

February 1, 2019

Via Facsimile (803-734-1839)
and Via Regular Mail

V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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FEB 04 2019
SC Court of Appeals

Re: *Vivy Haynes Bone v. Robert Bone*
Appellate Case No. 2019-000051

Ms. Allen:

I represent Respondent Liberty Mutual Insurance Company (“Liberty Mutual”) in the above-referenced matter. This letter is in response to your January 23, 2019 request for a letter regarding the status of the bankruptcy proceeding of Robert G. Bone.

Liberty Mutual has no direct knowledge of the bankruptcy proceeding. Based on my review of the case file on PACER, it appears to be a Chapter 13 bankruptcy proceeding that was initially filed on November 17, 2017. It further appears that the bankruptcy plan was confirmed on September 24, 2018. Liberty Mutual was not identified as a creditor in the petition and was first notified of its filing on September 24, 2018.

While not specifically requested by your letter, I would like to provide you with a brief history of the underlying dispute to illustrate that the bankruptcy petition should not serve as a basis for the relief sought by this appeal.

This case originates in the Probate Court of Aiken County. Appellant alleged that Robert G. Bone, acting as conservator for his incapacitated brother Albert D. Bone, misappropriated certain conservatorship assets. Liberty Mutual issued a conservator’s bond on behalf of Robert G. Bone and was named as a defendant in Appellant’s petition with the Probate Court.

The Probate Court found the petition to be meritless and it was dismissed. Petitioner then pursued an appeal in the South Carolina Court of Common Pleas of the Second Judicial Circuit. Certain components of the appeal were dismissed by Order of the Honorable Doyet A. Early III dated May 2, 2017. Liberty Mutual moved to dismiss the remainder of the appeal for failure to prosecute on July 20, 2017. A hearing was conducted before the Honorable Edgar W. Dickson on September 25, 2017, and Liberty Mutual’s motion was granted by Order dated June 6, 2018.

ELMORE GOLDSMITH, P.A.

While Judge Dickson held the Motion to Dismiss under advisement, Petitioner/Appellant filed a series of motions which Judge Early found to be frivolous and in violation of S.C.R.C.P. Rule 11. Judge Early awarded sanctions against Appellant's counsel, John Cheatham, and in favor of Liberty Mutual in the amount of \$13,479.90 on April 26, 2018. Judge Early awarded an additional sanction of \$1,500.00 against Mr. Cheatham and found him in contempt of court by Order dated November 19, 2018. Mr. Cheatham filed Motions to Reconsider for these orders which were denied. It is this series of orders – along with Judge Dickson's dismissal of a single component of the Common Pleas appeal – that Mr. Cheatham seeks to overturn by this appeal and the bankruptcy in question. We do not believe Mr. Cheatham's conduct that led to the sanctions and contempt finding should be excused by Mr. Bone's personal bankruptcy petition.

We also note that, while the original petition in Probate Court named Robert G. Bone as a defendant both individually and as conservator to Albert D. Bone, the appeal to the Court of Common Pleas named only Mr. Bone *as conservator*, along with Liberty Mutual. This was because the Circuit Court appeal sought various forms of relief that did not implicate Mr. Bone in his personal capacity, but only in his duties as conservator. Thus, Mr. Bone's personal bankruptcy petition has no bearing on these proceedings.

We will address the timeliness and validity of this appeal formally by separate motion. In the meantime, please feel free to contact me if you have any questions or concerns.

Very truly yours,

ELMORE GOLDSMITH, P.A.

A handwritten signature in black ink that reads "Bryan P. Kelley". The signature is written in a cursive, flowing style.

Bryan P. Kelley

/BPK

cc: John E. Cheatham (*via Regular Mail*)
Robert G. Bone (*via Regular Mail*)
Albert D. Bone (*via Regular Mail*)



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