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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Frank Addy, Circuit Court Judge

Case No. 2014-CP-10-07038
Appellate Case No. 2019-000833

Wendy C.H. Wellin, Respondent,

v.

Peter Wellin, Cynthia W. Plum, and Marjory W. King,
Individually and as Co-Trustees and Beneficiaries of
the Wellin Family 2009 Irrevocable Trust, u/a/b
November 2, 2009, Appellants,

v.

Wendy C.H. Wellin, Individually and as Trustee of
the Keith S. Wellin Florida Revocable Living Trust
u/a/d December 11, 2001, Hamilton College, Keith
S. Wellin Florida Revocable Living Trust, Campbell
Hart, and Heather Lane, Respondents,

RECEIVED
JUN 07 2019
SC Court of Appeals

In the Matter of: Keith S. Wellin.

**VERIFIED PETITION FOR A
WRIT OF SUPERSEDEAS¹**

This appeal arises from a complex estate dispute. The issue presented by this emergency
Petition, however, is simple, and the writ it requests is urgent, necessary, and well justified.
Although the circuit court's Order regarding the way this case is to be tried is currently pending
on appeal before this Court, the circuit court nevertheless informed the parties on the evening of
June 4, 2019, that it intends to proceed with a trial in this matter beginning on June 17, 2019.

¹ In the alternative, Petitioner requests the Court deem this filing to request a writ of prohibition
or mandamus if, in the Court's discretion, the issuance of such other writ is preferable.

Proceeding with trial while an Order governing the trial is on appeal is not permissible under the plain language of the South Carolina Appellate Court Rules, which provide for an automatic stay of matters on appeal and likewise provide that the circuit court lacks jurisdiction over matters affected by an appeal. Allowing the circuit court to proceed with trial while this matter is on appeal would invade this Court's jurisdiction, undermine respect for the clear mandate of the appellate court rules, deprive Appellants of substantial trial and appellate rights, and waste the parties' and the circuit court's time and resources on a trial likely bound for eventual vacatur because the lower court lacks jurisdiction. Thus, Appellants respectfully request this Court issue a writ of supersedeas or, in the alternative, a writ of prohibition or mandamus, preventing the circuit court from holding a trial until this appeal is resolved and the case is remitted to the circuit court.²

INTRODUCTION

On May 15, 2019, the circuit court entered an order that, among other things, set a truncated two-week trial in which Appellants may not pursue their pending claims and the jury may not consider them, but which the circuit court nevertheless intends to be dispositive of certain of Appellants' claims. The circuit court's order deprives Appellants of substantial rights, prevents them from being the architects of their complaint, and strips them of their constitutional right to a jury trial on their claims. Appellants immediately appealed the ruling, filing their Notice of Appeal on May 16, 2019. Notwithstanding the pendency of that appeal and the automatic appellate stay imposed by Rules 205 and 241(a), SCACR, the circuit court judge, the Honorable Frank R. Addy, Jr., sent a letter to the Honorable James E. Lockemy, Chief Judge of the South Carolina Court of Appeals, dated May 17, 2019, stating, among other things, that "I do believe this appeal may be

² Because this Petition and the above-referenced appeal are related to a proceeding decided by a panel of this Court one week ago—*Wellin et al. v. Wellin*, Ct. App. Op. No 5608 (May 29, 2019)—for which the remittitur has not yet been issued, and in light of the extraordinary and exigent circumstances giving rise to this Petition, Appellants are directing this Petition to the attention of the panel that decided that case, namely Judges Konduros, McDonald, and Hill (*i.e.*, "the appellate court where the appeal is pending," *see* Rule 241(d)).

little more [than] an effort to delay this matter further,” and also stating: “I just wanted the Court to be aware of my concerns and the procedural posture of this case in the hopes that we would be able to forward and resolve this matter in June.” *See* Letter (attached as **Exhibit A**). Judge Addy did not copy Appellants or any of the parties on the letter to Judge Lockemy, but Appellants recently discovered a copy of the letter after it was uploaded to this Court’s online docket. As far as Appellants are aware, this Court did not respond to Judge Addy’s letter, much less authorize Judge Addy to proceed with trial notwithstanding the automatic stay. This Court has not dismissed Appellants’ appeal, and in fact, the deadline for Appellants to file their memorandum regarding appealability issues is not until June 12, 2019. Nevertheless, on the evening of June 4, 2019, the circuit court informed the parties’ counsel via email that it intends to proceed with the trial on June 17, 2019 (meaning the trial is set to commence only 10 days from now) under the same limitations and conditions being challenged on appeal.

Contrary to Judge Addy’s assertion in his letter to Judge Lockemy, Appellants have not filed this appeal to delay trial. Rather, Appellants only seek a full and fair trial. The trial ordered by the circuit court denies them the opportunity to present their claims. Further, because the Court’s May 15, 2019, Order affects a substantial right, the Wellin Children *must* appeal the Order now to avoid waiving their appellate rights. *See Lester v. Dawson*, 327 S.C. 263, 266, 491 S.E.2d 240, 241 (1997) (stating a party that fails to appeal an order affecting a substantial right waives the right to appeal that issue later).³

Accordingly, pursuant to Rule 241, SCACR and S.C. Code Ann. § 14-8-290, Petitioner files this Petition for a Writ of Supersedeas and respectfully requests this Court issue an expedited writ enforcing the automatic stay and staying the trial in this matter until resolution of the issues on appeal.⁴

³ Indeed, if Appellants were appealing for purposes of delay, they would not have filed their Notice of Appeal the day after the circuit court’s Order was entered; rather, they would have waited thirty days to file their Notice of Appeal.

⁴ Appellants filed this writ directly with the Court of Appeals because (i) the trial is now set for

RELEVANT BACKGROUND⁵

This appeal arises from a dispute over a multi-hundred million dollar estate left by the decedent Keith S. Wellin (“Keith”). Petitioner is Peter J. Wellin, Keith’s adult son of his first wife, who, along with his sisters Cynthia Plum and Marjorie King (collectively “the Wellin Children” or “Appellants”) are the Appellants in the pending appeal. Respondent Wendy C.H. Wellin (“Wendy”) was Keith’s fourth wife and is the Special Administrator of the Estate seeking to probate Keith’s final will dated June 27, 2014.

In this action, the Wellin Children challenged probate of the June 27, 2014 will and Counter-Petitioned to probate a prior will executed in August 2011. The Wellin Children have also asserted counterclaims in this proceeding against Wendy individually⁶ and have sought a declaratory judgment that Keith’s Tenth Amended Trust, dated August 2011, should be deemed his final and controlling trust, rather than later-amended versions of this Trust.

On May 15, 2019, the circuit court entered an order that, among other things, granted a motion by the Estate (*i.e.*, Wendy) to “bifurcate” the trial and stating the first “phase” of trial would “decide the issues of undue influence and testamentary capacity for the relevant period of time.”

June 17, 2019, (ii) the circuit court has indicated by email to the parties that it does not intend to recognize the automatic stay, and (iii) the predisposition of the circuit court on this issue is plainly reflected in the unusual letter to Judge Lockemy. Under these extraordinary circumstances, it is impracticable to request relief in the first instance from the circuit court.

⁵ For the sake of brevity and in light of the emergency nature of this Petition, the recitation that follows omits the intricacies and complexities of the estate plan, the factual background, and the procedural history leading up to this appeal. Rather, this section provides only the background pertinent to the issuance of the Writ requested herein. A more complete recitation of the facts is set forth in *Wellin et al. v. Wellin*, Ct. App. Op. No 5608 (May 29, 2019), available at 2019 WL 2313587, which is a recently-decided appeal in a related matter arising from a related dispute between the same parties.

⁶ These include counterclaims for defamation, intentional interference with inheritance, intentional interference with prospective economic relations, breach of fiduciary duty, breaches of the prenuptial agreement, breach of contract accompanied by a fraudulent act, barratry, and negligence per se.

See Order at 1 (attached hereto as **Exhibit B**). The Order, however, is not a bifurcation order in any normal sense. Rather, the Order expressly prohibits the Wellin Children from pursuing their counterclaims during the trial and, instead, holds that the jury’s findings on the issues of capacity and undue influence—which involve different elements and different burdens of proof than the Wellin Children’s counterclaims against Wendy—will “likely” be dispositive of certain unspecified portions of “the federal litigation.” Litigation pending in federal court is largely overlapping with the state court litigation and includes all of the Wellin Children’s claims against Wendy. *Id.* at 3–4.

The Wellin Children filed a Notice of Appeal the following day challenging this Order, including the limitations and restrictions it imposed on the trial. See Notice of Appeal, (attached hereto as **Exhibit C**). Although bifurcation orders are not typically appealable, this Order is analogous to the order in *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 539, 773 S.E.2d 144, 146 (2015), in which the Supreme Court held a “bifurcation” order was immediately appealable because it effectively granted “potential” summary judgment on certain issues not included in the truncated trial and deprived plaintiffs of their substantive right to be the architects of their case.

On May 17, 2019, the day after the Wellin Children filed their Notice of Appeal, Judge Addy sent the above-referenced letter to Judge Lockemy. See **Exhibit A**. As noted above, the Wellin Children are not aware of this Court responding to this letter, much less authorizing Judge Addy to proceed with trial while this matter is on appeal.⁷

⁷ Because Judge Addy did not copy any of the parties on this letter, and because the Wellin Children only discovered the letter while searching for a filing on this Court’s online docket, the Wellin Children are not aware if other parties received a copy of the letter before this filing.

On May 23, 2019, this Court sent a letter to the parties requesting memoranda addressing the issue of appealability. On May 24, 2019, Respondents filed motions to dismiss the appeal. On June 3, 2019, certain Respondents filed memoranda addressing the issue of appealability. On June 7, 2019, contemporaneously with the filing of this Petition, the Wellin Children filed their Return to the Motions to Dismiss (which also serves as the Wellin Children’s memorandum on the issue of appealability). Notably, every party to this appeal recognizes in their briefs that the primary issue on appeal is the permissibility of the truncated, limited, “bifurcated” trial prescribed in the circuit court’s Order. Indeed, Respondent Wendy Wellin has taken the position that *all* matters in this action are stayed pending resolution of the appeal, including all discovery. *See* E-Mail from the Wellin Children’s counsel to Wendy’s counsel (attached hereto as **Exhibit D**).⁸

Notwithstanding the pending appeal, the ongoing briefing regarding appealability, and the absence of any response (as far as the Wellin Children are aware) to Judge Addy’s letter to Judge Lockemy, Judge Addy’s judicial assistant sent an email to the parties’ counsel late on the afternoon of June 4, 2019, stating (for the first time to the parties) that “the court’s intentions are to move forward with the trial during the weeks of June 17th and June 24th.” *See* Email from Judge Addy on June 4, 2019 (attached hereto as **Exhibit E**).⁹ The email further stated, “The court is aware that

⁸ The Wellin Children disagree that discovery is stayed by this appeal. *See* Rule 205, SCACR (providing that an appeal does not prevent the lower court “from proceeding with matters not affected by the appeal”). This issue, however, is not before the Court in this Petition.

⁹ Judge Addy’s May 17 letter to Judge Lockemy states: “It had been my intention to try this case the final two weeks in June, and the parties have been aware of this since January.” *See* **Exhibit A** (emphasis in original). The undersigned and the Wellin Children’s other counsel are not aware of Judge Addy informing the parties in January of his intention to try this case in June—much less in particular weeks in June. In its Order dated May 15, 2019, the circuit court stated that the trial would be limited to two weeks and stated that the trial would “take place in June of this year.” This was the first time counsel for the Wellin Children are aware of receiving notice of a trial to take place in June. If the circuit court sent a notice, counsel for the Wellin Children did not receive it and do not recall discussion of a June trial at the January off-the-record status conference or at the February hearing. Further, although Judge Addy in his May 17, 2019 letter informed Judge

there has been a Notice of Intent to Appeal filed but does not see where there is a cause for an automatic stay of the case.” *Id.* The email did not provide a reason why the circuit court found no cause for the automatic stay to apply.

ARGUMENTS

This Court should issue a writ of supersedeas to protect its jurisdiction, to enforce the automatic appellate stay imposed by the Rules, to maintain the status quo pending resolution of the appeal, to preserve judicial economy, and to avoid rendering the matters on appeal moot. Because the circuit court has scheduled trial to begin on June 17, 2019, the Wellin Children respectfully request expedited consideration and issuance of a writ staying the trial or any other proceedings in the circuit court affected by the appeal until after resolution of the pending appeal.

The appellate court Rules are clear: the filing of a Notice of Appeal divests the trial court of jurisdiction over all matters decided in the Order being appealed, except for “matters not affected by the appeal.” *See* Rules 205 & 241(a), SCACR.¹⁰ There can be no question here that the Order on appeal decides matters relating to the conduct and mode of the trial (including the refusal to have a trial on certain claims). Indeed, as the opposing parties’ appellate briefing and motions to date expressly recognize, those limitations are the very issue being appealed. Accordingly, the appeal stayed the trial of this case until the appeal is resolved. *See* Rule 241(a), SCACR (“[T]he

Lockemy of his intention since January to hold the trial during the last two weeks of June, the first notice received by the Wellin Children was the June 4, 2019 email from the circuit court indicating the trial would proceed notwithstanding the automatic stay. Upon information and belief, counsel for the other parties also were unaware of June trial until the May 15, 2019 order or of a trial starting on June 17, 2019, until receiving the June 4, 2019 email from the circuit court. In fact, counsel for the Estate informed the court by email on June 5, 2019, that it was already scheduled to try another case during the weeks of June 10 and June 17, and is therefore not available to begin trial on June 17. *See* E-Mail from the Estate’s Counsel (attached as **Exhibit F**).

¹⁰ The automatic appellate stay is subject to 11 enumerated exceptions, *see* Rule 241(b), SCACR, none of which is implicated here.

service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order”); *Grosshuesch v. Cramer*, 377 S.C. 12, 31 n.7, 659 S.E.2d 112, 122 n.7 (2008) (“We take this opportunity to reiterate that while an appeal is pending, a lower court cannot act on matters affecting the issue on appeal.”); *Raby Const., L.L.P. v. Orr*, 358 S.C. 10, 23, 594 S.E.2d 478, 485 (2004) (“The automatic stay continues in effect for the duration of the appeal”).

Where a circuit court intends to act in circumvention of the automatic appellate stay, the appellate court rules provide for granting a writ of supersedeas “to prevent a contested issue from becoming moot.” Rule 241(c)(2), SCACR; *see also Brown v. Harper*, 409 S.C. 470, 474, 761 S.E.2d 779, 781 (Ct. App. 2014), *aff’d sub nom.* 410 S.C. 446, 766 S.E.2d 375 (2014) (“A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy.”). A supersedeas should be used to ““stay proceedings in the [circuit] court, to preserve the status quo pending the determination of the appeal . . . , and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him.”” *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (1990) (quoting 4A C.J.S. Appeal & Error § 662 at 494–95 (1957)).

Such a writ is required here. The Wellin Children appealed the Order setting the truncated trial of severed issues. If the circuit court proceeds with that trial while the appeal is pending, the appeal will be rendered moot and the Wellin Children will have been deprived of the substantial rights they seek to protect on appeal and will have wasted substantial time and resources trying a case before a court that lacks jurisdiction. Such deprivation is no harmless error and cannot be undone. The Supreme Court has recognized that “it is difficult, if not impossible, to unring a bell.” *State Record Co. v. State*, 332 S.C. 346, 356 n.19, 504 S.E.2d 592, 597 n.19 (1998).

Further, any form of trial at this point would render moot the court's consideration of the Order setting the length and scope of trial. *See* Rule 241(c)(2), SCACR ("In determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot."). Thus, a trial in any form in this matter must be stayed pending a resolution of this appeal. *See Berry v. Ianuario*, 281 S.C. 21, 21, 314 S.E.2d 308, 308 (1983) (granting an appellant's petition for supersedeas "in order to prevent the appeal from becoming moot"); *Andrews v. Sumter Commercial & Real Estate Co.*, 87 S.C. 301, 304, 69 S.E. 604, 606 (1910) (holding the appellate courts should exercise their power to "supersede an order of a circuit judge . . . when it is made to appear to be necessary to prevent irreparable injury or a miscarriage of justice").

The fact that the appealability of the Order is disputed is of no moment. As the Wellin Children explain in their Return to the Motions to Dismiss the Appeal, filed contemporaneously herewith, under *Morrow*, they not only *may* immediately appeal the "bifurcation" order, but *must* immediately appeal it to avoid waiving their right to appeal at a later juncture in the proceedings. *See Lester v. Dawson*, 327 S.C. 263, 266, 491 S.E.2d 240, 241 (1997) (stating a party that fails to appeal an order affecting a substantial right waives the right to appeal that issue later). Further, the Rules establishing the automatic appellate stay make no exception for situations where one party or even the trial court thinks the order is not immediately appealable. Rather, the Rules are clear that the circuit court is divested of jurisdiction to proceed with matters decided in its Order unless and until the appellate courts issue a remittitur.¹¹

¹¹ The appellate rules establish a specific procedure whereby a party seeking to set aside the automatic appellate stay may do so. *See* Rule 241(d), SCACR. In the instant proceeding, no party has applied to lift the automatic stay or to permit the trial to proceed despite the pendency of the appeal.

The circuit court's plan to proceed with trial under the very circumstances and limitations being challenged on appeal should be stayed.

CONCLUSION

For the reasons set forth above, Petitioner respectfully requests this Court grant a writ of supersedeas or, in the alternative, a writ of prohibition or mandamus, preventing the circuit court from holding a trial until this appeal is resolved and the case is remitted to the circuit court.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  _____

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Attorneys for Appellants/Petitioner

Charleston, South Carolina
June 7, 2019

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Frank Addy, Circuit Court Judge

Case No. 2014-CP-10-07038
Appellate Case No. 2019-000833

Wendy C.H. Wellin, Respondent,

v.

Peter Wellin, Cynthia W. Plum, and Marjory W.
King, Individually and as Co-Trustees and
Beneficiaries of the Wellin Family 2009 Irrevocable
Trust, u/a/b November 2, 2009, Appellants,

v.

Wendy C.H. Wellin, Individually and as Trustee of
the Keith S. Wellin Florida Revocable Living Trust
u/a/d December 11, 2001, Hamilton College, Keith
S. Wellin Florida Revocable Living Trust, Campbell
Hart, and Heather Lane, Respondents,

In the Matter of: Keith S. Wellin.

RECEIVED
JUN 07 2019
SC Court of Appeals

VERIFICATION

I, Peter Wellin, verify that, to the best of my knowledge and belief, the facts set forth in
the foregoing Petition for a Writ of Supersedeas are accurate.

Executed on June 7th, 2019.

SWORN to and subscribed before me

this 7th day of June, 2019

[Signature] (L.S.)

Notary Public for Maine

My Commission Expires: Dec 12/2024

[Signature]

Peter Wellin
Appellant/Petitioner

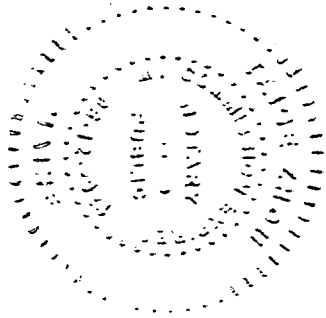


EXHIBIT A



State of South Carolina
The Circuit Court of the Eighth Judicial Circuit

Frank R. Addy, Jr.
Judge

Greenwood County Courthouse
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Greenwood, SC 29646
Phone: (864) 943-8020
Fax: (864) 942-8581
faddyj@sccourts.org

May 17, 2019

The Hon. James E. Lockemy
Chief Judge, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

MAY 20 2019

SC Court of Appeals

Re: Appeal in Wellin v. Wellin

Dear Judge Lockemy,

I became aware of the enclosed notice of intent to appeal in the above case today. Last year, I was assigned to handle all matters concerning it. To the extent the concerns expressed in this letter are not germane or appropriately communicated to you, please disregard this letter because I have no opinion concerning the merits of any appeal which may be taken.

Please understand that this is one of the oldest cases on the docket in Charleston, and it has a companion federal case which has been pending for years as well. It had been my intention to try this case the final two weeks in June, and the parties have been aware of this since January.

Although I cannot speak to the issues they intend to raise, I do believe this appeal may be little more an effort to delay this matter further. Please do understand that this is an estate of incredible worth, and per Judge Norton in Charleston, substantial attorney's fees are already involved.

I just wanted the Court to be aware of my concerns and the procedural posture of this case in the hopes that we would be able to move forward and resolve this matter in June. Should you desire to speak with me, I can be reached on my cell at (864) 992-2144.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank R. Addy, Jr.", written over the word "Sincerely,".

Frank R. Addy, Jr.

Enclosure

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Wendy C. H. Wellin,
Petitioner,

vs.

Peter Wellin, Cynthia W. Plum and
Marjorie W. King, Individually and as
Co-Trustees and Beneficiaries of the
Wellin Family 2009 Irrevocable Trust,
u/a/b November 2, 2009,
Respondents and Counter- Petitioners

vs.

Wendy C.H. Wellin, Invidiually and as
Trustee of the Keith S. Wellin Florida
Revocable Living Trust u/a/d December
11, 2001, Hamilton College, Keith S.
Wellin Florida Revocable Living Trust,
Campbell Hard, and Heather Lane
Counter-Respondents.

IN THE MATTER OF:
Keith S. Wellin

THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-10-07038

ORDER

FILED
2019 MAY 15 PM 2:24
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

THIS MATTER COMES BEFORE THE COURT on multiple motions: Wendy Wellin's Motion for a Protective Order, Edward Bennett and Patricia Scarborough's Motions to Quash Subpoenas and for Protective Orders, Dr. David Bachman's Motion to Quash a Subpoena Duces Tecum and motion for a Protective Order, the Wellin Children's Motion for a Status Conference, and Wendy Wellin's Motion to Bifurcate.

The pending action is a dispute over Keith S. Wellin's estate plans. Mr. Wellin died in 2014 and his most recent will and revocable trust were executed on June 27, 2014. Wendy Wellin filed a Petition for Formal Testacy after Keith Wellin's death. His three adult children ("the Wellin Children") answered the petition and counter-petitioned for formal testacy of an earlier Will. There are actions pending in federal court as well. In August of 2018, the Court ordered the stay in State Court be lifted. This jurist was given exclusive jurisdiction over this case. The parties filed the motions listed above and a hearing was scheduled on February 11, 2019 in Columbia, SC. After a complete hearing on all the motions listed above and after a full review of the facts and the law the Court finds as follows.

Wendy Wellin has already been subject to 14 hours of depositions as part of discovery in the pending action. She also participated in an additional 6 hours of deposition testimony for a malpractice case related to this lawsuit. The Court understands that is a considerable amount of time to be deposed. However, the Court finds it is not unreasonable to allow the Defendants to depose Mrs. Wellin again now that the stay has been lifted in state court and this case is positioned to be tried in the coming weeks. Therefore, the Court denies Mrs. Wellin's Motion for a Protective Order and orders that the Defendants may depose Mrs. Wellin for an additional 6 hours total.

Counsel for Edward Bennett, Esq. and F. Patricia Scarborough, Esq. also filed Motions to Quash Subpoenas and Motions for Protective Orders from further depositions. These two attorneys served as estate planning counsel to Keith Wellin in 2013 and 2014. They have already been deposed by the Defendants during discovery in the federal action. Attorney Bennett was deposed for 12 hours and Attorney Scarborough was deposed for 7 hours. As these attorneys are not parties to this litigation and they have both been deposed in depth, the Court finds it is unreasonable to allow the Defendants to depose them any further. Therefore the subpoenas regarding Mr. Bennett



and Ms. Scarborough will be quashed, and they are both entitled to a protective order from further depositions in this case.

Counsel for the Plaintiff filed a Motion for a Protective Order on behalf of Dr. David Bachman. Dr. Bachman was hired by Plaintiff's counsel in 2014 as a consultant. The Defendants filed a Subpoena Duces Tecum for Dr. Bachman's records from working with Keith Wellin before he died. Dr. Bachman asserts the records are subject to privilege and therefore he is entitled to a Protective Order from this Subpoena Duces Tecum. The Court finds that any such privilege which may exist is waived pursuant to South Carolina Rule of Civil Procedure 35(b). Therefore, the Motion for a Protective Order is denied, and Dr. Bachman is ordered to produce the documents requested.

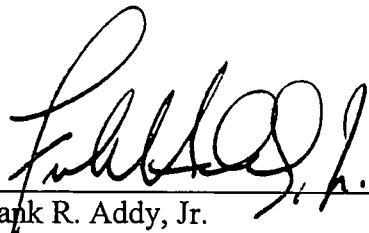
The Wellin Children filed a Motion for a Status Conference in this case. This jurist recently consulted with Judge Norton who has jurisdiction over the federal court action. Both courts agree that the actions pending in state court should be tried prior to the federal action in order to promote judicial economy. Therefore, the Court orders that the pending state court action will be tried before the federal court action. Assuming that this action remains on the jury trial roster, the trial in state court will be limited to two weeks and take place in June of this year; the parties will have to streamline their presentations pursuant to a future order concerning the allocation of available time.

The final motion is Wendy Wellin's Motion to Bifurcate. Mrs. Wellin's Motion seeks bifurcation of only the validity issues associated with the Last Will and Testament and the amended and restated trust of Keith Wellin, both executed on June 27, 2014. These validity issues include whether Keith Wellin had testamentary capacity to execute the 2014 Will and the 2014 Revocable Trust and whether his execution of the Will or Revocable Trust was the result of undue influence,

fraud, duress, or mistake. This Court finds that bifurcation of the issues will promote convenience, efficiency, and economy in that these issues can only be decided in state court and resolution of these issues will likely result in resolution of much of the federal litigation. However, the Court denies Ms. Wellin's motion to limit bifurcation only to Keith Wellin's most recent estate plan.


This Court will try the issues of undue influence and testamentary capacity for all changes to Keith Wellin's estate plan from 2013-2014 in state court. Put another way, the trial will decide the issues of undue influence and testamentary capacity for the relevant period of time. Of course, the Wellin children will be entitled to present all evidence concerning the prior estate plan, the circumstances surrounding its formulation and execution, plan, and the jury will ultimately decide which estate plan and/or revocable trust controls.

IT IS SO ORDERED.¹



Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

May 9, 2019
Greenwood, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P. & F.C.
By 
DEPUTY CLERK

¹ The Court is aware that other motions have been filed since the hearing on this matter. The Court will address those other motions in due course.

EXHIBIT C

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

Frank R. Addy, Jr., Circuit Court Judge

Circuit Court Case No. 2014-CP-10-07038

Wendy C.H. Wellin, Respondent,

vs.

Peter Wellin, Cynthia W. Plum, and Marjorie W. King,
Individually and as Co-Trustees and Beneficiaries of the
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December 11, 2001, Hamilton College, Keith S. Wellin
Florida Revocable Living Trust, Campbell Hart, and
Heather Lane, Respondents,

and

Friendship Management, LLC, Appellant,

vs.

Wendy C.H. Wellin, Respondent.

IN THE MATTER OF:
Keith S. Wellin

RECEIVED

MAY 16 2019

SC Court of Appeals

NOTICE OF APPEAL

Pursuant to Rule 203 of the South Carolina Appellate Court Rules, Appellants Peter Wellin, Cynthia Wellin Plum, and Marjorie Wellin King, Individually and as Co-Trustees and

Beneficiaries of the Wellin Family 2009 Irrevocable Trust, u/a/d November 2, 2009, and Friendship Management, LLC (the “Appellants”) appeal the order of the circuit court dated May 9, 2019, and entered on May 15, 2019.¹ Counsel for Appellants received written notice of the entry of the order on May 16, 2019. Appellants also appeal the prior orders of the circuit court entered October 20, 2017, and August 24, 2018.² Copies of the subject orders are attached hereto.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

¹ The order is immediately appealable because the order affects a substantial right of Appellants. *See* S.C. Code Ann. § 14-3-330; *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 773 S.E.2d 144 (2015) (holding order granting motion to bifurcate was immediately appealable because it affected a substantial right of appellant).

² Although orders lifting a stay or refusing to stay a proceeding are not ordinarily immediately appealable, they are appropriately appealed when there is another appealable issue before the court and when doing so will serve the interest of equity and judicial efficiency. *See, e.g., Watson v. Underwood*, 407 S.C. 443, 459, 756 S.E.2d 155, 163 (Ct. App. 2014) (“[A]n order that is not directly appealable will nonetheless be considered if there is an appealable issue before the court and a ruling on appeal will avoid unnecessary litigation.”).

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

Robert H. Brunson
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Greenville, SC 29601

Attorneys for Appellants

Charleston, South Carolina
May 16, 2019

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Peter Wellin, Cynthia Wellin Plum, and Marjorie Wellin King Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, u/a/d November 2, 2009, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

NOTICE OF APPEAL

Counsel Served:

John T. Lay, Jr., Esq.
Gray T. Culbreath, Esq.
John D. Hudson, Jr., Esq.
Lindsay Anne Joyner, Esq.
Gallivan, White & Boyd, PA
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Columbia, SC 29202
*Attorneys for Wendy C.H. Wellin,
individually*

John Fisher Beach, Esq.
Lyndey Bryant, Esq.
Adams and Reese LLP
PO Box 2285
Columbia, SC 29202
Attorneys for Hamilton College

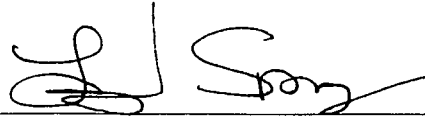
F. Patricia Scarborough, Esq.
Edward G.R. Bennett, Esq.
Evans, Carter, Kunes & Bennett, P.A.
PO Box 369
Charleston, South Carolina 29402
Attorneys for the Estate

Robert H. Hood, Esq.
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Florida Revocable Living Trust*

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Heather Lane*

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843-577-7700
*Attorneys for F. Patricia Scarborough, Esq.
and Edward G.R. Bennett, Esq.*

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MAY 16 2019
SC Court of Appeals



Lydia Spry
Administrative Assistant

May 16, 2019

ATTACHMENT 1

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Wendy C. H. Wellin,
Petitioner,

vs.

Peter Wellin, Cynthia W. Plum and
Marjorie W. King, Individually and as
Co-Trustees and Beneficiaries of the
Wellin Family 2009 Irrevocable Trust,
u/a/b November 2, 2009,
Respondents and Counter- Petitioners

vs.

Wendy C.H. Wellin, Invidiually and as
Trustee of the Keith S. Wellin Florida
Revocable Living Trust u/a/d December
11, 2001, Hamilton College, Keith S.
Wellin Florida Revocable Living Trust,
Campbell Hard, and Heather Lane
Counter-Respondents.

IN THE MATTER OF:
Keith S. Wellin

THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-10-07038

ORDER

BY _____
JULIE J. ARMSTRONG
CLERK OF COURT
2019 MAY 15 PM 2:24

FILED

RECEIVED

MAY 16 2019

SC Court of Appeals

THIS MATTER COMES BEFORE THE COURT on multiple motions: Wendy Wellin's Motion for a Protective Order, Edward Bennett and Patricia Scarborough's Motions to Quash Subpoenas and for Protective Orders, Dr. David Bachman's Motion to Quash a Subpoena Duces Tecum and motion for a Protective Order, the Wellin Children's Motion for a Status Conference, and Wendy Wellin's Motion to Bifurcate.

The pending action is a dispute over Keith S. Wellin's estate plans. Mr. Wellin died in 2014 and his most recent will and revocable trust were executed on June 27, 2014. Wendy Wellin filed a Petition for Formal Testacy after Keith Wellin's death. His three adult children ("the Wellin Children") answered the petition and counter-petitioned for formal testacy of an earlier Will. There are actions pending in federal court as well. In August of 2018, the Court ordered the stay in State Court be lifted. This jurist was given exclusive jurisdiction over this case. The parties filed the motions listed above and a hearing was scheduled on February 11, 2019 in Columbia, SC. After a complete hearing on all the motions listed above and after a full review of the facts and the law the Court finds as follows.

Wendy Wellin has already been subject to 14 hours of depositions as part of discovery in the pending action. She also participated in an additional 6 hours of deposition testimony for a malpractice case related to this lawsuit. The Court understands that is a considerable amount of time to be deposed. However, the Court finds it is not unreasonable to allow the Defendants to depose Mrs. Wellin again now that the stay has been lifted in state court and this case is positioned to be tried in the coming weeks. Therefore, the Court denies Mrs. Wellin's Motion for a Protective Order and orders that the Defendants may depose Mrs. Wellin for an additional 6 hours total.

Counsel for Edward Bennett, Esq. and F. Patricia Scarborough, Esq. also filed Motions to Quash Subpoenas and Motions for Protective Orders from further depositions. These two attorneys served as estate planning counsel to Keith Wellin in 2013 and 2014. They have already been deposed by the Defendants during discovery in the federal action. Attorney Bennett was deposed for 12 hours and Attorney Scarborough was deposed for 7 hours. As these attorneys are not parties to this litigation and they have both been deposed in depth, the Court finds it is unreasonable to allow the Defendants to depose them any further. Therefore the subpoenas regarding Mr. Bennett

and Ms. Scarborough will be quashed, and they are both entitled to a protective order from further depositions in this case.

Counsel for the Plaintiff filed a Motion for a Protective Order on behalf of Dr. David Bachman. Dr. Bachman was hired by Plaintiff's counsel in 2014 as a consultant. The Defendants filed a Subpoena Duces Tecum for Dr. Bachman's records from working with Keith Wellin before he died. Dr. Bachman asserts the records are subject to privilege and therefore he is entitled to a Protective Order from this Subpoena Duces Tecum. The Court finds that any such privilege which may exist is waived pursuant to South Carolina Rule of Civil Procedure 35(b). Therefore, the Motion for a Protective Order is denied, and Dr. Bachman is ordered to produce the documents requested.

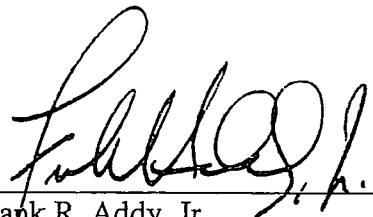
The Wellin Children filed a Motion for a Status Conference in this case. This jurist recently consulted with Judge Norton who has jurisdiction over the federal court action. Both courts agree that the actions pending in state court should be tried prior to the federal action in order to promote judicial economy. Therefore, the Court orders that the pending state court action will be tried before the federal court action. Assuming that this action remains on the jury trial roster, the trial in state court will be limited to two weeks and take place in June of this year; the parties will have to streamline their presentations pursuant to a future order concerning the allocation of available time.

The final motion is Wendy Wellin's Motion to Bifurcate. Mrs. Wellin's Motion seeks bifurcation of only the validity issues associated with the Last Will and Testament and the amended and restated trust of Keith Wellin, both executed on June 27, 2014. These validity issues include whether Keith Wellin had testamentary capacity to execute the 2014 Will and the 2014 Revocable Trust and whether his execution of the Will or Revocable Trust was the result of undue influence,

fraud, duress, or mistake. This Court finds that bifurcation of the issues will promote convenience, efficiency, and economy in that these issues can only be decided in state court and resolution of these issues will likely result in resolution of much of the federal litigation. However, the Court denies Ms. Wellin's motion to limit bifurcation only to Keith Wellin's most recent estate plan.


This Court will try the issues of undue influence and testamentary capacity for all changes to Keith Wellin's estate plan from 2013-2014 in state court. Put another way, the trial will decide the issues of undue influence and testamentary capacity for the relevant period of time. Of course, the Wellin children will be entitled to present all evidence concerning the prior estate plan, the circumstances surrounding its formulation and execution, plan, and the jury will ultimately decide which estate plan and/or revocable trust controls.

IT IS SO ORDERED.¹



Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

May 9, 2019
Greenwood, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P.A. & F.C.
BY 
DEPUTY CLERK

¹ The Court is aware that other motions have been filed since the hearing on this matter. The Court will address those other motions in due course.

ATTACHMENT 2

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

Wendy C. H. Wellin,) C/A No. 2014-CP-10-07038
)

Petitioner,) **ORDER GRANTING PETITIONER'S**
) **MOTION TO LIFT THE STAY**

Versus)
)

Peter J. Wellin, Cynthia W. Plum, Marjorie W. King,)
)

Respondents and Counter-Petitioners,)
)

Versus)
)

Wendy C.H. Wellin, Hamilton College, Keith S. Wellin Florida Revocable Living Trust, Campbell Hart and Heather Lane,)
)

Counter-Respondents.)
)

IN THE MATTER OF:)
)

Keith S. Wellin)
)

FILED
2017 OCT 20 PM 3:28
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED

MAY 16 2019

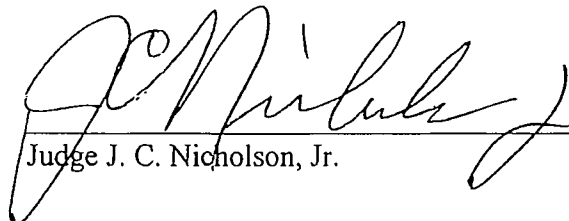
SC Court of Appeals

gcm
This matter comes before the Court on a Motion to Lift the Stay filed by the Petitioner Wendy C. H. Wellin filed on June 30, 2017. In her motion, the Petitioner requests this Court to lift the stay previously entered by Order of this Court on July 2, 2015, which was filed on July 6, 2015, after a hearing on a Motion to Stay filed by the Respondents and Counter-Petitioners in this matter. As an initial matter, the Court notes that its earlier Order granting the Motion to Stay was to remain in effect until the pending Federal Action as defined in that Order including any appeals of that action is finally resolved or until further order of this Court. Having been over two (2) years since this matter was originally stayed by the Court, this Court concludes that the interest of justice is best served by lifting the stay to permit the probate of the Last Will and Testament of

Keith S. Wellin. Therefore, the Court GRANTS the Petitioner's Motion to Lift the Stay. The stay previously entered by this Court is hereby lifted.

AND IT IS SO ORDERED.

10/20, 2017
Charleston, South Carolina


Judge J. C. Nicholson, Jr.

ATTACHMENT 3

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014CP1007038

Wendy C H Wellin

PLAINTIFF(S)

Peter Wellin Cynthia

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <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.
- 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

2018 AUG 24 PM 3:21
 FILED
 CLERK OF COURT

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:

This order ends does not end the case.
Additional Information for the Clerk:

No further delays in this case. Chief Admin judge should set for trial (2 weeks max) as soon as practicable. am

Motion/ Stay by Respondent & Counter Petitioners – Denied
Amended Motion/ Stay by respondents, crt/srv – Denied

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)
		\$

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.

[Signature]
Circuit Court Judge

RECEIVED 2159
Judge Code

8-23-18
Date

MAY 16 2019

SC Court of Appeals

From: Patrick Wooten
Sent: Wednesday, May 22, 2019 1:52 PM
To: John Lay - GWB
Subject: depositions

John T – I also want to confirm that you and I discussed on the phone the deposition notices you served for the Wellin Children to be deposed in the state court action in early June, and we agreed that those depositions will not go forward on the dates that they were noticed and that we do not need to file a motion relating to those depositions at this time. I understand that you are taking the position that all discovery is stayed in the state court action as a result of our notice of appeal, and we disagree with that position, but we can address that issue later. Let me know if any of this is incorrect. Thanks.



PATRICK C. WOOTEN PARTNER
patrick.wooten@nelsonmullins.com

LIBERTY CENTER | SUITE 600

151 MEETING STREET | CHARLESTON, SC 29401

T 843.534.4102 F 843.534.4267

NELSONMULLINS.COM VCARD VIEW BIO

EXHIBIT E

From: Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>
Sent: Tuesday, June 4, 2019 4:15 PM
To: Bobby Hood; Brian Duffy; Bryson Geer; Deirdre McCool; Edward Bennett; Gray Culbreath; James Hood; John Beach; John Hagerty; John Hudson; John Lay - GWB; Karen Jessee; Lauren Lynch; Linda Brewer; Lindsay Joyner; Lydia Spry; Lyndey Bryant; M Dawes Cooke; Marvin Infinger; Melissa Urch; Merritt Abney; DTAA - Molly Craig; Patricia Scarborough; Patrick Wooten; Robert Brunson; Rutledge Young, Jr.; Stephanie Chickey; Stephen Bell; Tina Gault; Virginia Flood
Cc: Caroline Crisler. Leonard; Addy, Frank R. Law Clerk (Meagan White); Al Eargle; Chiles, Gwendolyn D.; Buffey Hodges
Subject: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)
Importance: High

◀External Email▶ - From: prvs=9058a7d14f=faddysc@sccourts.org

Good afternoon everyone,

Judge Addy would like to have everyone make themselves available for a Status Conference meeting at the McCormick County Courthouse at 2 pm on Wednesday, June 12th in McCormick County. The court is aware that there has been a Notice of Intent to Appeal filed but does not see where there is a cause for an automatic stay of the case. Therefore, the court's intentions are to move forward with the trial during the weeks of June 17th and June 24th. The calendar on the Judicial website does not reflect a change at this time however, they are forthcoming. We look forward to seeing everyone next week.

Have a wonderful day!

Freda E. Sartin
Administrative Assistant
Honorable Frank R. Addy, Jr.
Resident Judge, Eighth Judicial Circuit Greenwood County Courthouse
528 Monument Street, Suite 210
Greenwood, South Carolina 29646
Phone : (864) 943-8020
Fax : (864) 942-8581
Email : faddysc@sccourts.org

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# EXHIBIT F

---

**From:** Jamie Hood <james.hood@hoodlaw.com>  
**Sent:** Wednesday, June 5, 2019 8:22 PM  
**To:** Addy, Frank R. Secretary (Freda Sartin); Bobby Hood; Brian Duffy; Bryson Geer; Deirdre McCool; Edward Bennett; Gray Culbreath; John Beach; John Hagerty; John Hudson; John Lay - GWB; Karen Jessee; Lauren Lynch; Linda Brewer; Lindsay Joyner; Lydia Spry; Lyndey Bryant; M Dawes Cooke; Marvin Infinger; Melissa Urch; Merritt Abney; DTAA - Molly Craig; Patricia Scarborough; Patrick Wooten; Robert Brunson; Rutledge Young, Jr.; Stephanie Chickey; Stephen Bell; Tina Gault; Virginia Flood  
**Cc:** Caroline Crisler. Leonard; Addy, Frank R. Law Clerk (Meagan White); Al Eargle; Chiles, Gwendolyn D.; Buffey Hodges  
**Subject:** RE: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al )

◀External Email▶ - From: james.hood@hoodlaw.com

Dear Judge Addy

I am in receipt of your email setting a status conference for next Wednesday June 12<sup>th</sup> and the trial to begin on Monday June 17<sup>th</sup> to conclude at the end of the week of the 24<sup>th</sup>. I wanted to alert the court to a scheduling conflict that Molly and I both have. We are set to start a two week product liability trial in Anderson starting on Monday June 10 and concluding Friday June 21<sup>st</sup> before Judge Maddox. That case was set by special designation by court administration. While the parties to that case in Anderson have discussed settlement, the difference is significant and we are prepared to commence on Monday. Of course, if that changes I will alert you and counsel. I have arranged to have others from my office in attendance at the status conference and really do not want to delay this trial but simply cannot be in two places at one time. If we started the Wellin trial on June 24<sup>th</sup> and continued through the net week, that would eliminate the trial conflict. I appreciate your consideration. Jamie

---

**From:** Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>  
**Sent:** Tuesday, June 4, 2019 4:15 PM  
**To:** Bobby Hood, Sr. <bobby.hood@hoodlaw.com>; Brian Duffy <bduffy@duffyandyoung.com>; Bryson Geer <bryson.geer@nelsonmullins.com>; Deirdre McCool <deirdre.mccool@nelsonmullins.com>; Edward Bennett <bennett@eckb.com>; Gray Culbreath <gculbreath@gwblawfirm.com>; Jamie Hood <james.hood@hoodlaw.com>; John Beach <john.beach@arlaw.com>; John Hagerty <john.hagerty@nelsonmullins.com>; John Hudson <jhudson@gwblawfirm.com>; John Lay <jlay@gwblawfirm.com>; Karen Jessee <kjessee@barnwell-whaley.com>; Lauren Lynch <lauren.lynch@nelsonmullins.com>; Linda Brewer <linda.brewer@arlaw.com>; Lindsay Joyner <ljoyner@gwblawfirm.com>; Lydia Spry <lydia.spry@nelsonmullins.com>; Lyndey Bryant <lyndey.bryant@arlaw.com>; M Dawes Cooke <mdc@barnwell-whaley.com>; Marvin Infinger <minfinger@barnwell-whaley.com>; Melissa Urch <murch@gwblawfirm.com>; Merritt Abney <merritt.abney@nelsonmullins.com>; Molly Craig <molly.craig@hoodlaw.com>; Patricia Scarborough <scarborough@eckb.com>; Patrick Wooten <Patrick.Wooten@nelsonmullins.com>; Robert Brunson <robert.brunson@nelsonmullins.com>; Rutledge Young Jr <jry@duffyandyoung.com>; Stephanie Chickey <stephanie.chickey@hoodlaw.com>; Stephen Bell <sbell@duffyandyoung.com>; Tina Gault <tina.gault@hoodlaw.com>; Virginia Floyd <virginia.floyd@hoodlaw.com>  
**Cc:** Caroline Crisler. Leonard <cleonard@charlestoncounty.org>; Addy, Frank R. Law Clerk (Meagan White) <faddyhc@sccourts.org>; Al Eargle <aeargle@lex-co.com>; Chiles, Gwendolyn D. <gchiles@mccormickcountysc.org>; Buffey Hodges <bhodges@mccormickcountysc.org>  
**Subject:** 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al )  
**Importance:** High

Good afternoon everyone,

Judge Addy would like to have everyone make themselves available for a Status Conference meeting at the McCormick County Courthouse at 2 pm on Wednesday, June 12<sup>th</sup> in McCormick County.

The court is aware that there has been a Notice of Intent to Appeal filed but does not see where there is a cause for an automatic stay of the case. Therefore, the court's intentions are to move forward with the trial during the weeks of June 17<sup>th</sup> and June 24<sup>th</sup>. The calendar on the Judicial website does not reflect a change at this time however, they are forthcoming. We look forward to seeing everyone next week.

Have a wonderful day!

*Freda E. Sartin*

*Administrative Assistant*

*Honorable Frank R. Addy, Jr.*

*Resident Judge, Eighth Judicial Circuit Greenwood County Courthouse*

528 Monument Street, Suite 210

Greenwood, South Carolina 29646

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Frank Addy, Circuit Court Judge

Case No. 2014-CP-10-07038
Appellate Case No. 2019-000833

Wendy C.H. Wellin, Respondent,

v.

Peter Wellin, Cynthia W. Plum, and Marjory W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, u/a/b November 2, 2009, Appellants,

v.

Wendy C.H. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, Hamilton College, Keith S. Wellin Florida Revocable Living Trust, Campbell Hart, and Heather Lane, Respondents,

In the Matter of: Keith S. Wellin.

RECEIVED
JUN 07 2019
SC Court of Appeals

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Peter Wellin, Cynthia Wellin Plum, and Marjorie Wellin King Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, u/a/d November 2, 2009, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

VERIFIED PETITION FOR A WRIT OF SUPERSEDEAS

MOTION FOR EXPEDITED CONSIDERATION

APPELLANTS' RETURN TO RESPONDENTS' MOTIONS TO DISMISS

Counsel Served:

John T. Lay, Jr., Esq.
Gray T. Culbreath, Esq.
John D. Hudson, Jr., Esq.
Lindsay Anne Joyner, Esq.
Gallivan, White & Boyd, PA
PO Box 7368
Columbia, SC 29202
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individually*

Robert H. Hood, Esq.
James B. Hood, Esq.
Molly H. Craig, Esq.
Hood Law Firm, LLC
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Charleston, SC 29401
*Attorneys for Wendy C.H. Wellin, as Special
Administrator and for the Keith S. Wellin
Florida Revocable Living Trust*

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Lyndey Bryant, Esq.
Adams and Reese LLP
PO Box 2285
Columbia, SC 29202
Attorneys for Hamilton College

Marvin D. Infinger, Esq.
Barnwell Whaley Patterson & Helms, LLC
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*Attorney for Campbell Lane Hart and
Heather Lane*

F. Patricia Scarborough, Esq.
Edward G.R. Bennett, Esq.
Evans, Carter, Kunes & Bennett, P.A.
PO Box 369
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843-577-7700
*Attorneys for F. Patricia Scarborough, Esq.
and Edward G.R. Bennett, Esq.*



Lydia Spry
Administrative Assistant

June 7, 2019



NELSON MULLINS

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

Robert H. Brunson
T 843.534.4226
robert.brunson@nelsonmullins.com

151 Meeting Street | Sixth Floor
Charleston, SC 29401-2239
T 843.853.5200 F 843.722.8700
nelsonmullins.com

June 7, 2019

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
JUN 07 2019
SC Court of Appeals

RE: Petition for a Writ of Supersedeas | Return to the Motions to Dismiss
Wendy C.H. Wellin v. Peter Wellin et al.
Appellate Case No. 2019-000833
Civil Action No. 2014-CP-10-7038
Our File No. 039113/01500

Dear Ms. Kitchings:

Please find enclosed an original and seven copies of an emergency Petition for a Writ of Supersedeas in regard to the above-referenced matter. We ask that you file the original and return a clocked-in copy to us via our courier. We are filing the petition with a copy of the signed client verification required by Rule 241(d)(3), SCACR. The original, notarized verification has been placed in the mail for delivery to the Court. Also enclosed is a Firm check for the petition filing fee described in Rule 240, SCACR.

In light of the fact that this Petition and the above-referenced appeal are related to a proceeding decided by a panel of this Court one week ago—*Wellin et al. v. Wellin*, Ct. App. Op. No 5608 (May 29, 2019)—for which the remittitur has not yet been issued, and in light of the extraordinary and exigent circumstances giving rise to this Petition, we respectfully direct this Petition to the attention of the panel that decided that case, namely Judges Konduros, McDonald, and Hill (*i.e.*, “the appellate court where the appeal is pending,” *see* Rule 241(d)). Please assist us by delivering this Petition to them through the appropriate internal avenues at the Court with all possible haste. Our clients’ appeal is currently pending, but the trial court has informed us it intends to proceed with trial in 10 days. Thus this Petition is necessary to preserve our clients’ substantial rights at both the trial and appellate levels.

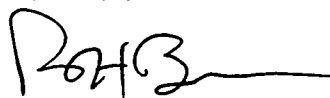
Also enclosed is an original and seven copies of a Motion for Expedited Consideration of the petition in light of the exigency of the matter. We ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is a Firm check for the motion filing fee.

The Honorable Jenny Abbott Kitchings
June 7, 2019
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Finally, you will also find enclosed an original and seven copies of Appellants' Return to the Motions to Dismiss the Appeal. We ask that you file the original and return a clocked-in copy to us via our courier. We also ask that you permit this Return also to serve as Appellants' memorandum addressing appealability as requested by your letter dated May 23, 2019.

By copy of this letter to counsel of record, we are serving them with copies of the Petition, the Motion, and the Return to the Motions to Dismiss the Appeal.

Very truly yours,

A handwritten signature in black ink, appearing to read "RHB", followed by a horizontal line extending to the right.

Robert H. Brunson

RHB:ls

Enclosures

cc: Robert H. Hood, Esq.
Molly H. Craig, Esq.
James B. Hood, Esq.
Virginia R. Flood, Esq.
John T. Lay, Jr., Esq.
Gray T. Culbreath, Esq.
John D. Hudson, Jr., Esq.
Lindsay Anne Joyner, Esq.
Tiffany N. Provence, Esq.
Edward G.R. Bennett, Esq.
M. Dawes Cooke, Jr., Esq.
Marvin D. Infinger, Esq.
F. Patricia Scarborough, Esq.
John Beach, Esq.
Lyndey Bryant, Esq.