

RECEIVED

FEB 15 2019

S.C. SUPREME COURT

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

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.

**APPELLANT LISA FISHER'S RETURN AND OBJECTION TO
1) RESPONDENTS' MOTION FOR COSTS FILED BY JESSICA CROWLEY AND
2) RESPONDENTS' MOTION FOR COSTS FILED BY W. WESTBROOK WILLS III;
JOINDER BY APPELLANT BETTY FISHER**

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

(Appellant)

Return & Objection
APPELLANT'S MOTION FOR COSTS

I.
INTRODUCTION

At the end of this court's per curium revised opinion dated January 16, 2019, the court stated that "This case is concluded. " However, Respondents continue to seek relief from this court, by seeking Costs. In an effort to ensure fairness, Appellant Lisa Fisher ("Appellant") files a Motion for Costs concurrently with this *Return and Objection to Motion for Costs etc.*¹ This *Return and Objection* is in response to the two motions filed by Respondents' counsel as follows:

- 1) Motion for Costs filed by Attorney W. Westbrook Wills III seeking \$2,500.00 in attorney fees on behalf of his clients, Respondents Bessie Huckabee, Kay Passailaigue Slade and Sandra Byrd (now deceased)

- 2) Motion for Costs filed by Attorney Jessica Crowley seeking \$2,500.00 in attorney fees on behalf of her client, Bessie Huckabee. It is unclear whether the costs are to be assessed against Bessie Huckabee, either individually or in a representative capacity..

¹ Betty Fisher files a Joinder to this Return (and in support of the Appellant's motion for costs). Betty Fisher should not be harmed by Respondents' seeking costs for Attorney Fees. She lost her attorneys due to the conflict created by Judge Hughston's order of sanctions against both her and her attorney John Hughes Cooper, both orders which were reversed in their entirety.

Rule 222, SCACR, this Court has authority to deny costs to Respondents, and instead award costs to Appellant, because the substituted opinion affirmed in part and reversed in part, as authorized:

"...When an appeal is affirmed or reversed in part or is vacated, **costs shall be allowed only as ordered by the appellate court.**" (Emphasis added)

In this instance, both Motions are procedurally defective, and the court can deny the motions on these grounds. Under Rule 222, subsection (d), a motion for costs must follow a certain procedure:

"(d) Motion for Costs. A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule. The motion shall comply with Rule 240. **If costs are being sought under (b) above, the motion shall be accompanied by a sworn, itemized statement of costs incurred in the form prescribed in the Appendix to these rules.** Any return or reply to the motion shall be served and filed in the manner provided by Rule 240. The return may oppose the request for costs or seek a reduction of the amount of costs to be awarded. The remittitur shall not be stayed by the filing of a motion for costs." (Emphasis added)

WITH REGARD TO ATTORNEY WILLS' MOTION: He failed to include an itemized statement of costs, despite saying that he "contemporaneously with this motion I am providing a copy of this statement to the *pro se* Appellants." (Wills' Motion, p 2) The form 17 which clearly sets forth the format was not filed by Attorney Wills or served on Appellants. He did not state the amount of time incurred. While the rule only authorizes \$2,500.00, Counsel is required to outline the actual time incurred. An appellant, or party, is entitled to know the time

and/or expense incurred. One could see the situation where an attorney did nothing and still sought fees, therefore the legislature, in their wisdom, made it mandatory to set forth the time incurred. Here, the parties are trying to double dip by seeking fees for the Estate and for the beneficiaries. Without form 17, neither this court nor Appellants can determine the appropriateness of the fees. Under subsection (b), the rule mandates that “The party entitled to recover costs under this rule may, to the extent the party actually incurred these costs.”

(Emphasis added)

For this reason alone, the motion must be denied.

Also, the motion is fatally defective as it fails to identify whether costs are to be had against Betty Fisher and Lisa Fisher, jointly or separately, or at all. The motion merely asks the Court to tax the costs to Petitioner (again not identified in the papers). The request to tax costs are as to “Petitioner” (singular), again not clear whether this is as to Bessie Huckabee, Kay Passailaigue, Sandra Byrd or the Estate of Alice Shaw Baker.²

So Attorney Wills motion is defective in 3 ways: 1) It does not specify who he is seeking costs from; 2) He failed to include the itemized form required in subsection (d) of Rule 222 (Form 17) ; 3) He does not identify who is suppose to benefit from the motion.

//

//

//

² Appellant has raised the lack of clarity numerous times, because of the inequity of documents that do not specify who seeks relief.

While Respondents apparently think this is not important, this would affect Appellant (and her mother) personally if the court grants their motions and they should know how title and/or any judgment would be taken.

Also, in light of Sandra Byrd’s death, Respondents can not seek relief on her behalf.

WITH REGARD TO ATTORNEY CROWLEY'S MOTION: She did use the form,

however in two separate places she used language which is ambiguous as to the cost motion:

- 1) On the 1st page of her motion, she states Bessie Huckabee (no representative status identified) respectfully requests the Supreme Court tax the following costs to Appellants, Lisa Fisher and Betty Fisher.”
- 2) On the 1st page of the Form 17, she states “The Appellate Court is requested to tax the following costs against Bessie Huckabee, as Personal Representative.”

The lack of clarity should not be rewarded by this court. Allowing these attorneys to seek double attorney fees is inherently unfair and punitive to Appellant (and her mother). Attorney Wills said in his motion that Appellants demanded that Respondents have separate counsel, such claim is ludicrous. If Appellants could *demand* that Respondents do anything right, most of this litigation would not have taken place. Certainly, Alice Shaw Baker's desires would have been honored that animal charities benefit from her monies. Appellant Lisa Fisher objects to this legally and factually unsubstantiated claim which attempts to bolster both attorneys' motions.

Attorney Crowley's motion is defective in three ways: 1) It seeks to tax costs against her own client; 2) It does not identify the correct individuals that it seeks to tax costs; 3) The fees sought are meant to punish and sanction Appellant and double dip.

Allowing these costs are unfair in that Appellants have incurred attorney fees, costs, lost their attorney,³ were threatened with contempt, and were subjected to losses caused by the ex parte communications of attorneys and the trial court, and many other wrongs in the underlying case.

Helping to ensure that Alice Shaw Baker's desire were followed was the only goal of this case, and while the saying “No good deed goes unpunished’ has real meaning to Appellants, no

³ Appellant was forced into indentured servitude by this Court's opinion in the related case, as she was the only person who was not paid for her services to Alice Shaw Baker, contrary to both statutory and Constitutional law.

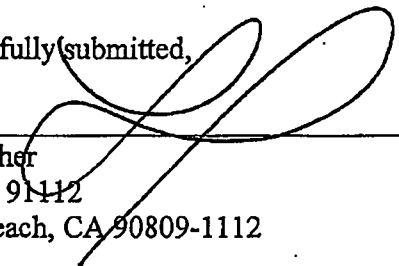
one should suffer the harm that Appellants have suffered—and more importantly, Alice Shaw Baker’s desires should have been honored and her lifework should have benefitted the animals she loved.. This court’s substitute decision deprived her of that relief.

For all of these reasons, the motions must be denied.

WHEREFORE, Appellant prays for an Order denying both Attorney Wills’ and Crowley’s Motion for Costs in their entirety.

February 14, 2019

Respectfully submitted,



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

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

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

RECEIVED

FEB 15 2019

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.

**JOINDER BY BETTY FISHER IN
RETURN AND OBJECTION TO BOTH MOTIONS FOR COSTS**

I BETTY FISHER do hereby join in the return and objection to both motion for costs filed by Attorney Wills and Attorney Crowley. I have requested that this joinder be part of the record and that the court deny the motions for costs

February 14, 2019

RESPECTFULLY SUBMITTED,



BETTY FISHER (*Pro Se*)

P.O. Box 91112

Long Beach, CA 90809-1112

RECEIVED

FEB 15 2019

S.C. SUPREME COURT

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

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.

PROOF OF SERVICE

I certify that I have served **APPELLANT LISA FISHER'S RETURN AND OBJECTION TO 1) RESPONDENTS' MOTION FOR COSTS FILED BY JESSICA CROWLEY AND 2) RESPONDENTS' MOTION FOR COSTS FILED BY W. WESTBROOK WILLS III; JOINDER BY APPELLANT BETTY FISHER** postage prepaid, on February 14, 2019 (and via email) addressed as follows:

Betty Fisher
PO Box 91112
Long Beach, CA 90809-1112
(Personal service only)

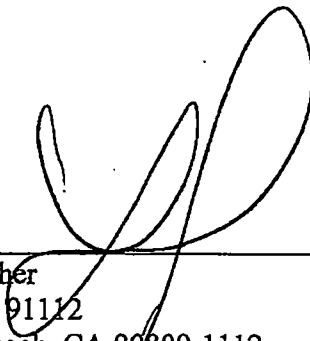
Jessica L. Crowley, Esquire
PO Box 30189
Charleston, SC 29417

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

Courtesy Copy via email to:

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

February 14, 2019



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