

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
 AMY M. BANNON ZENNER,)
 Conservator for THOMAS C. SHOEMAKER)
 And CALEB M. SHOEMAKER,)
)
 Plaintiff,)
)
 -versus-)
)
 SYDNEY BRUCE SHOEMAKER,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NUMBER: 17-CP-08-1839

ORDER FROM MOTION
 TO DISMISS

MARY D. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, SC

2018 NOV -5 PM 2: 06

FILED

HEARING DATE:
 JUDGE:
 PLAINTIFF'S ATTORNEY:
 DEFENDANT'S ATTORNEY:
 COURT REPORTER:

October 30, 2018
 Doyet A. Early, III
 Ben F. Mack
 Sean Zenner
 Brenda Sigwald

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 DEC 12 2018
 SC Court of Appeals

THIS MATTER is pursuant to the Defendant's Motion to Dismiss the action based upon the Defendant that the Court of Common Pleas of the Ninth Judicial Circuit, Berkeley County, South Carolina, lacks subject matter jurisdiction with regard to the issues as raised in the pleadings.

A hearing on the Motion was held in this matter before Doyet A. Early, III, Judge of the Court of Common Pleas on October 31, 2018. Present at the hearing was the Plaintiff's attorney, Sean Zenner, of the Berkeley County Bar and the attorney for the Defendant, Ben F. Mack of the Dorchester County Bar.

Based upon the pleadings filed in this matter and the arguments of counsel made at the Motion hearing on October, 31 2018, this Court makes the following findings of fact.

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1. The Plaintiff is a citizen and resident of the State of South Carolina, County of Berkeley, and has resided in said county and state for a period in excess of one year prior to the commencement of this action.

2. The Defendant is a citizen and resident of the State of Idaho.

3. The Plaintiff is the biological mother of the minor children, T.C.S., date of birth May 9, 2001 and C.M.S., date of birth May 9, 2001.

4. The Defendant is the paternal grandfather of the minor children, to wit: T.C.S., date of birth May 9, 2001 and C.M.S., date of birth May 9, 2001.

5. That pursuant to a Final Order and Decree of Divorce as entered in case number 2004-DR-08-2062 in the Family Court of the Ninth Judicial Circuit, Berkeley County, South Carolina, on February 12, 2007, the Plaintiff and the Defendant's son, Cameron Shoemaker, entered into an agreement in Paragraph Thirteen (13) of said Order wherein Cameron Shoemaker was required to keep and maintain his military life insurance policy for as long as he remained in the United States military, with the children named as the beneficiary. The Order requires that the Defendant act as trustee.

6. That on September 23, 2014, Cameron M. Shoemaker, died while on active duty with the United States Army. That subsequent to his death, life insurance benefits were paid pursuant to the coverage provided by the United States military. These life insurance proceeds were subject to the provision contained in Paragraph Thirteen (13) of the parties' Final Order and Decree of Divorce between the Plaintiff and the now deceased Cameron Shoemaker, which required that they be held in Trust by the Defendant.

7. That pursuant to the terms of the Decree of Divorce as entered into

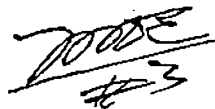
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between the Plaintiff, and Cameron Shoemaker, the Defendant received the proceeds of the deceased, Cameron Shoemaker's, military life insurance policy in the approximate amount of \$400,000.00 and placed said funds in a Trust hereafter known as the Cameron Shoemaker Life Insurance Trust which was executed on December 2, 2014, in the State of Idaho.

8. The Defendant executed a trust agreement on December 2, 2014, whereby the Defendant, as a resident of the State of Idaho, established the Cameron Shoemaker Life Insurance Trust naming the children of the deceased Cameron Shoemaker as the beneficiary of said trust, along with the child of the deceased, Cameron Shoemaker's subsequent marriage. The Defendant was named as trustee of said trust. The Defendant's wife, Cheryl J. Shoemaker of Riggins, Idaho and the Defendant's son, Matthew Shoemaker, of Rome, Georgia were named as alternative trustees. That said trust was executed on December 2, 2014 before a Notary Public in Lewis County, Idaho.

9. That on March 2, 2015 the Defendant, by and thru his attorney, filed a Trust Registration in Case Number CV43851, as filed in the District Court of the Second Judicial Circuit of the State of Idaho, in and for the County of Idaho. The filing of the Trust Registration was executed by the Defendant on December 18, 2014 and filed in the District Court of the Second Judicial Circuit of the State of Idaho on March 2, 2015. That said trust filing was in accordance with the dictates and requirements of the Idaho Uniform Trustee Powers Act.

10. That pursuant to the execution of the Cameron Shoemaker Life Insurance Trust on December 8, 2014, and the registration of said trust in the District Court of the Second Judicial Circuit of the State of Idaho in case number CV43851 on March 2, 2015,

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the children of the deceased Cameron Shoemaker, to wit: C.M.S., date of birth May 9, 2001; T.C.S., date of birth May 9, 2001 and C.M.S., date of birth January 16, 2011 are named as the beneficiaries of said trust, with their one-third beneficial interest to be distributed upon each child reaching the age of twenty-five (25).

11. The Defendant is currently the said Trustee of said established trust pursuant to the laws of the State of Idaho and registered in the State of Idaho. The Plaintiff has initiated litigation in this action questioning the Defendant's exercise of his fiduciary duties with regard to the interest of the three minor beneficiaries and request an accounting of funds received and distributions made pursuant to the terms of said trust.

12. The Defendant alleges that he continues to protect the interest of the three minor beneficiaries pursuant to the law of the State of Idaho wherein said trust is registered and administered and is taking no action detrimental to the interest of the three minor beneficiaries. The Defendant alleges that this Court lacks subject matter jurisdiction with regard to the litigation and issues related to the administration of the Cameron Shoemaker Life Insurance Trust which was executed on December 2, 2014 in the State of Idaho. That said trust continues to be registered and administered pursuant to the statutes of the State of Idaho.

13. The Defendant maintains that this Court lacks subject matter jurisdiction with regard to litigation of the issues relevant to the proper administration of said trust and that any proceedings with regard to said matter should be brought in the State of Idaho. The State of Idaho is the proper jurisdiction to exercise subject matter jurisdiction in that the determination of the proper administration of the trust will be determined pursuant to the statutes and regulations of the trust administration in the State of Idaho.

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14. Subject matter jurisdiction is defined as “the power to hear and determine cases with the general class to which the proceeds in question belong” citing *Doug v. Gold Kisd, Inc.*, 442 S.E. 2d, 598, 1994. This case involves the class of cases which determine the proper administration of a trust pursuant to the law of the State of Idaho. It is inappropriate for this Court to exercise jurisdiction determining the proper administration of a trust established in the State of Idaho and regulated pursuant to statutes and regulations in the State of Idaho.

15. This Court finds that the Motion of the Plaintiff should be granted and this case dismissed for lack of subject matter jurisdiction, based upon the fact that this case involves the interpretation of the administration of a trust that is created and registered in the State of Idaho and involves reviewing the administration of said trust pursuant to the statutes, laws and regulations of the State of Idaho. This matter should be more properly brought for determination of the issues as raised in the pleadings in the State of Idaho.

This Court makes the following findings of law:

This Court lacks subject matter jurisdiction with regard to the issues as raised in the pleadings which relate to an Idaho trust and that this matter should be adjudicated in Idaho based upon the fact that the trust in questions is established in the State of Idaho and regulated pursuant to the statutes and regulations of the State of Idaho.

Based upon the above enumerated findings of facts and conclusions of law, it is, therefore,

JME
H/S

ORDERED, ADJUDGED and DECREED that the within case is dismissed and ended based upon this Court's lack of subject matter jurisdiction with regard to the issues as raised in the pleadings.

AND IT IS SO ORDERED.

Nov 1, 2018

Bamberg, South Carolina



Doyet A. Early, III, Judge
Court of Common Pleas
Ninth Judicial Circuit