

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2017-CP-08-1839

Thomas C. Shoemaker
and Caleb M. Shoemaker,

APPELLANTS,

-V-

Sydney Bruce Shoemaker,

RESPONDENT.

INITIAL REPLY BRIEF OF APPELLANTS

Sean Bannon Zenner, Esquire
SC Bar No: 7311
171 Woodbrook Way
Moncks Corner, SC 29461
(843) 455-6789
Attorney for Appellants

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SC Court of Appeals

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TABLE OF AUTHORITIES

SOUTH CAROLINA RULES OF CIVIL PROCEDURE

SCRCP 17 (a).....	4,5
SCRCP 17 (c).....	4,5
SCRCP 25.....	5

STATEMENT OF THE CASE

Appellants have reached their majority as of May 9, 2019. Their Conservator had properly filed this action pursuant to SCRCF 17 (c). Now the Appellants remain real parties in interest under SCRCF 17 (a), capable of pursuing this action and appeal individually, but the Conservator is no longer necessary to advance their interests. The caption should be changed to reflect this as is done in this filing.

ARGUMENT

In response to the Initial Brief of Respondent, and incorporating the Initial Brief of Appellant, Appellants state as follows.

Contrary to Respondent's assertion that he was sued in his capacity as Trustee of the Cameron Shoemaker Life Insurance Trust (sic), he was actually sued individually (Caption, Complaint). Respondent continues to engage in the process of misdirection. He wants the Courts to believe that this is merely a case regarding the administration of an Idaho trust when it is an action in tort about a constructive trust that Respondent breached, by his own admission; conversion of the funds that were placed in his trust, by his own admission; and his continued contempt for the Courts of South Carolina, including, now, this Court. Under no Order did Respondent have the authority to steal the monies entrusted to him; grant money to a child who was not the subject of the divorce action that appointed him trustee; to set up alternate trustees; to expend any funds from the monies placed in his trust; to engage in retirement planning for himself and his wife with the trust funds; to subject the funds to waste or to withhold the funds from the Appellants upon their attaining the age of majority. Yet he chose to do all of it and has admitted to most of it in his pleadings, discovery and Initial Brief. Compounding this is the fact

that he has chosen to ignore the pleadings themselves and has tried to define the matter as something of his own choosing.

SUBJECT MATTER JURISDICTION.

Respondent again points to the false matter of “issues related to an Idaho resident’s administration of an Idaho trust for the benefit of South Carolina beneficiaries”. This simply is not the case at bar. This action is in tort. This action is about monies placed in Respondent’s hands by South Carolina Courts, under South Carolina Orders, creating a South Carolina constructive trust. This action is based upon Respondent’s criminal acts and requests civil remedies for the results of those criminal acts. It is sheer contempt of this Court for Respondent to come before it and ask that the Orders of the Family Courts of South Carolina, the pleadings and his actions be ignored.

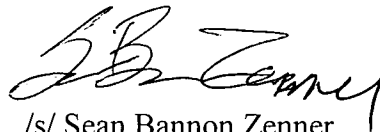
APPELLANTS’ MAJORITY/STANDING OF THE CONSERVATOR.

As was pointed out in the Statement of the Case, the Conservator had properly filed this action pursuant to SCRCF 17 (c). Now the Appellants remain real parties in interest under SCRCF 17 (a). The proper remedy is modify the caption to reflect the Appellants acting in their own right without the need for the Conservator. If for some reason the caption is deemed defective, Appellants should be substituted under SCRCF Rule 25 as real parties in interest.

CONCLUSION

Appellants ask that the Appellate Court allow Appellants Thomas Colton Shoemaker and Caleb Mitchum Shoemaker to proceed on their own right; reverse the Circuit Court's dismissal for lack of subject matter; and remand the case for further proceedings not inconsistent with this Court's Order.

Respectfully submitted,



/s/ Sean Bannon Zenner
Sean Bannon Zenner, Esquire
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May 30, 2019

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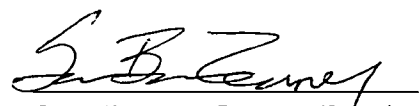
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PROOF OF SERVICE

I certify that I have served the Initial Reply Brief of Appellant on Sydney Bruce Shoemaker by depositing a copy of it in the United States Mail, postage prepaid, on May 31, 2019, addressed to his attorney of record, Ben F. Mack, Esq., 110 North Main Street, Summerville, SC 29483.

May 31, 2019


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May 31, 2019

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SC Court of Appeals

Hon. Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

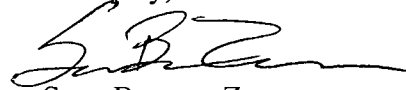
RE: Enclosed documents for filing
Shoemaker -v- Shoemaker 17-CP-08-1839

Dear Ms. Kitchings

Enclosed please find the following for filing:

1. Initial Reply Brief of Appellant;
2. Proof of Service of the above documents on respondent.

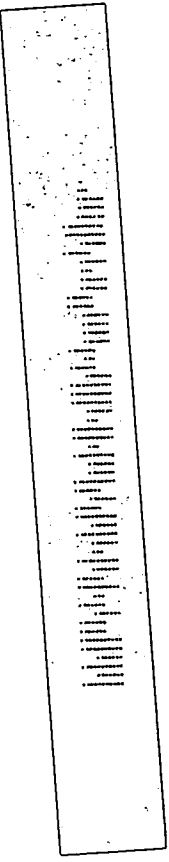
Sincerely,




Sean Bannon Zenner

Handwritten mark


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