute right to file for change of  
12     venue, and we will be absolutely prejudiced without  
13     it, demands that we take all actions to protect the  
14     Plaintiffs, specifically Betty Fisher, in this  
15     case.

16                And I'm asking that you abide by the  
17     rules which take jurisdiction out of this Court,  
18     Your Honor. If they want to file a motion in the  
19     appellate court, let them. And then if that  
20     happens --

21                THE COURT: If you want to ask an  
22     appeals court to stay this, you can do that. We  
23     are going ahead with the trial today.

24                Bring the jury up.

25                THE CLERK: It's going to be one

1 minute. There are other judges that are picking  
2 juries.

3 THE COURT: Okay.

4 THE CLERK: So I'm going to find out  
5 now, if they are not going to use that panel, we  
6 will have them in about five minutes.

7 MS. FISHER: Your Honor, can we have a  
8 five-minute break?

9 THE COURT: Sure.

10 MR. WILLS: Your Honor, before we take  
11 a break, once the jury comes up and we've had the  
12 qualifications, will we have an opportunity  
13 afterwards to make our pretrial motions?

14 THE COURT: I will be glad to hear you  
15 now if you have any pretrial motions. I haven't  
16 seen any. What do you have pretrial?

17 MR. WILLS: Well, we would have some  
18 motions in limine, Your Honor. There are some --  
19 this case has been going on for a number of years.

20 THE COURT: I see it has. Since 2009,  
21 I believe.

22 MR. WILLS: That's correct, Your Honor.  
23 There has been changes in counsel as well because  
24 Mr. Kouten has been appointed to the bench, and  
25 there were some -- there had been some objections

1 to his representation at some point.

2 So now counsel is totally different.

3 To try to whittle down what has gone on in this  
4 case, some things have come forward that seem to  
5 complicate matters, to say the least, and we've got  
6 certain motions that we believe may be appropriate  
7 to help simplify matters and maybe --

8 THE COURT: I'm in favor of  
9 simplifying, but I don't know. We'll go ahead and  
10 pick the jury and then we'll see what pretrial  
11 motions you have. If you have anything in writing,  
12 I would be glad for you to go ahead and give those  
13 to me, give a copy, of course, to the other side,  
14 and see what we're dealing with it.

15 MR. WILLS: Okay. I don't have them in  
16 writing. I just want to make them orally.

17 THE COURT: All right. You will have  
18 an opportunity to do that.

19 MR. WILLS: Thank you, Your Honor.

20 THE COURT: Okay.

21 (A recess transpired.)

22 THE COURT: All right. We have the  
23 jury coming in.

24 MR. WILLS: Your Honor, just as a  
25 preliminary matter here, we are going to move that

1 Ms. Fisher be dismissed --

2 THE COURT: We are going to pick the  
3 jury first.

4 MR. WILLS: Okay. The other  
5 consideration we've made --

6 THE COURT: I'm sorry, we have the jury  
7 coming in. It's time to pick the jury.

8 (Jury panel in, 12:45 p.m.)

9 THE COURT: All right. Members of the  
10 jury, please give me your attention. My name is  
11 Tommy Hughston. I work as a circuit judge for the  
12 State of South Carolina, and I've been assigned by  
13 the chief justice of the Supreme Court of South  
14 Carolina to preside over this week's term of common  
15 pleas, or what we normally think of as civil court,  
16 here in Charleston.

17 You've been asked to come in to court  
18 and serve as a juror for the trial of the case this  
19 week. And the case that we have for trial today is  
20 the case of Betty Fisher and Lisa Fisher, as  
21 Plaintiffs, against Bessie, B-E-S-S-I-E, Huckabee,  
22 H-U-C-K-A-B-E-E; and the other individuals on the  
23 Defense is Defendant Kay -- and I never have been  
24 able to pronounce this name --  
25 P-A-S-S-A-I-L-A-G-U-E, (sic) Slade, S-L-A-D-E, and

1 PROSPECTIVE JUROR: Your Honor, Dawson  
2 Bolus, Number 32. I think I heard the name Carol  
3 Linville. I know a Carol Linville; I don't know if  
4 it's the same person or not.

5 THE COURT: Can you give us any other  
6 identifying thing, Mr. Cooper?

7 MR. COOPER: She was involved in animal  
8 charities.

9 PROSPECTIVE JUROR: Pet Helpers?

10 MR. COOPER: Right.

11 PROSPECTIVE JUROR: I know her.

12 THE COURT: How do you know her?

13 PROSPECTIVE JUROR: Through the years  
14 through Pet Helpers, living on Folly Beach.

15 THE COURT: Just a casual acquaintance?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Thank you very much for  
18 that information.

19 Anyone else know any of the people that  
20 were called out as possible witnesses on the  
21 Plaintiff side? If so, please stand.

22 No one else is standing.

23 Okay. Over here for the defense, call  
24 out any names of any witnesses that you may call.

25 MR. WILLS: Yes, Your Honor.

1 THE COURT: Go ahead.

2 MR. WILLS: Qualifying the jury as to  
3 anybody who has any dealings with or knows John  
4 Ancrum of the SPCA.

5 THE COURT: That's the Society for the  
6 Prevention of Cruelty to Animals.

7 MR. WILLS: Correct.

8 THE COURT: John Ancrum. Anybody know  
9 him or have any relationship with him, related or  
10 anything like that? If so, please stand.

11 No one is standing. All right.

12 Anybody else?

13 MR. WILLS: Anybody knows or has had  
14 dealings with Attorney Peter Kouten?

15 THE COURT: Peter Kouten, K-O-U-T-E-N.

16 MR. WILLS: Who is now Judge Peter  
17 Kouten.

18 THE COURT: For the probate -- is an  
19 assistant probate judge here in Charleston, I  
20 believe. Anybody related by blood or marriage, or  
21 you know him in any way? If so, please stand.

22 No one is standing.

23 Anybody else?

24 MR. WILLS: That's all, Your Honor.

25 Thank you.

1 THE COURT: All right.

2 Has anyone on the jury panel formed or  
3 expressed an opinion about any issue or matter that  
4 may be involved in the trial of this case? If so,  
5 please stand.

6 No one is standing.

7 Is there any member of the jury panel  
8 aware of any bias or prejudice in favor of or  
9 against either side of the case? If so, please  
10 stand.

11 No one is standing.

12 Is there any member of the jury panel  
13 aware of any bias or prejudice in any way that may  
14 affect you as far as being a juror in this case?  
15 If so, please stand.

16 Anybody on the panel know of any reason  
17 why you cannot give both sides a fair and impartial  
18 trial in this case? If so, please stand.

19 Anyone on the jury panel know of any  
20 reason whatsoever why you should not be picked and  
21 serve as a jury in this case? If so, please stand.

22 No one is standing.

23 Any additional questions from the  
24 Plaintiff?

25 MS. FISHER: Yes, Your Honor.

1                   THE COURT: Any additional questions  
2 from the Plaintiff?

3                   MR. COOPER: Yes, Your Honor.

4                   THE COURT: What is that?

5                   MR. COOPER: We would like to know  
6 whether or not any members of the jury panel have  
7 family members with dementia.

8                   THE COURT: Anybody on the jury panel  
9 have a family member that suffered with dementia?  
10 If so, please stand.

11                  PROSPECTIVE JUROR: Marion Collins, 65.

12                  THE COURT: And what would be your  
13 response to that?

14                  PROSPECTIVE JUROR: My grandma has  
15 dementia.

16                  THE COURT: Sorry.

17                  PROSPECTIVE JUROR: My grandma has  
18 dementia.

19                  THE COURT: Is she still alive?

20                  PROSPECTIVE JUROR: No.

21                  THE COURT: All right. Thank you.

22                  Yes, ma'am.

23                  PROSPECTIVE JUROR: Rachel Reski, 300.

24                  THE COURT: Your response?

25                  PROSPECTIVE JUROR: My great



1 grandmother. She passed away from it.

2 THE COURT: All right. Thank you.

3 Yes, sir.

4 PROSPECTIVE JUROR: Roy Rathbun, 295.

5 My deceased mother suffered from dementia for about  
6 four years.

7 THE COURT: Thank you.

8 Yes, sir, behind you.

9 PROSPECTIVE JUROR: Matthew Lay, 208.

10 My mother currently has -- not dementia, but a  
11 little of Alzheimer's.

12 THE COURT: Well, we all have a little  
13 issue with memory sometime. Thank you very much  
14 for that information.

15 Yes, sir.

16 PROSPECTIVE JUROR: My name is Nicholas  
17 Akins, No. 2. My grandmother has dementia.

18 THE COURT: Is she still alive?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Well, good.

21 Yes, sir; your name and number.

22 PROSPECTIVE JUROR: Dawson Bolus, No.

23 32. My mother had dementia; she passed away a few  
24 years ago.

25 THE COURT: Thank you.

1 Yes, ma'am; your name and number.

2 PROSPECTIVE JUROR: Carol Khimani, 191.

3 My dad passed away from Alzheimer's.

4 THE COURT: Thank you.

5 Yes, sir; your name and number.

6 PROSPECTIVE JUROR: Bradley Worsham,  
7 395. My grandmother passed away from Alzheimer's.

8 THE COURT: Any other questions from  
9 the Plaintiff?

10 MR. COOPER: Just whether or not anyone  
11 had a close friend who was a non-family member, the  
12 same question; if they suffered from dementia.

13 THE COURT: I appreciate that, but I'm  
14 not going to ask that. Anything else?

15 Anything from the defense?

16 MR. WILLS: Nothing further, Your  
17 Honor.

18 THE COURT: All right. All right. We  
19 have to get another list here to give to the  
20 lawyers to look over and then we will proceed to  
21 pick the jury. It will be 12 jurors and one  
22 alternate juror that has to be seated as the jury  
23 in this case.

24 While the clerk is getting that, and  
25 all, we have computer problems down here, but I'll

1 tell you, you may be interested in knowing this as  
2 far as background information, the way we go about  
3 picking juries today.

4 When I first started practicing law,  
5 and all, about 50 years ago, and all, the way we  
6 would do it at that time, we had each one of your  
7 names on an individual slip of paper.

8 Are you standing for some reason?

9 MR. COOPER: Yes, Your Honor, I was  
10 waiting to be heard. If I can have one more  
11 question asked.

12 THE COURT: What is that?

13 MR. COOPER: Whether or not any of the  
14 members of the jury panel, whether their families  
15 have inherited any money from a stranger, someone  
16 not related to them?

17 THE COURT: Well, I appreciate that.  
18 I'm not going to ask that.

19 As I was telling you, the way we used  
20 to go about picking a jury in court, we had each  
21 one of your individual names on a little individual  
22 slip of paper. And then we had all of those names  
23 in a box, or drum, or whatever, where you couldn't  
24 see in or see whose names were in there on the  
25 individual slips of paper.

1                   And then we went further and we had a  
2 child who couldn't read or write, or a person who  
3 was sight-impaired, I guess is the best way -- one  
4 way to say it, blind, in other words, we'd have  
5 somebody who could not read those names in any way,  
6 shape, or form reach in and draw out one name at a  
7 time, and that's the way we would go about picking  
8 the jury.

9                   We don't do that anymore; we have a  
10 blind computer that gives us your name. The clerk  
11 has punched a button on a computer, rather than  
12 having a child or a blind person draw out the  
13 names. We have a computer do it for us. We give  
14 that list to the lawyers, and I'm going to give  
15 them about 15 minutes to look over that list, and  
16 then we'll have another procedure that we follow  
17 where we'll actually wind up with 12 jurors and one  
18 alternate for the trial of the case.

19                  Thought you might be interested in a  
20 little history.

21                  So I'll give you about 15 minutes.  
22 It's about 1:00 now. Be back in at quarter after  
23 one. To the jury panel, if you want to leave the  
24 courtroom, you can. Be back in here in 15 minutes.  
25 Don't go too far.

1 (A recess transpired.)

2 THE COURT: All right. Before we pick  
3 the jury, I'm going to ask one more question.  
4 Anyone on the panel -- has anyone on the panel or a  
5 member of your family, that you know of, ever  
6 inherited something from somebody, a deceased  
7 person, ever inherited something from somebody who  
8 they were not or you were not related to, in some  
9 way kin to the person who left you something, left  
10 something in their estate? Anyone on the panel or  
11 a member of your family that you know of ever  
12 inherited something from somebody that they were  
13 not kin to you in some fashion? If so, please  
14 stand.

15 No one is standing.

16 All right. Ready to pick the jury.  
17 We'll use the numbers on the left-hand side next to  
18 the juror's name, and we will go through 1 through  
19 20. Each side has four strikes. For 1 through 20  
20 for the regular jurors, and 21 through 23 for the  
21 alternate juror. So use the numbers on the  
22 left-hand side next to the juror's name, 1 through  
23 20 for the regular 12 jurors, and then 21 through  
24 23 for the alternate juror.

25 Plaintiff goes first. Who do you want

1 Nicholas Akin; Juror 283, Sherry Pearson; Juror  
2 191, Carol Khimani; Juror 277, Robert Paladino;  
3 Juror 10 -- excuse me, 109, Heather Finucan; Juror  
4 65, Marion Collins; Juror 395, Bradley Worsham,  
5 Juror 160, Emily Horres; Juror 86, Rebecca Devitt;  
6 Juror 167, Thomas Hunt; Juror 335, Christopher  
7 Snipe; and our alternate juror is Juror 59,  
8 Allision Chronister.

9 THE COURT: All right. The first thing  
10 I would ask you to do, if you would follow the  
11 bailiff out that door. Don't take them very far.  
12 You're going to use that jury room across the hall,  
13 right?

14 THE BAILIFF: Yes.

15 THE COURT: Follow her out the door to  
16 the jury room. Be back with you in a few minutes.

17 (Jury panel out, 1:25 p.m.)

18 THE COURT: All right. We have the  
19 jury out, the door is closed. Any objection to the  
20 jury as presently constituted by the Plaintiff?

21 MR. COOPER: Yes, Your Honor. Part of  
22 our motion before Judge Jefferson for a change of  
23 venue was based on our desire to have a fair and  
24 impartial trial in a place where no one would know  
25 that Peter Kouten, one of the main witnesses for

1 the Defendant, was a judge.

2 During the jury selection today,  
3 Mr. Wills, even after the hearing the other day,  
4 mentioned that Peter A. Kouten was an associate  
5 probate judge, and I think the Court commented on  
6 it as well.

7 This is the exact type of prejudice we  
8 were trying to avoid with the motion for change of  
9 venue. We would move again for change of venue.  
10 We would also move that if Your Honor doesn't want  
11 to grant the motion for change of venue for a fair  
12 and impartial trial, we would move that this panel  
13 be dismissed and pick another one.

14 THE COURT: Okay. I appreciate your  
15 position. I deny the motion.

16 All right any objection to the jury as  
17 presently constituted by the Defense?

18 MR. WILLS: No objection, Your Honor.

19 THE COURT: All right. And what do you  
20 want to tell the panel out here?

21 THE CLERK: At 2:30 be back to the jury  
22 assembly room.

23 THE COURT: Members of the jury panel  
24 that's still seated in the audience, I can release  
25 you at this time. I would ask you to be back at

1 2:30 in the jury assembly room downstairs where you  
2 were this morning. Be back at 2:30.

3 (Jury panel out, 1:27 p.m.)

4 THE COURT: All right. I will bring  
5 them in and give them a lunch break until 2:30 and  
6 -- well, anyway, that's what I'm going to do.  
7 Bring them in.

8 (Jury in, 1:28 p.m.)

9 THE BAILIFF: Jurors are all present.

10 THE COURT: Good. We are going to  
11 swear you in now and let you go to lunch. And I'll  
12 ask the clerk to swear you as the jury in this  
13 case.

14 THE JURY,

15 being first duly sworn, testified as follows:

16 THE COURT: You may seated. Thank you.  
17 The oath that you just took was an oath whereby you  
18 swore you would decide this case based on the  
19 testimony and the evidence that we presented to you  
20 from the witness stand and my instructions to you  
21 on the law.

22 I really don't know much more about  
23 this case at this point in time than you do. All I  
24 know is what I told you earlier before you were  
25 picked as a jury in this case. This is a dispute



1 between the people that I introduced to you earlier  
2 arising out of the estate of Alice Shaw Baker, a  
3 lady who was living here in Charleston and died  
4 here a number of years ago.

5               This involves her will. It's a dispute  
6 about that. You will find out more about that as  
7 you go through the trial. It's a dispute, a  
8 disagreement, between these people about that will,  
9 and you are the ones that are going to decide that  
10 dispute. You are the sole judges of the facts of  
11 this case. I don't have anything to do with the  
12 facts. You are the judges of the facts.

13              During the course of the trial I have  
14 to make sure that the parties follow the rules. We  
15 have certain rules of evidence and rules of  
16 procedure that they're supposed to follow during  
17 the presentation of the facts to you from that  
18 witness stand over there.

19              That chair between you and me over  
20 there that I'm pointing to, that's the witness  
21 chair. That's the chair that people will sit in  
22 and tell you what they know about the facts that  
23 are in dispute between these parties.

24              Your job is to listen to that testimony  
25 and make a decision about who you believe and what

1    you believe in so far as that testimony, those  
2    facts are concerned. My job is to make sure that  
3    they follow the rules that we have to go by.

4               Perhaps during the trial, one or more  
5    of the lawyers will get up and say something like,  
6    Your Honor, I object, and hopefully have some  
7    reason as to why he or she objects to the question  
8    that's been asked or the answer that's been given.

9               When the lawyers do that, they're  
10   talking to me; they're not talking to you. They  
11   are calling a possible violation of one of these  
12   rules to my attention. Don't you concern yourself  
13   with those objections or how I may rule on those  
14   objections, whether I overrule it, sustain it, or  
15   whatever. It has absolutely nothing to do with  
16   your job in this case, which is to be the finders  
17   or the judges of the facts of this case.

18              Now, the way we're going to go about  
19   learning about this case is, first of all, I will  
20   allow each attorney to make a brief introductory  
21   statement to you. These are not arguments. The  
22   arguments will come at the conclusion of the case,  
23   but I do allow each attorney, one attorney per  
24   side, to make an introductory statement to you,  
25   tell you about the background of this case, how

1 it's gotten here, what the claims are insofar as  
2 this case is concerned. Claims by one side,  
3 answers to those claims by the other.

4 After we have had the introductory  
5 statements, we will have the presentation of  
6 evidence and testimony. The Plaintiffs will go  
7 first and call witnesses for you to hear from, and  
8 then we will switch and the Defendants can call any  
9 witnesses they wish you to hear from.

10 After both sides have had a full and  
11 fair opportunity to present all the facts, all  
12 evidence in regard to this case, then we'll have  
13 summations and arguments from the attorney.

14 And after that, I will discuss with you  
15 more fully what your duties and responsibilities  
16 are as a jury in the case and the law that you may  
17 apply in this case. And then you'll go to the jury  
18 room and you'll decide it based on the facts as you  
19 find them in favor of one side or the other in  
20 regard to this dispute that we will learn about  
21 through this trial.

22 Keep in mind what your job is going to  
23 be at the conclusion of the case. Looking at the  
24 time, the first thing I'm going to do is give you a  
25 break, a lunch break. It's time for you to have a

1 person to be designated as your spokesperson here  
2 in court should anything come up, should I need to  
3 communicate to you about any matter, or you need to  
4 communicate with me about any matter during the  
5 trial. The foreperson will be the spokesperson  
6 really in the court for that purpose.

7               So you-all decide who you want to be  
8 the spokesperson and let me know after lunch.  
9 You-all should have time to do that before you come  
10 back. Let me know anyway as such time you have  
11 decided who you want to be your spokesperson as far  
12 as this trial is concerned.

13               So with that, I'll let you go to lunch.  
14 I would ask you to be back in your jury room, not  
15 downstairs, not out here in the courtroom, but back  
16 here in your jury room at 2:30. Have a nice lunch.

17               (Jury out, 1:36 p.m.)

18               THE COURT: All right. We have the  
19 jury out, the door is closed. All right. What  
20 kind of pretrial motions do you have, Mr. Wills?  
21 Give me an idea of what you're talking about.

22               MR. WILLS: Thank you, Your Honor. As  
23 I began to mention earlier, the objection would be  
24 for me to try to shore up some of these issues and  
25 allow for only the proper issues to be before the

1 jury.

2 As a preliminary matter, I will mention  
3 that we have qualified and seated a jury, and we  
4 have a situation where I believe -- presently,  
5 we've got two Plaintiffs. One Plaintiff is Lisa  
6 Fisher. Lisa Fisher was only a Plaintiff insofar  
7 as she was the guardian and conservator of Alice  
8 Shaw Baker when they filed this suit. She was  
9 removed as the guardian and conservator of Alice  
10 Shaw Baker subsequently.

11 She is not an interested party in the  
12 will and not an interested party as an intestate  
13 heir. So she is really in a position where she has  
14 no standing to be a Plaintiff anymore. So  
15 preliminarily we want to ask that she be dismissed  
16 as a Plaintiff in the case based on that, based on  
17 her lack of standing to bring any cause of action  
18 in any capacity.

19 The second issue --

20 THE COURT: Let's see, what do you have  
21 to say in response to that?

22 MS. FISHER: Your Honor, that issue is  
23 on appeal right now --

24 THE COURT: I'm sorry?

25 MS. FISHER: The issue of my standing

1 is on appeal right now. There was a -- a motion  
2 for special fiduciary. That's still on appeal. So  
3 we renew our motion that this issue is on stay and  
4 this Court should not be deciding any of these  
5 issues.

6 Additionally, in the capacity that I  
7 brought it, the Complaint, those issues at the time  
8 still stand now. The duties and responsibilities  
9 that I have required me to stand up on behalf of  
10 Alice Shaw Baker.

11 THE COURT: Well, I don't understand --  
12 I don't understand. What damage is it going to do?  
13 Is there any disadvantage to having her named as a  
14 party to you?

15 MR. WILLS: Well --

16 THE COURT: Your client?

17 MR. WILLS: The damage is that she  
18 doesn't have -- she is not a proper party, she  
19 doesn't have standing, and there's no other  
20 Plaintiff --

21 THE COURT: Is this the first time that  
22 this has come up?

23 MR. WILLS: Your Honor, it is with  
24 these attorneys.

25 THE COURT: Okay. I'm going to leave

1 her in right now as far as a named party. I don't  
2 see what damage it does to anything as far that's  
3 concerned right now anyway. Maybe I will  
4 reconsider later on, but I'm going to leave it like  
5 it is right now.

6 What else?

7 MR. WILLS: The second issue is -- and  
8 that may have taken care of it -- Your Honor will  
9 be able to tell me directly, and I'll hush up if  
10 you do -- is that the real Plaintiff that we  
11 contend has actual standing, which is Betty Fisher,  
12 does not appear to be present.

13 So we've got a situation where we claim  
14 that we've got one Plaintiff at issue is not here.

15 THE COURT: Where is Betty Fisher?

16 MS. FISHER: She's still in California.

17 THE COURT: She's not going to be here?

18 MS. FISHER: She will be here at some  
19 point to testify.

20 THE COURT: She will be? All right.

21 MR. WILLS: She is not just a witness,  
22 Your Honor. She's the Plaintiff.

23 THE COURT: Okay. I see that.

24 Anything else?

25 MR. WILLS: Yes, Your Honor. The next

1    thing is our attempt to try to shore up some of the  
2    issues.  The Complaint they have filed asked for  
3    three issues to be decided as a declaratory  
4    judgment.  Those issues have to do with the will  
5    itself, the validity of the will itself; and those  
6    would be the issues of whether there was a  
7    revocation, whether the will was improperly  
8    executed, and whether there was a subsequent will  
9    to the one that was submitted to the probate court.

10           They have asked that those issues be  
11    decided by this Court.  We, as Defendants, also  
12    filed a motion for summary judgment on the same  
13    issues back in August sometime, but here we are at  
14    trial.  So, you know, that -- that motion may not  
15    be useful anymore.

16           My suggestion is that it's possibly  
17    judicially economical for the Court to be able to  
18    decide these issues as a matter of law before  
19    they're submitted to the jury.

20           THE COURT:  Well, I mean, we're talking  
21    about a will contest here, right?

22           MR. WILLS:  Correct.

23           THE COURT:  Well, I appreciate --

24           MR. WILLS:  Well --

25           THE COURT:  As far as any motions for



1 summary judgment, I hate that we're here now and  
2 we've picked a jury. So, you should have brought  
3 that up before and had it dealt with before. As  
4 far as I'm concerned, we're going to go ahead with  
5 the jury trial and let the jury decide any issues  
6 far as a will's contest.

7 MR. WILLS: Okay. Then moving to the  
8 next one is that we would move to bifurcate the  
9 trial, based on the fact that the issues regarding  
10 the validity of the will are separate and apart  
11 from the other issues that they raised in their  
12 summons and Complaint for which -- which are to be  
13 decided with a totally different standard of proof.  
14 We're going to be deciding the issues of the  
15 validity of the will under the clear and convincing  
16 evidence standard.

17 They have brought other issues to be  
18 decided such as promissory estoppel, unjust  
19 enrichment, attorneys' fees, application to have  
20 personal representative removed, fraud, unjust  
21 enrichment. Those are all going to be decided on a  
22 preponderance of the evidence standard, and we  
23 believe that the issues that are going to be raised  
24 in that aspect of the case are going to be  
25 confusing to the jury.

1           But, most importantly, if the issue of  
2   the validity of the will is decided in favor of the  
3   Defendants, then all of those other actions, all of  
4   those other causes of actions are no longer valid  
5   for the Plaintiff. They no longer have any  
6   standing to bring them.

7           So it's our contention that deciding  
8   the first part, just the validity of the will,  
9   disposes of all other issues, and then it would be  
10  appropriate to separate those two, and those two  
11  sets of issues for the sake of the jury keeping  
12  their focus on what it needs to be on. And  
13  shortening the trial perhaps by at least half.

14           THE COURT: What do you have to say in  
15  response to that?

16           MR. COOPER: Your Honor, we would -- we  
17  would -- we would consent to bifurcating the issue  
18  of revocation. And I think that would dispose of  
19  the will contest, because as a practical matter,  
20  very little -- there's very little dispute about  
21  the execution of the will.

22           And we think that we would be willing  
23  to bifurcate the issue of revocation of the will.  
24  That's our -- that's our --

25           THE COURT: So you're saying that --

1     you agree that the issue then to be decided by the  
2     jury then is whether or not the will as propounded  
3     -- whatever the correct terminology is -- as being  
4     the will of the deceased is a valid will under the  
5     law.

6                 MR. COOPER: Well, no, Your Honor,  
7     whether or not it was revoked.

8                 THE COURT: Okay. Well, if it was  
9     revoked, it wouldn't be a valid will then.

10                MR. COOPER: Correct.

11                THE COURT: So it's your position if it  
12     was revoked, it wouldn't be a valid will. That's  
13     the issue then for this jury to decide in this case  
14     now; is that correct?

15                MR. COOPER: That's our position in  
16     regard to the bifurcation. We would be willing to  
17     consent to bifurcation -- the issue of indication.

18                THE COURT: Okay. You're saying that's  
19     the only issue for this jury to decide is whether  
20     the will that the Plaintiff -- excuse me, that  
21     these ladies say was the will of the deceased was a  
22     valid will at the time of her death, correct?

23                MR. COOPER: I'm not sure I understood  
24     that.

25                THE COURT: All right. I say, the only

1 issue really then -- the only issue for the jury to  
2 decide is whether the will as brought in and  
3 contended by these two ladies over here, the  
4 Defendants, whether or not that is a valid will.

5 MS. FISHER: Your Honor, let me  
6 intervene on this argument. What we're saying is  
7 we would agree --

8 MR. WILLS: I'm going to --

9 THE COURT: Sit down. Let her talk.  
10 Let her talk.

11 MR. WILLS: All right. Your Honor.

12 MS. FISHER: Thank you, Your Honor. We  
13 would agree for purposes of this trial that the  
14 only issue -- that we bifurcate the issue of  
15 revocation. There are other issues involving  
16 nonprobate property that will have to be decided at  
17 a later date, but, at this point, the main issue  
18 that we believe will focus and will expedite the  
19 case is the revocation of the will.

20 But at the same time, we are neither  
21 waiving our rights to pursue those other actions  
22 based on the success of the trial, nor are we  
23 waiving our objection to the Court hearing that --

24 THE COURT: I understand that. But the  
25 only issue for the jury to decide is whether or not

1 the will as propounded, however you want to phrase  
2 it, by the other side is a valid will or not,  
3 correct?

4 MS. FISHER: Well, the reason I'm not  
5 answering yes or no, I want to be clear that it's a  
6 bifurcated issue. It's not a resolution of the  
7 entire case. It's a bifurcated issue that should  
8 be heard first. Is that clear what I'm arguing?

9 THE COURT: No, it's not.

10 MS. FISHER: Okay. What it sounds like  
11 the Court is asking, and I may be mistaken, is  
12 that --

13 THE COURT: Let me put it to you this  
14 way. If you have any challenge to the validity of  
15 the will that's been produced and asked to be the  
16 will to be acted upon by the probate court, this is  
17 the time to contest it. This is the time to put  
18 forward those things that you think invalidate that  
19 will one way or another. Through revocation in  
20 terms that she made another will, tore it up,  
21 whatever.

22 Anything that you think makes that not  
23 the will to be acted upon through the probate  
24 court, now is the time to put it in, in this case.

25 MS. FISHER: Yes, Your Honor. I

1 understand what you're saying. What I would like  
2 to clarify is there are issues, say, undue  
3 influence --

4 THE COURT: And that's something that  
5 you could put in to challenge the validity of the  
6 will.

7 MS. FISHER: That's right. But what  
8 I'm saying to the Court is for brevity and for  
9 resolving the main issue of this case, the Court  
10 can, and I believe should, just focus on the  
11 revocation --

12 THE COURT: No, I'm not doing that.  
13 I'm telling you, anything that you want to -- that  
14 you contend makes that an invalid will, now is the  
15 time to present your evidence in regard to that  
16 before this jury.

17 MS. FISHER: Okay. So then I would  
18 clarify for the Court with the specific causes of  
19 actions -- hold on one second. I need to make sure  
20 that the Complaint is here so I can be clear on  
21 what I'm saying to you.

22 THE COURT: I can't hear half of what  
23 you're saying.

24 MS. FISHER: I'm sorry, Your Honor.

25 THE COURT: I'm getting hard of

1     hearing. You need to speak up.

2             MS. FISHER: I apologize.

3             THE COURT: That's all right.

4             MS. FISHER: So I'm looking right now  
5     to get the verified Complaint so I can make sure  
6     that the causes of actions are clear so the Court  
7     knows what we are proceeding on. If you could give  
8     me a second.

9             THE COURT: I have it right here.

10            MS. FISHER: Yes, Your Honor.  
11     Unfortunately, I don't, and I don't want to  
12     misstate things to you. I'm trying to get it up  
13     right now. Should just take me a second. I think  
14     I have it here.

15            Okay. Thank you for your patience. I  
16     found it. So for clarity, for purposes of this  
17     case, the first cause of action for constructive  
18     trust and the second cause of action for  
19     revocation.

20            So it would be the second cause of  
21     action would be -- what we would be dealing with  
22     during this part of the case, Your Honor. Third  
23     cause of action for undue influence. The fifth  
24     cause of action for improper execution. With  
25     regard to the sixth cause of action for subsequent

1 will.

2 And with regard to the removal of  
3 Bessie Huckabee as personal representative, I  
4 believe that that still has an impact on this part  
5 of the case, because her standing in this case is  
6 in the related appeals that are still outstanding,  
7 may weigh into the decision about the rest of the  
8 -- prosecution of the rest of that case.

9 So the other issues --

10 THE COURT: I'm not going to accept  
11 anything that -- we're trying a will's case here is  
12 the way I see it. So, you know, you brought a case  
13 challenging the will and saying this is not her  
14 will. So you could present evidence that you think  
15 supports that, and you can present evidence that  
16 you think is contrary to that.

17 So that's what this case is about,  
18 whether that case will that's been brought in and  
19 presented to the probate court is a valid will.

20 MS. FISHER: And I respect that and  
21 that's fine, Your Honor. I got on the record the  
22 causes of actions which I believe are relevant  
23 and --

24 THE COURT: All right. That's what  
25 this case is about, and that's the way it's going



1 to be tried.

2 All right. We'll stop now and be back  
3 at 2:30.

4 (A luncheon recess transpired;  
5 1:56 p.m. - 2:37 p.m.)

6 THE COURT: Before we do anything  
7 further, I went back to the code to make sure about  
8 what we're dealing with here, you know. And I must  
9 confess, it wasn't until Friday of last week that I  
10 was aware of this case and knew that I was going to  
11 be involved in trying it and everything.

12 But, anyway, so looking at Section  
13 62-1-302 of the South Carolina Code of Laws, which  
14 has to do with the probate code and so forth and so  
15 on, paragraph D of that says, notwithstanding the  
16 exclusive jurisdiction of probate court -- so forth  
17 and everything. Formal proceedings for the probate  
18 of will whether it provides for the -- may be  
19 removed to the circuit court, which I assume it was  
20 removed to the circuit court properly and that's  
21 why it's here.

22 And then it says, formal proceedings  
23 for the probate of will for the appointment of  
24 personal representative shall be tried de novo in  
25 the circuit court.

1 I don't know what you've done as far as  
2 how you see the case and everything, but based on  
3 that it appears that you have to -- you have to --  
4 I'm looking at the Defendants. You have to put up  
5 the will and show that it was -- that you contend  
6 it's the will and that she executed it properly and  
7 so forth and so on; and then, of course, they're  
8 going to be attacking that.

9 But to start with, you have to propound  
10 the will and prove it is the will to start with.  
11 Do you agree with that?

12 MR. WILLS: Well, Your Honor, I do. I  
13 believe that the law goes on to say that a properly  
14 submitted will that is properly attested with a  
15 self-proving affidavit that's included in the will  
16 is before the Court properly. We can propound the  
17 will. We have a certified copy of it, but the  
18 original has been filed with the probate court  
19 already. And we have a certified copy --

20 THE COURT: I'm just trying to figure  
21 out -- I haven't been involved in a will's contest  
22 since the first or second year I was out of law  
23 school and I was working as a lawyer for another  
24 lawyer. And I was involved in a wills contest  
25 then, and I certainly don't remember exactly how we

1     proceeded at that point in time.

2                     I know we had a jury trial in circuit  
3     court in regards to the will, but I hadn't bothered  
4     myself, so to speak, to try to remember how it  
5     would proceed until now. And so I'm trying to  
6     figure out exactly how it is we're supposed to  
7     proceed in regards to this.

8                     It would seem to me that it says you're  
9     supposed to put up -- I guess you should put up the  
10    will and prove the will by the witnesses and so  
11    forth, and whatever. Just like you did in -- or  
12    whatever, and all. And then, of course, they can  
13    cross-examine and question that and that's the way  
14    we will proceed.

15                    MR. WILLS: Correct. And, Your Honor,  
16    and this goes to a procedural issue, I suppose,  
17    following the code here, we have been proceeding  
18    under 62-3-406.

19                    THE COURT: Let me see what that is.  
20    62 --

21                    MR. WILLIS: 62-3-406.

22                    THE COURT: What is your contention  
23    then?

24                    MR. WILLS: To that point, we have  
25    submitted and filed with the Court affidavits from

1 the attesting witnesses. Normally, in the circuit  
2 court, as we know, an affidavit would be  
3 insufficient in any trial setting because it could  
4 not be cross-examined obviously.

5 Under the probate code, which as I  
6 understand we need to be proceeding under even in  
7 circuit court, the requirement of setting up the --  
8 and properly admitting the will is satisfied by  
9 submitting an affidavit in addition to the  
10 self-proving affidavit clause in the will itself;  
11 but we have submitted a separate affidavit from the  
12 subscribing witness to the will and the person --  
13 and someone who was with the law firm of the lawyer  
14 who drafted the will who is now in his mid-90s and  
15 long since retired.

16 If we need to bring the people to  
17 testify we can do that, but we have not been  
18 following this code section. We have only  
19 submitted the affidavits to this estate.

20 THE COURT: What do you say in regard  
21 to this? Moving to the other side.

22 MR. COOPER: Your Honor, I think the  
23 affidavits are totally insufficient because you  
24 can't cross-examine them. Number two --

25 THE COURT: Wait a minute. Wait a

1 minute. What is -- 62-2-503. What I was saying,  
2 looking at that, is that, you know, you prove the  
3 will. We started -- we start from the beginning.

4 You have to prove the will here in  
5 Court, I guess, for the purposes of this action,  
6 you know, as you would in the probate court. So  
7 you prove it however you think you should prove it  
8 in this court, and that's where we start.

9 Do you practice in the probate court?

10 MR. WILLS: I don't.

11 THE COURT: Do you?

12 MS. FISHER: (Nodding head.)

13 THE COURT: Then you need to prove it  
14 as you would in probate court. That's what it  
15 says. We're starting from the beginning.

16 MR. WILLS: And I believe that the way  
17 this will has been drawn up and the affidavits that  
18 we've provided under the rules of probate court is  
19 a self-proving --

20 THE COURT: It may be. This is my  
21 first exposure to that. This was years ago, you  
22 know, so I'm looking at it for the first time since  
23 many, and they have changed the law since then.

24 MR. WILLS: Correct, Your Honor.

25 THE COURT: So you prove it the same

1 way you would prove it in probate court, and they  
2 attack it the same way then, the same way they  
3 attack it in probate court.

4 MR. WILLS: And it's my understanding  
5 that the will is to be submitted in the probate  
6 court at the time of the death of the decedent, and  
7 that the guardian and conservator, or whoever is in  
8 possession of the will, as part of the probation  
9 procedure must turn over the will, that they know  
10 is the valid final will.

11 That was done in this case. That  
12 transferred over here to circuit court. I don't  
13 believe that there is a requirement to now prove  
14 the will if --

15 THE COURT: According to the statute,  
16 the way I read the statute, it says it's de novo.  
17 It means you start from the beginning. That's the  
18 way I read it.

19 MR. WILLS: Well, it could be very much  
20 that, Your Honor, but if the will is self-proving,  
21 I believe that the law states that that is what it  
22 is. That there's no need to prove it, if it is  
23 self-proving.

24 THE COURT: Well, you present whatever  
25 you think is self-proving as evidence in this case,

1 and that's it, you know, but you have to start from  
2 the beginning by presenting the will and whatever  
3 you say it is that makes it self-proving here in  
4 court now. And we go from there.

5 MR. WILLS: Okay. And I just need to  
6 know -- I need to see whether or not --

7 THE COURT: Talk with your co-counsel  
8 there if you want to, but that's the way -- from  
9 reading the law, and all now, that's the way you  
10 proceed.

11 MR. WILLS: And to that point, Your  
12 Honor, since there are some other complications and  
13 this has been an issue as well, I don't mean to  
14 diverge into a different topic, but in this  
15 Complaint that they have filed, they do not name  
16 Bessie Huckabee as the personal representative.

17 They only name her as the Defendant;  
18 however, in the Complaint itself, it asks for  
19 relief with regard to Bessie Huckabee as the  
20 personal representative. In other words, they're  
21 asking to have her removed. We've talked about  
22 bifurcating those issues.

23 Ms. Crowley here is not my co-counsel.  
24 She is here in a representative capacity for -- it  
25 just gets more and more complicated, doesn't it,

1 Your Honor? But because this has been made an  
2 issue in the past, I have learned to clarify it for  
3 the record.

4 Ms. Crowley is here as counsel for  
5 Bessie Huckabee in her capacity as the personal  
6 representative. That's how we all got here in the  
7 first place, Your Honor. Because I took over for  
8 the Defendants when they raised this issue with  
9 Mr. Kouten.

10 THE COURT: Raised what issue?

11 MR. WILLS: Of Mr. Kouten representing  
12 both the personal representative and the Defendants  
13 at the same time. It would make your head swim, I  
14 understand, Your Honor. We have been swimming all  
15 weekend, but --

16 THE COURT: Well, like I say, this is a  
17 wills contest, and that's what it is, a wills  
18 contest. So that's the way I see it anyway, and  
19 that's what we're trying, a wills contest. Is it  
20 the will or not?

21 So you have to prove the will; they  
22 have to attack the will.

23 MR. WILLS: Okay.

24 MR. COOPER: Your Honor, just for  
25 clarity, the issue about the attorney Mr. Kouten



1 was not that he was representing Bessie Huckabee as  
2 the personal representative and also the Defendants  
3 at the same time, but that he was representing the  
4 decedent, Alice Shaw Baker.

5 He was appointed by the probate court  
6 to represent her, and while he was representing  
7 her, he took on these other representations in  
8 direct conflict with her interests. That was the  
9 issue that we have raised to the supreme court.

10 THE COURT: All I know is we're trying  
11 a wills case. Do you all want some more time to  
12 get ready to try a wills case? Maybe that's what  
13 you need over the evening recess and maybe I need  
14 to get more up to speed as far as what we're  
15 dealing with, but that's the way I see it.

16 We're trying a wills case. You have to  
17 propound the will. The way I read the law, it's de  
18 novo. You have to start from the beginning.

19 You would do just like you were doing  
20 it in probate court. Prove the will; if they want  
21 to attack it, they attack it.

22 MR. WILLS: Okay. Maybe we can make a  
23 stipulation here then.

24 THE COURT: Whatever you-all want to  
25 do, but that's the way I see it. That's the way I

1     see it.

2                   MR. COOPER: Your Honor, just for  
3     clarity, we don't agree to the affidavits coming  
4     in. If he wants to call witnesses, he can call  
5     them.

6                   THE COURT: Well, if you want to do it,  
7     you have to look at the law -- he's not going to  
8     agree to it. But you look at the law. If you  
9     think the law is on your side as far as the way a  
10    will can be proved, you do it; you ask me to rule  
11    and I'll rule.

12                   (Off-the-record conference.)

13                   MR. WILLS: Okay. Your Honor, they  
14    will not stipulate that the will that they  
15    submitted to the Court as the final will and  
16    testament, they will not now stipulate that that  
17    document is the final will and testament. So I can  
18    put up the --

19                   THE COURT: I'm somewhat confused  
20    because maybe -- like I say, this is one of those,  
21    again, where I'm not educated enough in regard to  
22    this situation. The will that we're talking about  
23    was submitted by the Plaintiffs to the probate  
24    court.

25                   MR. WILLS: That's correct, Your Honor.

1 And now they were saying it's not the will.

2 MR. COOPER: Your Honor, we submitted  
3 the will to the probate court as something that we  
4 found in her papers after her death. We don't know  
5 whether it's the last one. We don't know --

6 THE COURT: All right. All right. I'm  
7 just curious. Okay. All right.

8 MR. WILLS: They submitted it before  
9 the --

10 THE COURT: I'm just saying you have to  
11 prove the will. According to the law it starts de  
12 novo. So you have to prove the will here in court  
13 just like you would in probate court. If the  
14 affidavit and so forth that you're talking about is  
15 enough to prove the will, that's fine. If not,  
16 then you have to bring in the people to do it.

17 MR. WILLS: Okay. Well --

18 THE COURT: Do you want some more time  
19 today to get ready along those lines, or are you  
20 ready to go ahead?

21 MR. WILLS: I think we'll need some  
22 more time.

23 THE COURT: I think that's a good idea.  
24 Me too. I have to go back and do a little studying  
25 and get ready in regards to it myself. It's been

1 50 years since I had to look at these issues.

2 So bring the jury in.

3 (Jury in, 2:49 p.m.)

4 THE COURT: We have the jury back with  
5 us. You can be seated. Thank you.

6 Have you selected a foreperson, a  
7 spokesman for the jury?

8 FOREPERSON: Yes, Your Honor.

9 THE COURT: Who is it? You?

10 FOREPERSON: That is me.

11 THE COURT: What's your name?

12 FOREPERSON: My name is Rebecca Devitt.  
13 I am Juror Number 86.

14 THE COURT: Juror 86. I see you there.  
15 Thank you.

16 FOREPERSON: Thank you.

17 THE COURT: Okay. And that is the seat  
18 that we reserve for the foreperson of the jury. So  
19 if you would sit there in that seat at all times  
20 during the trial. And then the alternate juror is  
21 Ms. Chronister?

22 A JUROR: Yes, sir.

23 THE COURT: That's you?

24 A JUROR: Yes, sir.

25 THE COURT: That's the seat we reserve

1 for the alternate juror. The rest of you are free  
2 to sit anywhere you like in the jury box as such  
3 time you come and go from the courtroom, but if you  
4 would, let the spokesperson, the foreperson sit  
5 there and the alternate juror sit back there.

6 I will ask the clerk to distribute  
7 notepads and pens to each of you now. Each one of  
8 you gets a notepad and a pen. They are passing  
9 them around. Everybody will get one. I will make  
10 sure that everybody has a notepad and a pen.

11 All right. I believe that everybody  
12 has a notepad and a pen. Anybody that doesn't,  
13 raise your hand. No hands raised. Okay.

14 I don't know whether there's anything  
15 written in any of those. If there is, tear it out  
16 and throw it away. It should be a blank pad. If  
17 you find anything in there, tear it out and throw  
18 it away. We have used these pads before.

19 So I don't want any love notes or  
20 anything like that left in there or derogatory  
21 comments about how bad the judge is. If you have  
22 anything in there, tear it out and throw it away.  
23 That will be your notepad and nobody else's notepad  
24 during the course of the trial.

25 Put your name on the first page or on

1 the outside cover. Put some identifying mark there  
2 so you can easily identify that notepad. When you  
3 leave, I'm going to ask you to leave it here. We  
4 will take them and keep them secured, and nobody is  
5 going to be looking at them, checking on them,  
6 anything of that sort. It's your notepad and yours  
7 only.

8               Some judges don't think it's a good  
9 idea to allow jurors to take notes. I think it is  
10 a good idea to allow jurors to take notes, but I  
11 want to tell you, notes are to be used only as  
12 memory aids. Notes are not entitled to any greater  
13 weight than the recollection or the impression of  
14 each juror as to what the testimony or evidence  
15 actually was.

16              Those will be your notes and your notes  
17 only. No one will be looking at them, checking on  
18 it, or anything of that sort. Those would be your  
19 notes and your notes only.

20              As I said, nobody would be checking on  
21 them or anything of that sort. At the conclusion  
22 of the trial, I would ask you to tear out any notes  
23 that were made. Don't tear up the notebook. Just  
24 tear out the notes and take them with you. Those  
25 would be your notes and your notes only.

1                   They are not entitled to any greater  
2 weight than the recollection or the impression of  
3 each juror as to what the testimony or evidence  
4 actually was.

5                   Now, I thought we were going to be able  
6 to get started with the actual trial of this case  
7 this afternoon, but I've been discussing some  
8 procedural matters with the lawyers, and I have  
9 found that, really, we are not quite ready to get  
10 started with the actual testimony in this case yet.  
11 So I'm going to let you go at this time and ask you  
12 to be back with us tomorrow morning at 9:30.

13                  I apologize for that. I thought the  
14 case was ready to go ahead with testimony this  
15 afternoon, but over the recess I've discussed the  
16 matters with the lawyers, and I now find that we  
17 need a little bit more time in regard to what we  
18 call pretrial matters in order to be able to have  
19 the witnesses come up and start talking about the  
20 facts of this case.

21                  So I need to spend the rest of the  
22 afternoon getting ready with the lawyers as far as  
23 this case is concerned; so I will let you go and  
24 ask you to be back with us tomorrow morning at  
25 9:30.

1           Do not discuss the case even with your  
2 family, friends, or even amongst yourselves until  
3 you have heard all the testimony, you've heard all  
4 the evidence, everything's been done, that's when  
5 you will discuss it.

6           So if somebody wants to know what  
7 you're doing this evening, you just tell them  
8 you've been picked for a jury that's going to be  
9 trying a case this week and that the judge -- blame  
10 it on me if you want to -- the judge specifically  
11 told you not to discuss it with them. You can tell  
12 them all about it once it's over. Until it's over,  
13 you cannot discuss the case with anyone.

14           Keep that in mind throughout the trial,  
15 and I will let you go now. Be back in the jury  
16 room tomorrow morning at 9:30.

17           Have a nice evening. Leave your  
18 notepads with the bailiff as you leave.

19           (Jury out, 2:56 p.m.)

20           THE COURT: All right. The jury is out  
21 now. Okay. So as I see it, like I say, under the  
22 code, the way we're proceeding, you have to prove  
23 the will, they can contest the will.

24           MR. WILLS: Will do, Your Honor.

25           THE COURT: Anything else you want to



1 say at this point?

2 MR. COOPER: Yes, Your Honor, I have a  
3 number of pretrial motions.

4 THE COURT: Okay. Go ahead.

5 MR. COOPER: First, I would ask that  
6 the Court postpone, give us an opportunity to file  
7 a petition with the court of appeals, at least  
8 through tomorrow lunchtime. We can have our  
9 petition up there. I don't know how long it would  
10 take them to rule on it, but in view -- in view of  
11 the issues and in view of the notice of appeal, we  
12 believe that this Court has no jurisdiction to hear  
13 this matter right now because of our appeal of  
14 Judge Jefferson's ruling that it go forward now at  
15 this term of court and so forth here in Charleston.

16 THE COURT: I appreciate your position.  
17 I deny your motion.

18 MR. COOPER: Thank you.

19 THE COURT: Anything else?

20 MR. COOPER: Yes, Your Honor. The  
21 second motion has to do with one of the Plaintiffs,  
22 Betty Fisher.

23 THE COURT: I'm sorry?

24 MR. COOPER: I said, my second motion  
25 has to do with one of the Plaintiffs, Betty Fisher.

1 She's 81 years old. She's in California. She is  
2 coming out here to testify. We would ask that she  
3 be given ADA accommodation just to attend the trial  
4 as needed, but not be required to stay here the  
5 whole time.

6 THE COURT: She doesn't have to be here  
7 as far as I'm concerned. If she's coming, she can  
8 testify and she can leave when she wants to leave  
9 as far as I'm concerned because you-all want her  
10 here.

11 MR. WILLS: Your Honor, we insist that  
12 she stay the duration in case we need to call her  
13 in rebuttal.

14 THE COURT: Well, we'll just see how --  
15 she's going to be here, and if she's going to  
16 testify and she testifies, I presume at that time  
17 you can let me know whether you need her to stay or  
18 whether you think she needs to stay or whatever.  
19 So we will deal with that after she has testified.

20 MR. COOPER: Thank you. Next motion is  
21 to a motion in limine to preclude argument by  
22 counsel that appointment of the conservator is  
23 evidence of Alice Shaw Baker's lack of capacity to  
24 make or revoke the will after the appointment. I  
25 think that's the law in South Carolina.

1           The appointment of the conservator  
2   doesn't of itself -- is not evidence of lack of  
3   capacity.

4           MR. WILLS: Your Honor, the orders  
5   appointing a conservator specifically said she has  
6   no capacity specifically with regard to making or  
7   revoking a will. It's express in the order. So  
8   regardless of whether or not in South Carolina the  
9   appointment of a conservator has that effect, this  
10   order says that this individual cannot revoke or  
11   modify a will. So I think that needs no further  
12   explanation.

13           MR. COOPER: Your Honor --

14           THE COURT: Let me think about this  
15   just a minute. So, again, I'm getting educated  
16   about this so ... at some point a conservator --  
17   who was appointed as conservator?

18           MR. COOPER: Lisa Fisher.

19           THE COURT: Lisa Fisher was appointed  
20   as conservator for the deceased.

21           MS. FISHER: Yes, Your Honor.

22           THE COURT: An order appointing her as  
23   conservator says that she doesn't have testamentary  
24   capacity?

25           MR. WILLS: That's correct. That was

1 four months before the decedent's death.

2 MR. COOPER: Your Honor, the effect of  
3 that order is of course -- the effect of the order  
4 itself is a matter of law. I will say that the  
5 order also contains an order that she be evaluated  
6 by Dr. Randy Waid as to her capacity.

7 And so I just think that what I'm  
8 asking is that the Court preclude any argument or  
9 comments by counsel of that appointment of the  
10 conservator as evidence.

11 It may turn out to be as a matter of  
12 law that the order has some effect, but I think  
13 that's a matter of law. What effect that order in  
14 appointing the conservator had and whether that  
15 affected her ability or capacity, her rights, those  
16 types of things would be a matter of law to be  
17 decided outside the presence of the jury.

18 I think it's improper for Mr. Wills or  
19 attorneys for any of the Defendants to make the  
20 argument that she was not competent, didn't have  
21 the capacity to make or revoke a will just because  
22 a conservator had been appointed.

23 When the order was issued, Your Honor,  
24 it specifically said, we don't know what her  
25 capacity is. We're sending her to Dr. Waid for

1 evaluation. And it came back, and I'm satisfied  
2 that the evaluation said that she did have the  
3 capacity.

4 Now, there's still a legal issue as to  
5 what effect of the language of that order is, but I  
6 think it's improper for argument to the jury and  
7 comments by counsel.

8 THE COURT: Well, I don't know. I will  
9 have to look at it and see. Those are the kind of  
10 things that I don't know that I can rule on that  
11 right now as far as things are concerned. I will  
12 have to look at it in the context of the whole case  
13 at the time, as far as like that -- what that  
14 means.

15 MR. COOPER: Yes, Your Honor.

16 THE COURT: And what effect it has on  
17 the case.

18 MR. COOPER: And the next pretrial  
19 motion I would have would be to preclude mention of  
20 Peter Kouten's appointment as associate --

21 THE COURT: Wait a minute. Wait a  
22 minute. Start over again.

23 MR. COOPER: Yes, Your Honor. The next  
24 motion is to preclude mention of Peter A. Kouten's  
25 appointment as associate probate judge or his

1 appointment as judge of --

2 THE COURT: Leave out anything as far  
3 as him being a judge or anything like that. When  
4 he comes, of course, it may come out during his  
5 testimony, but don't argue that -- don't start --  
6 don't talk about that any further. Okay? Do you  
7 hear me talking to you?

8 MR. WILLS: Oh, yes, sir.

9 THE COURT: Leave that out.

10 MR. WILLS: We had no intention.

11 THE COURT: Don't try to bolster your  
12 case by calling him as a judge. If that would be a  
13 bolstering, I don't know.

14 Anything else?

15 MR. COOPER: Yes, Your Honor. My next  
16 motion is to disqualify Brook Wills as attorney --

17 THE COURT: Wait a minute. Disqualify  
18 what?

19 MR. COOPER: Brook Wills as attorney  
20 for the Defendants.

21 THE COURT: Why?

22 MR. COOPER: Based on his association  
23 with Mr. Kouten. The fact that Mr. Kouten  
24 represented Alice Shaw Baker during her  
25 conservatorship and she, we believe, gave

1 Mr. Kouten confidential information. He then  
2 passed it on to Mr. Wills. We think that is a  
3 violation of Ms. Shaw Baker's rights.

4 THE COURT: I'm not sure I understand  
5 that. Do you know what he's talking about?

6 MR. WILLS: No, Your Honor.

7 THE COURT: Okay. Well, I don't  
8 understand that.

9 Anything else you want to say as to the  
10 reason why I should disqualify him from  
11 representing the Defendant?

12 MR. COOPER: Well, Your Honor, the  
13 Supreme Court of South Carolina has disqualified  
14 the whole probate court from hearing the probate  
15 matter and presumably based on the fact that  
16 Mr. Kouten is an associate judge over there now.

17 He is the one that was having dual  
18 representation of Alice Shaw Baker at the same time  
19 that he represented the Defendants here, who have  
20 totally inconsistent aims and objectives and that  
21 was an improper representation on his part. That's  
22 our position.

23 THE COURT: You have to start over and  
24 tell me what you're talking about. I don't  
25 understand it.

1           MR. COOPER: Your Honor, the only way I  
2    can explain it, he was appointed by the probate  
3    court to represent the deceased. The deceased, her  
4    main intention in life --

5           THE COURT: I mean, she was dead at the  
6    time.

7           MR. COOPER: No. No, Your Honor. This  
8    is in the conservatorship while she was still  
9    alive. The probate court took up the matter  
10   whether she needed a conservator or guardian. In  
11   that matter, Mr. Kouten was appointed as her  
12   attorney, her guardian ad litem, visitor, and he  
13   was mandated to go and visit with her on a regular  
14   basis, which he did.

15           And it's our contention that she  
16   expressed to him she wanted all of her worldly  
17   goods to go to animal charities. She had these  
18   dogs she loved. She had no family that were around  
19   here and she had considerable amount of assets and  
20   she wanted them to go to animal charities.

21           She loved dogs. She had all pictures  
22   -- her whole house was covered with pictures.  
23   Their graves were dogs in the backyard. She spent  
24   most of her time and efforts trying to support dog  
25   rescues and animal charities. She tried to give



1 her house to the SPCA and they wouldn't take it.

2           Anyhow, this was her focus. At the  
3 same time -- and Mr. Kouten knew that. At the same  
4 time he took on the representation of these  
5 Defendants here who came in and got her to change  
6 the will over to benefit them, to give all of her  
7 pension funds and life insurance and those types of  
8 things, and name them as beneficiaries.

9           We just think that was totally  
10 inappropriate for Mr. Kouten, but the issue here is  
11 when he passes this case on to his friend,  
12 Mr. Brook Wills, who I'm sure is a fine, upstanding  
13 person, I've found him to be so through this  
14 litigation, but I do think it's inappropriate for  
15 him to have the benefit of those confidential  
16 discussions with Mr. Kouten. And I think it --  
17 anyhow, that's my motion.

18           THE COURT: I appreciate your position.  
19 I deny the motion.

20           MR. COOPER: Thank you, Your Honor.

21           My next motion -- I have two more. One  
22 is to preclude reference to Lisa Fisher as an  
23 attorney. She obviously -- not before the jury.  
24 She is an attorney and she is admitted pro hac vice  
25 in this case. Because she is a witness before the

1 jury, she is not going to be acting as an attorney.

2 And I just think it's -- it would be  
3 appropriate if counsel were precluded from  
4 referring to her as an attorney. Just seems like,  
5 you know, she is here as a witness in front of the  
6 jury and not as an attorney.

7 MR. WILLS: And we would, obviously,  
8 not agree with that. She has knowledge and ability  
9 and training as a lawyer. She -- it has been an  
10 effect of her entire case. It has been an effect  
11 of what she has submitted to the Court. It's going  
12 to be -- it's going to be part and parcel of what  
13 she's going to be testifying about.

14 If -- she knows -- not only is she an  
15 attorney, but she is an attorney in the area of  
16 probate law. For her to now going to stand up  
17 after there was an order by a court entered and  
18 that says, there shall be no revocation or  
19 modification of a will, and then she goes out and  
20 she's going to testify that after entry of that  
21 order that Alice Shaw Baker made a verbal, oral  
22 revocation of the will subsequent to that order  
23 that she was a part of.

24 Well, she knows better and she knows  
25 better as a lawyer, and the jury needs to know

1 that. And it goes to the -- to the heart of their  
2 motivation in this entire matter, which is to try  
3 to back-door the estate and take the money.

4 MR. COOPER: Your Honor --

5 THE COURT: She is what she is. She's  
6 a lawyer, and I don't see how that is something  
7 that's -- you know, that I would keep out. If she  
8 takes the stand as a witness, and I think that you  
9 could ask the question about it, but, I mean, as  
10 far as any great cross-examination or going into  
11 the fact that she's a lawyer, I don't know. At  
12 this time, I'm not going to preclude them from  
13 cross-examining her and asking her a question about  
14 it or not.

15 MR. COOPER: All right.

16 THE COURT: So what else?

17 MR. COOPER: Your Honor, I move that  
18 the Court preclude reference to a dispute  
19 pertaining to Lisa Fisher's fees for serving as  
20 conservator. That dispute is now in the supreme  
21 court and has no bearing on this matter and would  
22 only prejudice --

23 THE COURT: Are you going to try to  
24 bring up anything about what fees she's charged as  
25 a conservator?

1 MR. COOPER: We're not, Your Honor.

2 THE COURT: I'm asking them.

3 MR. COOPER: Yes, Your Honor.

4 MR. WILLS: Yes, Your Honor, we are  
5 because --

6 THE COURT: Well, I'll rule on that  
7 when it comes up.

8 MR. WILLS: Okay.

9 THE COURT: What else?

10 MR. COOPER: Your Honor, one final  
11 thing. We would move that Ms. Crowley be  
12 disqualified because she was associated with  
13 Mr. Kouten in his law office at one time and,  
14 again, may be the benefit of some confidential  
15 information received from Alice Shaw Baker during  
16 her lifetime.

17 THE COURT: If you have something that  
18 you can prove that, you know. I'm not going to  
19 disqualify her just on you saying that.

20 All right. Anything else?

21 MR. WILLS: Your Honor, just -- just as  
22 a matter of cleaning up. Was Your Honor inclined  
23 to grant the motion to bifurcate?

24 THE COURT: I don't know what you mean  
25 by that. We're trying this as a wills contest.

1 MR. WILLIS: Correct.

2 THE COURT: That's all we're trying  
3 right now.

4 MR. WILLIS: We need to talk about the  
5 constructive trust they have --

6 THE COURT: I think that's a matter of  
7 law that would be -- otherwise, you know, whatever,  
8 but as far as I'm concerned, we're trying this as a  
9 wills contest right now.

10 MR. WILLIS: I didn't know if we needed  
11 to be prepared for their --

12 THE COURT: The only time that I've  
13 been -- relative to anything as far as constructive  
14 trust is concerned, is a matter of law, you know,  
15 as to whether or not that's established, or  
16 whatever.

17 MR. WILLIS: Well, Your Honor, the only  
18 reason this is important here is because they want  
19 to bring a bunch of witnesses in -- at least they  
20 qualified the jury as to these witnesses, so I  
21 assume they will try to bring them, to make a  
22 determination about whether there was any undue  
23 influence that had to do with nonprobate assets.

24 It's our position that nonprobate  
25 assets are not properly before the Court. That

1 they wouldn't be properly before a probate court  
2 either. This has to do with insurance benefits,  
3 retirement benefits, those types of things that  
4 were nonprobate assets and they had designated  
5 beneficiary.

6 They would not have been proper before  
7 the probate court and on transfer to the circuit  
8 court; they're not proper before this Court either.

9 THE COURT: I'm trying to understand  
10 this situation. What do you want to say about  
11 that?

12 MR. WILLS: It's a hornbook of  
13 information literally to have to figure it all out.

14 THE COURT: I'm trying to figure it out  
15 myself right now. You're talking about retirement  
16 benefits, or whatever, that she's entitled to, or  
17 whatever, that went under her retirement plan? Is  
18 that what you're talking about?

19 MR. WILLS: That's correct.

20 THE COURT: That's a matter of  
21 contract.

22 MR. WILLS: Correct.

23 THE COURT: It would not be part of the  
24 probate court.

25 MR. WILLS: That's correct. So they

1    were going to -- they've named a bunch of witnesses  
2    that they were planning on having and they  
3    qualified them with regard to the jury.

4                   THE COURT: All we're trying here is  
5    whether the will that they're claiming is the will  
6    of this lady was the will or not and should be  
7    probated and handled as the will of the deceased.  
8    Right?

9                   MS. FISHER: Your Honor, it's a more  
10   complex argument. So the documents themselves that  
11   leave property to the Defendants include reference  
12   to animal charities. We believe those documents in  
13   and of themselves are components of any kind of  
14   representation about Alice Shaw Baker's intention.

15                  So they will be introduced. The monies  
16   were part of this --

17                  THE COURT: I'm not following you.

18                  MS. FISHER: Okay. Well, let me try to  
19   make it clearer for you, Your Honor. The documents  
20   specifically said in them that the monies are  
21   left --

22                  THE COURT: Are you talking about the  
23   will?

24                  MS. FISHER: No, I'm sorry.

25                  THE COURT: What are you talking about?

1 MS. FISHER: It's a document -- a  
2 beneficiary document with ING and the deferred  
3 compensation. So I would just ask the Court to  
4 allow us to introduce it at that time and rule at  
5 that time. Because without seeing the documents  
6 and without hearing the argument at that time, it  
7 really is quite complicated --

8 THE COURT: It is. I might agree with  
9 you there. I'm not sure what we're talking about  
10 here.

11 MS. FISHER: Right. And if the Court  
12 has had an opportunity to look at that exhibit, I  
13 think it would be more clear. So I would ask that  
14 the Court not rule on that issue at this time.

15 THE COURT: Again, what do you want me  
16 to do, and why?

17 MR. WILLS: Your Honor, I know the  
18 Court is probably tired of hearing --

19 THE COURT: No, I'm not tired. I'm  
20 trying to get this thing in shape and bring it to a  
21 conclusion. It's been going on for, what, eight or  
22 nine years? I think it's time to bring it to a  
23 conclusion as far as I can see. That's my primary  
24 goal.

25 MS. FISHER: Well, Your Honor, I will



1 object to that statement because I --

2 THE COURT: You can object to it. It's  
3 in the record. It was filed back in '0-what? When  
4 was this filed?

5 MS. FISHER: It was filed in '09, but  
6 just --

7 THE COURT: It's been going on for  
8 eight years.

9 MS. FISHER: It's been going on based  
10 on a lot of misconduct.

11 THE COURT: You can just sit down. All  
12 right. Let's try to get it ready so we can try it.

13 MR. WILLS: My point was that the court  
14 -- the probate court would not have jurisdiction  
15 over the nonprobate assets.

16 THE COURT: I agree with that.

17 MR. WILLS: And the witnesses, if they  
18 want to bring to testify to those things that were  
19 in the constructive trust should not be --

20 THE COURT: I will rule on that when it  
21 comes up then.

22 MR. WILLS: Thank you, Your Honor.

23 MS. FISHER: Yes, Your Honor. We  
24 repeat, that those documents -- that those monies  
25 are part of the probate estate. I want that to be

1 clear for the Court.

2 THE COURT: Okay.

3 MS. FISHER: Thank you.

4 THE COURT: Anything else then?

5 MR. WILLS: Yeah, that's it.

6 THE COURT: You-all get ready to  
7 proceed tomorrow morning at 9:30 according to the  
8 way we're doing it and what we're doing it about.  
9 Thank you.

10 MS. FISHER: Your Honor, I'm sorry. So  
11 in light of the fact that the Court is giving them  
12 more time to do whatever they're going to do --

13 THE COURT: I'm giving myself more  
14 time, and we're going to go ahead with the trial  
15 tomorrow at 9:30.

16 MS. FISHER: Well, I would ask that the  
17 Court allow us to file documents with the appellate  
18 court --

19 THE COURT: You can do whatever you  
20 want to do about that.

21 MS. FISHER: So the Court is denying my  
22 request?

23 THE COURT: The trial is going on  
24 tomorrow morning at 9:30.

25 MS. FISHER: Thank you. Appreciate it.

1 MR. WILLS: Thank you, Your Honor.

2 MS. CROWLEY: Thank you, Your Honor.

3 (These proceedings were recessed at  
4 3:32 p.m., to be continued October 24, 2017 at 9:30  
5 a.m.)

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1                   (The following proceedings were had  
2   October 24, 2017, at 9:49 a.m., Charleston County  
3   Court of Common Pleas.)

4                   THE COURT: All right. I've had a  
5   chance to look at some of the stuff in regards to  
6   wills and so forth, and everything, and educate  
7   myself somewhat in regard to whatever you want to  
8   call it, self-proving will, or whatever. It looks  
9   like, though, that you need to put up the will in  
10  some form, shape, fashion, or whatever.

11                  And I understand about the self-proving  
12  aspect of it. If it meets the requirement of the  
13  code in regard to that, then it will be admitted  
14  into evidence and we would proceed from there.

15                  MR. WILLS: Your Honor, that's not how  
16  I understand the law. I understand that we began  
17  in the probate court where we properly admitted the  
18  will which is the subject of this contest. The  
19  will was admitted into probate by a judge who wrote  
20  an order that admitted the will into probate.

21                  There were no objections to that  
22  admission. And in response to that admission into  
23  the Court already, the Plaintiffs brought a will  
24  contest and then transferred the case out here.

25                  So the way the probate code reads, when

1 the will is offered, which it had been in the  
2 probate court, that the probate court judge  
3 evaluates the will for its prima facie validity  
4 according to whether or not the formalities of the  
5 statute have been satisfied with regard to  
6 execution and witnesses and all of the formalities.

7 If that judge finds that it has, then  
8 the will is admitted and that's that. It's in.  
9 And then if anybody wants to attack it, then they  
10 bring an action to contest the will, which the  
11 Plaintiffs did. So we're here in the court because  
12 they removed it from the probate court over here.

13 The first step of putting up a will has  
14 already been accomplished.

15 THE COURT: What's wrong with doing it  
16 again at this point to make sure that that is not  
17 right? There's no big deal, you know, because it  
18 says when it's removed to circuit court, it's de  
19 novo.

20 MR. WILLS: You're right, Your Honor.  
21 Now, the complication here is you all have the  
22 original will.

23 THE COURT: Where is it?

24 MR. WILLS: It must be in the file that  
25 transferred here.

1                   THE COURT: We've got a transfer, but I  
2 don't think the original will is in it. There's a  
3 copy apparently in it, but I don't think the  
4 original will is in it.

5                   MR. WILLS: Well, we have a certified  
6 copy from the probate court that we have. And it's  
7 our --

8                   THE COURT: I think that's what I have  
9 in here, to tell you the truth.

10                  MR. WILLS: Is that right? Okay.

11                  THE COURT: I haven't looked to see,  
12 but I think -- I mean, I saw where the file was  
13 transferred up here, but it looks to me like it's a  
14 copy of the file, not the original. So I don't  
15 know how we can determine that. I guess we have to  
16 look and see.

17                  MR. WILLS: Now --

18                  THE COURT: Unless the other side will  
19 consent.

20                  MR. WILLS: Well, Your Honor, this is a  
21 very important point. We are the Defendants here  
22 --

23                  THE COURT: All right. Just a second.  
24 Just a second. I'm looking here at the order of  
25 removal. It's removed, but as far as what came

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                   MR. WILLIS: Correct. And we have gone  
2 so far to say that we will stipulate to the  
3 document that they're challenging --

4                   THE COURT: What do you have to say in  
5 response to that? Are you willing to let a copy of  
6 it come in now at this time, or not?

7                   MS. FISHER: No, Your Honor, we are  
8 not.

9                   THE COURT: I didn't think so.

10                  MR. WILLIS: Well, then, Your Honor, how  
11 are they going to prove their case if they don't --

12                  THE COURT: No. No. We have to have  
13 something come in, you know. I don't know how to  
14 find out where the original is.

15                  MR. WILLIS: We would submit that they  
16 have to put it up.

17                  THE COURT: I don't think so. Somebody  
18 has to put it up one way or the other. I don't  
19 think they have to put it up. I'll get it put up  
20 some way or the other because we need it one way or  
21 the other, and I don't know where it is.

22                  So I guess I'll have to hold off until  
23 I can find out somehow or another from the probate  
24 court where the original is. If they sent it and  
25 it's in the file over at the warehouse, I don't



1 know.

2 THE CLERK: We're confirming that now,  
3 sir.

4 MR. WILLIS: Would Your Honor be able to  
5 take judicial notice --

6 THE COURT: No. No.

7 MR. WILLIS: -- of the order?

8 THE COURT: Of the order, yeah. But,  
9 again, I think that it's -- when it says, de novo,  
10 it means start from the beginning.

11 MR. WILLIS: Well, de novo usually is  
12 connected with the idea of a review of something.

13 THE COURT: No, it's not. De novo  
14 means beginning, new.

15 MR. WILLIS: All right.

16 THE COURT: In my opinion.

17 (A recess transpired.)

18 THE COURT: We're working on getting  
19 the original here, but we haven't gotten it yet.  
20 It may be some time before we do, but did you say  
21 you had a certified copy?

22 MR. WILLIS: Yes, Your Honor, we have a  
23 certified copy.

24 THE COURT: Let me have it.

25 MR. WILLIS: Okay. Be happy to give

1 somewhere in his mid 90s. We weren't able to speak  
2 to him directly.

3 Mr. Solomon -- Mr. Budman gave an  
4 affidavit saying that he recognized that as being  
5 -- having gone through the formalities that they  
6 use in their practice, and he recognizes that as  
7 being a will that Mr. Solomon made, recognizing  
8 Mr. Solomon's signature --

9 THE COURT: The question is, he said  
10 that you gave two affidavits that are contrary to  
11 your position now. Is that right or wrong?

12 MR. WILLIS: That's wrong.

13 THE COURT: All right. What do you  
14 want to say about that?

15 MR. COOPER: What I want to say, Your  
16 Honor, the wills that are attached to the back of  
17 both affidavits are two pages long, and that one is  
18 three pages long, and they're not the same.

19 THE COURT: I'm going to allow it into  
20 evidence assuming that it meets the requirements of  
21 the code, and I've already reviewed it and it does.  
22 So you present -- get it back here and present it  
23 when the jury is here, and we'll go from there.

24 Bring the jury in.

25 MR. COOPER: Your Honor, I renew my

1 motion for a stay.

2 THE COURT: What?

3 MR. COOPER: I renew my motion for a  
4 stay. We, this morning, are filing with the court  
5 of appeals a petition for supersedeas and for  
6 emergency and interim relief, which I'm now serving  
7 on opposing counsel.

8 MR. WILLS: Wow.

9 MR. COOPER: Based upon our motion for  
10 change of venue, our motion to vacate the trial  
11 date, and for a motion for a stay, and then Judge  
12 Jefferson's denial of those motions, and our notice  
13 of appeal.

14 THE COURT: I appreciate your position.  
15 I deny your motion.

16 MR. COOPER: Thank you.

17 MS. FISHER: Your Honor.

18 THE COURT: Yes, ma'am.

19 MS. FISHER: With regard to the  
20 attestation and self-proving, I don't believe that  
21 it's appropriate for this Court to make any finding  
22 before the jury that this isn't a self-proving  
23 will. This is a formal testacy, a formal probate,  
24 and it's contested. If this Court makes that  
25 finding, that gives judicial authority to a will

1     that we contest.  So --

2                 THE COURT:  Your contest is -- if you  
3     have any -- you have a contest about whether or not  
4     it meets the requirement of the code.

5                 MS. FISHER:  We do.

6                 THE COURT:  What?

7                 MS. FISHER:  Well --

8                 THE COURT:  What?

9                 MS. FISHER:  All right, Your Honor.  
10    Part of our petition --

11                THE COURT:  Tell me what.  Number one,  
12    what is it?

13                MS. FISHER:  Our position is that the  
14    Court -- if you'll give me a second, Your Honor,  
15    because I need to have the pleadings in front of  
16    me, I apologize.  In any event, our position is it  
17    was not properly executed.

18                THE COURT:  I appreciate that.  Bring  
19    the jury in.

20                MR. WILLS:  Your Honor, may I -- I have  
21    a motion too.

22                THE COURT:  What?

23                MR. WILLS:  I just have a motion in  
24    limine I would like to ask.

25                THE COURT:  What?

1 MR. WILLIS: We're going to be  
2 discussing a will's contest here. We would like to  
3 have the elimination of any argument or testimony  
4 as to any alleged neglect or abuse that -- it's  
5 alleged that our clients here had.

6 THE COURT: You can raise an objection  
7 when anything comes along and I'll rule.

8 Bring the jury in.

9 MR. WILLIS: Your Honor, I believe  
10 they're going to bring out testimony on this.

11 THE COURT: If they try to bring in  
12 something that you think it's inadmissible, you  
13 raise an objection and I'll rule.

14 MR. WILLIS: And then finally -- again,  
15 we move that the nonprobate asset that the  
16 allegation -- cause of actions having to do with  
17 the nonprobate assets which are the constructive  
18 trust here. That those be dismissed for lack of  
19 jurisdiction of the probate court and this.

20 THE COURT: I'm not sure about -- I  
21 don't think those things have anything to do with  
22 whether or not this is a valid will, or not.

23 MS. FISHER: They do, Your Honor.

24 THE COURT: If you want to try to  
25 introduce it, you try to introduce it and I'll

1 rule, but I don't think it does.

2 MR. WILLS: Thank you, Your Honor.

3 THE COURT: Bring the jury in.

4 MS. FISHER: Your Honor, I would ask  
5 that before you present to this jury any  
6 affirmation that this is a valid will, that you let  
7 us brief it.

8 THE COURT: You object when you feel  
9 like you want to object.

10 Bring the jury in.

11 (Jury in, 10:36 a.m.)

12 THE COURT: All right we have all the  
13 jury with us. I apologize for keeping you waiting,  
14 but, as I said, we had some procedural matters to  
15 deal with, and it took a little longer for me to  
16 sort all those out. We're not quite through with  
17 sorting one part of it out, but, anyway, I  
18 apologize for keeping you back there.

19 Glad that you were on time. We can't  
20 start without you, and you can't start without me  
21 or any of the necessary parties. I'm glad that you  
22 were here and ready, willing to go at 9:30 or close  
23 to that point.

24 All right. Now, we started yesterday  
25 and you were picked in regard to this case. As I