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OCT 17 2019

THE STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. SUPREME COURT

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

Case No. 2014-CP-10-07038
Court of Appeals 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, 2009Appellants/Petitioners,

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.

VERIFICATION

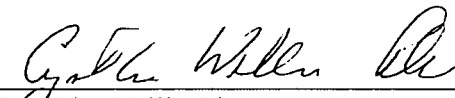
I, Cynthia Wellin Plum, verify that, to the best of my knowledge and belief, the facts set forth in the foregoing Petition for a Writ of Supersedeas are accurate.


Executed on October 16, 2019.

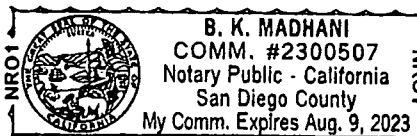
STATE OF CALIFORNIA, COUNTY OF SAN DIEGO.

SWORN to and subscribed before me

this 16th day of October, 2019


Cynthia Wellin Plum
Appellant/Petitioner

 (L.S.)
Notary Public for STATE OF CALIFORNIA
My Commission Expires: Aug. 9th 2023



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 

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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.

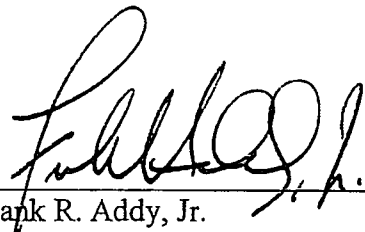
The Wellin Children filed a Motion for a Status Conference in this case. This jurist recently consulted with Judge Norton who has jurisdiction over the federal court action. Both courts agree that the actions pending in state court should be tried prior to the federal action in order to promote judicial 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.

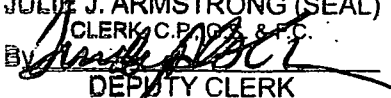
This Court will try the issues of undue influence and testamentary capacity for all changes to Keith Wellin's estate plan from 2013-2014 in state court. Put another way, the trial will decide the issues of undue influence and testamentary capacity for the relevant period of time. Of course, the Wellin 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. 103 & P.C.

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 B

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
Wellin Family 2009 Irrevocable Trust, u/a/d November
2, 2009, Appellants,

vs.

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,

and

Friendship Management, LLC, Appellant,

vs.

Wendy C.H. Wellin, Respondent.

IN THE MATTER OF:
Keith S. Wellin

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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

SC Bar No. 11987

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Merritt G. Abney

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E-mail: merritt.abney@nelsonmullins.com

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Post Office Box 1806 (29402-1806)

Charleston, SC 29401-2239

(843) 853-5200

Miles Coleman

SC Bar No. 78264

E-Mail: miles.coleman@nelsonmullins.com

104 South Main Street / Suite 900

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
PO Box 7368
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.
James B. Hood, Esq.
Molly H. Craig, Esq.
Hood Law Firm, LLC
172 Meeting Street
Charleston, SC 29401
*Attorneys for Wendy C.H. Wellin, as Special
Administrator and for the Keith S. Wellin
Florida Revocable Living Trust*

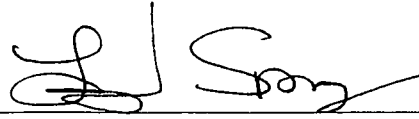
Marvin D. Infinger, Esq.
Barnwell Whaley Patterson & Helms, LLC
PO Drawer H
Charleston, SC 29402
*Attorney for Campbell Lane Hart and
Heather Lane*

M. Dawes Cooke, Jr., Esq.
Barnwell Whaley Patterson & Helms, LLC
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Charleston, SC 29402
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

A handwritten signature in black ink, appearing to read 'Lydia Spry', written above a horizontal line.

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
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u/a/b November 2, 2009,
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11, 2001, Hamilton College, Keith S.
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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 [Signature]

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.

1 [Signature]

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.

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

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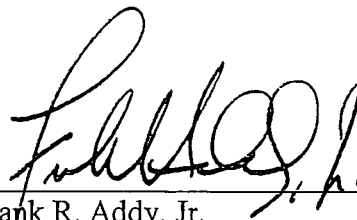
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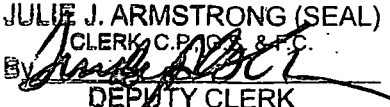
This Court will try the issues of undue influence and testamentary capacity for all changes to Keith Wellin's estate plan from 2013-2014 in state court. Put another way, the trial will decide the issues of undue influence and testamentary capacity for the relevant period of time. Of course, the Wellin 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. 1983 & P.C.

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

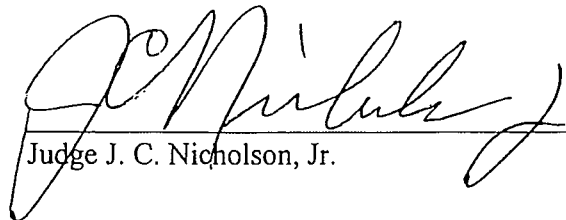
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SC Court of Appeals

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

FILED
 2018 AUG 24 PM 3:21
 JUDICIAL BRANCH OF COURTS

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

EXHIBIT C



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

Frank R. Addy, Jr.
Judge

Greenwood County Courthouse
528 Monument Street, Suite 210
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

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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 D

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

--- CONFIDENTIALITY NOTICE --- This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

EXHIBIT E

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 12th and the trial to begin on Monday June 17th to conclude at the end of the week of the 24th. 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 21st 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 24th 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 <cceleonard@charlestoncounty.org>; Addy, Frank R. Law Clerk (Meagan White) <faddytc@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

EXHIBIT F

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Wendy C. H. Wellin,)
)
Petitioner,)

Civil Action No. 2014-CP-10-07038

vs.)

THE WELLIN CHILDREN'S
MOTION FOR A CONTINUANCE
OF TRIAL

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/d)
November 2, 2009,)

Respondents, Counter-Petitioners, and)
Counterclaimants,)

vs.)

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,)

Counter-Respondents,)

and)

Friendship Management, LLC)
Intervenor Plaintiff,)

vs.)

Wendy C.H. Wellin)
Defendant.)

IN THE MATTER OF:)

Keith S. Wellin)

FILED
2019 JUN 10 PM 2:08
JULIE J. ARMSTRONG
CLERK OF COURT

I. The Wellin Children move the Court to continue the trial until after Keith Plum's wedding on June 28, 2019.

Pursuant to Rule 40(i) of the South Carolina Rules of Civil Procedure, Peter J. Wellin, Cynthia Wellin Plum, and Marjorie Wellin King (the "Wellin Children") move the Court to issue an Order continuing the trial in this matter until after Keith Plum's wedding, which is being held in Colorado on June 28, 2019. Keith Plum, Keith Wellin's only namesake, is the only son of Keith Wellin's oldest child Cynthia Plum and her husband Sam, and he is the first of their two children to be married. Keith's rehearsal dinner is on Thursday, June 27, 2019, and his wedding is on Friday, June 28, 2019. The rehearsal dinner and wedding have been planned for these dates for approximately ten months, and the Wellin Children and their families had all planned to attend. Each of the Wellin Children is a party and key witness to this litigation, and after six years of this highly emotional litigation, each of the Wellin Children had planned to testify in, and be present for the entirety of, any trial of this matter. Further, Keith Plum is a potential witness for the Wellin Children with respect to the relationships between Keith Wellin and his children and grandchildren, among other things.¹

If the Court holds the trial during the weeks of June 17 and June 24, 2019, as the Court recently informed the parties it intends to do, Cynthia Plum and her siblings will be forced to choose whether to participate in the trial or miss Keith Plum's rehearsal dinner and wedding. Further, having the trial of this emotionally charged six-year-old family dispute come to a close and a jury verdict on the very day that Keith Wellin's namesake is married would be a significant

¹ Keith Wellin's other seven grandchildren also support the Wellin Children in this litigation, and all eight grandchildren are represented by Duffy & Young for purposes of the federal and state court litigation. Keith Plum, however, has served as the spokesperson and face of Keith's eight grandchildren, and he is the only grandchild who intervened in (and remains a party to) the related federal litigation, in which he fully supports the position of the Wellin Children.

hardship on, and extremely upsetting for, Keith Plum, Cynthia Plum and her husband Sam, and the rest of the Wellin family, and would place a black cloud over the wedding for now and into the future. Indeed, if the Court proceeds with a trial ending on June 28, as it has stated its intention to do, it is reasonably likely that the jury will return a verdict as Cynthia Plum is watching her first child get married.

Under these circumstances, the Wellin Children respectfully submit that good and sufficient cause exists for a continuance until the next term of Court, and the Wellin Children respectfully request that the Court rule on this motion expeditiously. This motion is not being filed for purposes of delay, and granting this motion would not cause prejudice to any party. Pursuant to Rule 11(a) of the South Carolina Rules of Civil Procedure, the Wellin Children affirm that they have attempted to confer with opposing counsel regarding the relief requested in this motion prior to filing it, but opposing counsel has not responded to the request for consent.²

II. The Wellin Children's response to certain portions of the Court's letter dated May 17, 2019, to the Chief Judge of the South Carolina Court of Appeals

Last week, the Wellin Children accidentally discovered on the Court of Appeals online docket the letter dated May 17, 2019, that this Court sent to the Honorable James E. Lockemy, Chief Judge of the South Carolina Court of Appeals. *See* Letter to Judge Lockemy (attached hereto as **Exhibit A**). In the letter, the Court states that the parties to this action have been aware since January that the Court's intention was to try this case during the final two weeks of June. Neither the undersigned nor the other counsel for the Wellin Children are aware of the Court notifying the

² The Wellin Children's counsel requested consent from all opposing counsel yesterday around noon and requested that they respond by today at noon but has not yet heard back from any of the opposing counsel. Because of the time sensitive nature of this motion, the Wellin Children are filing this motion prior to receiving a response and will notify the Court in the event any of the other parties inform the Wellin Children's counsel of their consent.

parties in January—or at any time prior to the Court’s email dated June 4, 2019—of the weeks when the trial would be held. In the Court’s Order entered on May 15, 2019, the Court stated that the trial would be limited to two weeks and stated (for the first time as far as the Wellin Children’s counsel are aware) that the trial would “take place in June of this year,” but the Order did not identify the weeks in June when the trial would be held.³ Further, on March 11, 2019, Wendy Wellin and the Estate filed a joint Motion for Discovery Conference and Plan Pursuant to Rule 26(f), SCRCF, and asked the Court to, among other things, issue a schedule that included the following deadlines: expert disclosures on May 1, 2019; dispositive motions on June 1, 2019; motions in limine thirty days prior to trial; and a trial not before June 1, 2019. On March 15, 2019, the Wellin Children filed a response to this motion and argued, among other things, that Wendy’s request that the Court set a trial date was premature. This motion remains pending and has never been scheduled for a hearing.

The Court also states in its letter that the Wellin Children’s appeal “may be little more [than] an effort to delay this matter further.” But this simply is not the case. For the reasons explained in the Wellin Children’s Return to Respondents’ Motions to Dismiss the Appeal filed with the South Carolina Court of Appeals regarding appealability, attached hereto as **Exhibit B**, the Court’s Order entered on May 15, 2019, is immediately appealable for, *inter alia*, the same reasons the South Carolina Supreme Court found the trial court’s bifurcation order to be immediately appealable in *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 539, 773 S.E.2d 144, 146 (2015). Further, where an order is immediately appealable as

³ Upon information and belief, counsel for the other parties also were unaware of a 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 court. In fact, counsel for the Estate informed the court by email on June 5, 2019, that he 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.

affecting a substantial right, the order *must* be immediately appealed or else the right to appeal is waived forever. *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). In sum, the Wellin Children are seeking a full and fair trial where they are permitted to fully present their claims against Wendy to a jury, and they are seeking to preserve their appellate rights; they do not seek to delay these proceedings any more than is necessary to achieve this outcome.

III. Additional Grounds for Continuing the Trial

In addition to the wedding of Keith Plum, which is the primary basis for the Wellin Children's motion for a continuance, there are other compelling reasons to continue this trial until the next available term of Court or later.

First, the Notice of Appeal filed by the Wellin Children automatically stayed any trial in this action, and this Court lacks jurisdiction to have a trial where the Court's order regarding the trial has been appealed. *See* Rules 205 & 241(a), SCACR; *see also 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."). In *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 773 S.E.2d 144 (2015), the plaintiffs appealed the circuit court's order granting a motion to bifurcate. The defendants moved to dismiss the appeal on the ground that bifurcation orders are not immediately appealable, and the Court of Appeals agreed, dismissing the appeal as interlocutory. *See id.*, 412 S.C. at 535, 773 S.E.2d at 144. Nearly three years later, the South Carolina Supreme Court reversed the Court of Appeals and held that the order was immediately appealable. *See id.* Notably, the circuit court in *Morrow* did not proceed with the first phase of trial while its bifurcation order was on appeal—or even after the South Carolina Court of Appeals dismissed the appeal as interlocutory. Rather,

the circuit court honored the automatic stay and waited to move forward with the trial unless and until the matter was remitted to the circuit court by the Court of Appeals or the Supreme Court. Had the circuit court moved forward with trial—either based on its own belief that the order was not immediately appealable, or after the Court of Appeals issued its ruling that the order was not immediately appealable—then the trial would have been a nullity and would have resulted in a tremendous waste of resources for the parties and the court. The South Carolina Appellate Court Rules do not permit the circuit court to make its own determination as to whether its order that has been appealed is immediately appealable and then proceed with matters decided in its order if it believes that the order is not likely immediately appealable. Such a practice would invade the province of the Court of Appeals and make no sense.⁴

Second, the Wellin Children have filed a Petition for a Writ of Supersedeas with the South Carolina Court of Appeals seeking an Order preventing this Court from proceeding with trial unless and until this matter is remitted to the circuit court. *See* Petition for Writ of Supersedeas (attached hereto as Exhibit C). The Wellin Children respectfully submit that this Court should wait until after the South Carolina Court of Appeals and, if necessary, the South Carolina Supreme Court, rules on this Petition before holding a trial.⁵

⁴ The Wellin Children contend that the currently-pending appeal of this Court's order limiting and restricting the mode of trial, effect of trial, and other substantial rights relating to the contemplated trial on June 17, 2019, automatically divests this Court of jurisdiction to conduct the trial. In the alternative, and without waiving and expressly reserving that position, the Wellin Children are moving this Court for a continuance of trial. The Wellin Children reserve all objections and arguments regarding the trial and pre-trial proceedings in this action.

⁵ As explained in the Petition, the Wellin Children filed the Petition directly with the Court of Appeals because this Court had already indicated that it intended to proceed with trial despite the appeal and because of the very short time period before the date the Court indicated that it intends to start the trial.

Third, Professor Nathan Crystal, who is one of the Wellin Children's retained experts, is not available to testify at a trial held during the weeks of June 17 and June 24 because he will be travelling out of the country throughout that time period. *See* Affidavit of Robert Brunson (attached hereto as **Exhibit D**), at ¶ 4. Professor Crystal's anticipated testimony and opinions in this action, as detailed in his expert reports and depositions in the related federal litigation, relate to, among other things: the legal nature of the relationship between Keith Wellin and Wendy Wellin; the ways in which Keith placed his trust and confidence in Wendy; and the ways that Wendy, in 2013, took advantage of Keith and exploited her relationship of trust and confidence for her own financial benefit by, among other things, facilitating a transfer of \$25 million from Keith to herself mere days after Keith made his first purported revision to his revocable trust in 2013, and mere days before Keith sued his children alleging that they (not Wendy) were a threat to his financial solvency. *Id.* ¶ 6. Professor Crystal also has opinions with respect to the legal relationships between Keith Wellin and his three children, whether those relationships were fiduciary in nature, and whether the Wellin Children fulfilled any fiduciary duties to their father that may have existed. *Id.* The Wellin Children contend that Keith's belief that his children stole from him was a false belief that is evidence of a lack of capacity and undue influence. *Id.* Thus, Professor Crystal's anticipated testimony and opinions in this action are highly relevant and material to the issues of, among other things, whether Keith was susceptible to undue influence by Wendy based on their relationship of trust and confidence; whether Wendy engaged in tactics frequently associated with undue influence, such as exploiting her relationship of trust and confidence for her own benefit; and whether Keith's belief that his children stole from him is evidence of diminished capacity. *Id.* ¶ 7. In light of Professor Crystal's unavailability during the weeks of June 17 and June 24, and in light of the material nature of his testimony and the inability of the Wellin Children to go safely to trial

without his testimony, the Wellin Children respectfully submit that the Court should continue the trial of this matter until at least the next term of Court pursuant to South Carolina Rule of Civil Procedure 40(i)(2). *Id.* ¶ 8. This motion is not being filed for purposes of delay. *Id.* ¶ 9.

Fourth, the Wellin Children are in the midst of drafting responses to eighteen dispositive motions filed by the opposing parties in the related federal litigation. Many of these motions are more than twenty-five or thirty pages in length and raise numerous complex issues of fact and law. The Wellin Children's deadline to file their responses to these motions is July 1, 2019, which would be the Monday after this trial finishes. This deadline has already been extended twice. The Wellin Children's counsel cannot both fully prepare for and try this case while also fully preparing responses to all eighteen of these lengthy dispositive motions.

Fifth, despite the Wellin Children's request, the Court has never held a hearing on the appropriate length of trial. As argued in more detail in the Wellin Children's Return to Respondents' Motions to Dismiss the Wellin Children's Appeal—and as previously argued in the Wellin Children's Memorandum in Support of their Motion for a Status Conference and Scheduling Order—the Court should not set the trial length without considering the anticipated number of witnesses, their anticipated length of testimony, and other factors affecting the expected length of trial. *See* Wellin Children Return (attached hereto as **Exhibit B**), at 18-23. Setting the trial length without considering these factors violates the parties' constitutional due process rights by, among other things, depriving the Wellin Children of a mode of trial to which they are entitled, effectively denying them a jury trial, and granting potential judgment on claims never presented to the jury. *See id.* The Wellin Children incorporate by reference the arguments set forth in their Return regarding this issue, *see id.*, and set forth in their Memorandum in Support of their Motion for a Status Conference and Scheduling Order.

Sixth, the parties have not completed discovery in this action. In its May 15, 2019 Order, the Court denied Wendy's motion for protective order with respect to her deposition and ordered that the Wellin Children may depose Wendy for up to six hours. The Court also denied the Estate's motion for protective order with respect to the Wellin Children's subpoena to Dr. Bachman, who examined Keith during the relevant time period, and held that Dr. Bachman must respond to the Wellin Children's subpoena. The Estate, who upon information and belief is handling the response to Dr. Bachman's response to the Wellin Children's subpoena, has not responded to the subpoena to Dr. Bachman, and Wendy's counsel has taken the position that the Wellin Children's filing of a Notice of Appeal stays all discovery, including Wendy's deposition.

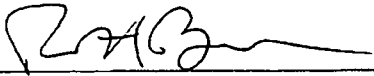
Seventh, because the Court informed the parties on June 4, 2019, that the truncated trial would begin in thirteen days, the parties have not had a chance to draft or file pretrial motions, such as motions *in limine* or *Daubert* motions, mark and exchange witness and exhibit lists, disclose and discover expert opinions to be offered at trial, or otherwise prepare for this truncated trial, which they learned the Court intended to have on May 15, 2019, and which they reasonably believed to be stayed between May 16, 2019, and June 4, 2019, when the Court informed the parties that it did not intend to honor the automatic stay.

Finally, the Court stated in its May 15, 2019 Order that it would issue "a future order concerning the allocation of available time," but the Court still has not issued this Order—or solicited input from the parties regarding allocation of time—a mere seven days before it intends to start trial. The Wellin Children respectfully submit that the Court should continue the trial so that the Court can inform the parties how long they will have to present their case with sufficient notice to prepare for trial, particularly where the trial is not of all the issues but rather is only of certain hand-picked issues that the Court identified for the first time on May 15, 2019.

IV. Conclusion

The Wellin Children only seek a full and fair trial. For all of the foregoing reasons, the Wellin Children respectfully request that the Court issue an Order continuing the trial of this matter until the next term of court or later.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  _____

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Attorneys for the Wellin Children

June 10, 2019
Charleston, South Carolina

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Peter Wellin, Cynthia W. Plum, Marjorie W. King and Friendship Management, LLC, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by emailing and mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**THE WELLIN CHILDREN'S MOTION FOR A CONTINUANCE
OF TRIAL**

FILED
JUN 10 PM 2:08
JULIE J. ARMSTRONG
CLERK OF COURT

Counsel/Party Served:

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Administrative Assistant

June 10, 2019

EXHIBIT G

Lauren Lynch

From: Addy, Frank R. <faddyj@sccourts.org>
Sent: Thursday, June 13, 2019 2:58 PM
To: Robert Brunson; John Beach; James Hood
Cc: Addy, Frank R. Secretary (Freda Sartin); Bobby Hood; Brian Duffy; Bryson Geer; Deirdre McCool; Edward Bennett; Gray Culbreath; 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; Rutledge Young, Jr.; Stephanie Chickey; Stephen Bell; Tina Gault; Virginia Flood; Addy, Frank R. Law Clerk (Meagan White)
Subject: RE: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

All,

At this point, I do not anticipate trying this case next week. First, there are logistical concerns in that the construction litigation which had been the date-certain has not yet settled, and if that does not settle, Judge Young will likely not be able to cover my assigned terms in Lexington or Newberry. This is a relatively recent development as settlement was anticipated. I was also recently told that the Court of Appeals may or may not issue a stay based upon what has been filed there.

Second, as it relates to the appeal from the May 15th order, I reviewed that appeal and the attachments in greater detail last night including the transcript from the February hearing we held. At that hearing, I clearly stated that we would only try the issue of capacity, not undue influence. Between the time of that hearing and the May order, I clearly changed my mind, finding that those issues are related and should be litigated together. However, I acknowledge that including the undue influence claim in the May 15th order clearly caught the Wellin children flat-footed. The appeal makes that abundantly clear.

I do not believe in trial by ambush, and the integrity of the court is the most valuable commodity my branch of government possesses. I had said in February that we would not litigate the undue influence claim, yet I ordered exactly that in May. This was not fair and may have caused the Wellin children to have doubts about the court's integrity.

So, for the above reasons regardless of whether the court of appeals stays the matter, I do not believe it can be or should be tried next week, and I have asked Judge Young to communicate that to the clerk of court who needed to know something prior to the docket meeting tomorrow morning.

I regret, first, that the May order differed from what was put on the record in February, and second, that the last pieces of the puzzle did not fall into place for us to try this case in the coming weeks, regardless of what the Court of Appeals does today or tomorrow as it relates to a stay.

At this point and after speaking with Judge Young, I would ask that we coordinate about finding 2 full weeks in January or February where we can try this case and get it calendared in Charleston as a date-certain. I will issue an order memorializing the other matters addressed yesterday. This will also afford everyone additional time to finalize discovery, continue briefing the issues in Federal court for July, and further narrow the issues/evidence we will address at trial next year. Because there appears to be agreement to try the issues outlined below as a group, we will proceed along those lines.

Pleasure to see everyone yesterday, and thank you for your understanding.

Frank R. Addy, Jr.
Resident Judge, 8th Judicial Circuit

Greenwood County Courthouse
528 Monument Street, Ste. 210
Greenwood, South Carolina 29646
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Email: faddyj@sccourts.org
Secretary: Freda Sartin (faddysc@sccourts.org)
Law Clerk: Meagan E. White (faddyjc@sccourts.org)

From: Robert Brunson [<mailto:robert.brunson@nelsonmullins.com>]

Sent: Thursday, June 13, 2019 1:17 PM

To: John Beach <john.beach@arlaw.com>; James Hood <james.hood@hoodlaw.com>; Addy, Frank R. <faddyj@sccourts.org>

Cc: Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>; Bobby Hood <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>; John Hagerty <john.hagerty@nelsonmullins.com>; John Hudson <jhudson@gwblawfirm.com>; John Lay - GWB <jl原因@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>; DTAA - Molly Craig <molly.craig@hoodlaw.com>; Patricia Scarborough <scarborough@eckb.com>; Patrick Wooten <Patrick.Wooten@nelsonmullins.com>; Rutledge Young, Jr. <rjry@duffyandyoung.com>; Stephanie Chickey <stephanie.chickey@hoodlaw.com>; Stephen Bell <sbell@duffyandyoung.com>; Tina Gault <tina.gault@hoodlaw.com>; Virginia Flood <Virginia.Floyd@hoodlaw.com>; Caroline Crisler Leonard <ccleonard@charlestoncounty.org>; Addy, Frank R. Law Clerk (Meagan White) <faddyjc@sccourts.org>; Al Eargle <aeargle@lex-co.com>; Chiles, Gwendolyn D. <gchiles@mccormickcountysc.org>; Buffy Hodges <bhodges@mccormickcountysc.org>

Subject: RE: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Dear Judge Addy,

Thank you for your time yesterday. In response to Mr. Hood's below email, he is correct that the parties have sometimes fallen into the habit of using the shorthand of "capacity and undue influence" to refer to a group of related challenges that the Wellin Children have brought to the validity of Mr. Wellin's amended wills and trusts, all of which are based on the same or similar facts. The challenges to the validity of the 2013-14 versions of the will and trust that are related to capacity and undue influence are coercion, duress, fraud, and mistake. Like Mr. Hood and Mr. Beach, we had also understood that these related grounds for challenging the wills/trusts fell under the umbrella of "the issues of undue influence and testamentary capacity," which is the scope of trial identified in this Court's Order dated May 15, 2019. Likewise, yesterday when the Court confirmed at the status conference that the trial would be on the issues of "undue influence and incapacity" only, we understood that the related challenges of coercion, duress, fraud, and mistake would also be part of the trial. Of course, the Wellin Children's position is that all claims should be included in a single trial, but the Court has already heard and rejected the Wellin Children's argument on this point.

There are two additional issues regarding the scope of trial that the Wellin Children would like to address clearly in light of Mr. Hood's and Mr. Beach's below emails.

First, the Wellin Children's declaratory judgment counterclaim in this action alleges that the amended versions of Mr. Wellin's trust "were the product of . . . defamation, . . . breaches of fiduciary duty, breaches of contract, [and] intentional interference with testamentary intent." *See* Amended Counterclaims, ¶ 228. The counterclaim does not explicitly allege that the amended versions of Mr. Wellin's trust were invalid by virtue of defamation, breaches of fiduciary duty, breaches of contact, and intentional interference with inheritance. In any event, as the Court and the parties are aware, these are among the Wellin Children's counterclaims seeking damages against Wendy Wellin individually, and these are among the claims that the Wellin Children have argued should be included in the trial of this matter, but this Court has rejected that argument. We raise this because we want to be very clear that the Wellin Children are not being permitted to litigate these claims (or any of their other claims against Mrs. Wellin individually) in this first phase of trial, even though most if not all of the documents and testimony entered into evidence at trial will be relevant to these claims. We do not believe Mr. Hood's or Mr. Beach's emails are inconsistent with our position on this, but we wanted to raise it so that the record is clear, but we also do not want any party later to argue that these claims were actually litigated or that they could have been litigated in this trial.

Second, the Wellin Children's declaratory judgment counterclaim challenges the validity of the 2013-14 amendments to Mr. Wellin's trust on the ground that the amended versions of the trust were not delivered to Peter Wellin as successor trustee as required by the amendment provision in the trust. *See* Amended Counterclaims, ¶ 229. On November 13, 2017, in the related federal action pending before Judge Norton (civil action number 2:14-cv-4067-DCN) the Wellin Children filed a motion for partial summary judgment as to this challenge to the purported amendments to Mr. Wellin's trust. *See* ECF No. 472. On December 14, 2017, the Estate, Mrs. Wellin, and Hamilton College filed response memoranda that totaled more than fifty pages (without exhibits). *See* ECF Nos. 491-93. On January 8, 2018, the Wellin Children filed a 17-page reply memorandum in support of their motion. *See* ECF No. 500. On February 28, 2018, Judge Norton held a lengthy hearing on this motion and took the motion under advisement. After the hearing, the Estate and Hamilton College each filed Sur-Replies opposing the motion. *See* ECF Nos. 518, 524. This motion remains pending before Judge Norton and a decision is expected at any time.

Although this legal issue has been extensively litigated in federal court and is awaiting a ruling by Judge Norton, I do not believe the parties have ever discussed this issue with this Court. In any event, this Court's Order dated May 15, 2019, does not mention this issue, which is plainly distinct from the Wellin Children's challenges to the trust amendments on the grounds of capacity and undue influence. Rather, the Court's Order provides—and the Court held yesterday—that the trial will be only on "the issues of undue influence and testamentary capacity." Thus, the Wellin Children understand that the Court has held that the parties are not permitted to litigate this separate issue during this trial, which is focused only on the Wellin Children's challenges on the grounds of undue influence and capacity and the related grounds identified above—namely, coercion, duress, fraud, and mistake. In sum, the Wellin Children understand the Court to have ordered that this trial will be only on the issues of whether the 2013-14 versions of Mr. Wellin's will and revocable trust are invalid by virtue of undue influence, incapacity, coercion, duress, fraud, and/or mistake and no other issues are being actually litigated, nor could they be litigated pursuant to the order.

Thank you for your consideration.

Robert H. Brunson
Nelson Mullins
843-534-4226

From: John Beach <John.Beach@arlaw.com>

Sent: Thursday, June 13, 2019 11:49 AM

To: James Hood <james.hood@hoodlaw.com>; Addy, Frank R. <faddyj@sccourts.org>

Cc: Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>; Bobby Hood <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>; John Hagerty <john.hagerty@nelsonmullins.com>; John Hudson <jhudson@gwblawfirm.com>; John Lay - GWB <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>; DTAA - Molly Craig <molly.craig@hoodlaw.com>; Patricia Scarborough <scarborough@eckb.com>; Patrick Wooten <Patrick.Wooten@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 Flood <Virginia.Floyd@hoodlaw.com>; Caroline Crisler. Leonard <cleonard@charlestoncounty.org>; Addy, Frank R. Law Clerk (Meagan White) <faddyjc@sccourts.org>; Al Eargle <aeargle@lex-co.com>; Chiles, Gwendolyn D. <gchiles@mccormickcountysc.org>; Buffey Hodges <bhodges@mccormickcountysc.org>; Robert Brunson <robert.brunson@nelsonmullins.com>

Subject: RE: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

Judge Addy,

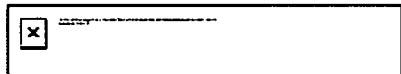
Hamilton College has been proceeding under the same assumption as Mr. Hood and requests clarification that the bifurcated trial will adjudicate *all* of the Wellin Children's challenges to the validity of the various versions of the will and revocable trust Keith Wellin executed in 2013 and 2014.

Thank you,

-John

John Beach

Partner



1501 Main Street, 5th Floor | Columbia, SC 29201
main 803.254.4190 | direct 803.343.1269 | mobile 803.413.2300
efax 803.343.1224 | fax 803.779.4749

john.beach@arlaw.com

[website](#) [bio](#) [vCard](#) [map](#)

-----Original Message-----

From: Jamie Hood [<mailto:james.hood@hoodlaw.com>]

Sent: Wednesday, June 12, 2019 9:59 PM

To: Addy, Frank R.

Cc: Addy, Frank R. Secretary (Freda Sartin); Bobby Hood, Sr.; 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 R. Z. Bryant; M Dawes Cooke; Marvin

Infinger; Melissa Urch; Merritt Abney; Molly Craig; Patricia Scarborough; Patrick Wooten; Rutledge Young, Jr.; Stephanie Chickey; Stephen Bell; Tina Gault; Virginia Floyd; Caroline Crisler. Leonard; Addy, Frank R. Law Clerk (Meagan White); Al Eargle; Chiles, Gwendolyn D.; Buffey Hodges; Robert Brunson
Subject: RE: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

Dear Judge Addy,

Thank you very much for your time today.

I wanted to take you up on your offer to contact you with any questions. As you know, your bifurcation order is directed toward the bifurcation of a trial to determine the validity of the estate planning documents (the Will and the Revocable Trust) executed by Keith Wellin in 2013 and 2014. While we fall into the habit of only referring to the challenges on testamentary capacity and undue influence, the Wellin Children have also raised challenges on other grounds, including fraud, mistake and duress. I wanted to take this opportunity to confirm that the scope of the bifurcated trial will adjudicate all of the Wellin Children's challenges to the testamentary documents themselves, including those other than capacity and undue influence. I am sure no one wants a series of trials on different challenges but since there was a specific question about the scope of the trial, I wanted to make sure we were all on the same page.

Would you be so kind as to let us know if this understanding is correct, incorrect, or in need of clarification?

Thank you,
Jamie

-----Original Message-----

From: Jamie Hood <james.hood@hoodlaw.com>

Sent: Monday, June 10, 2019 3:47 PM

To: Robert Brunson <robert.brunson@nelsonmullins.com>

Cc: Addy, Frank R. Secretary (Freda Sartin) <faddysc@sccourts.org>; 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>; John Beach <john.beach@arlaw.com>; John Hagerty <john.hagerty@nelsonmullins.com>; John Hudson <jhudson@gwblawfirm.com>; John Lay - GWB <jl原因@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>; 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>; Caroline Crisler. Leonard <cleonard@charlestoncounty.org>; Addy, Frank R. Law Clerk (Meagan White) <faddylc@sccourts.org>; Al Eargle <aeargle@lex-co.com>; Chiles, Gwendolyn D. <gchiles@mccormickcountysc.org>; Buffey Hodges <bhodges@mccormickcountysc.org>
Subject: Re: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

Dear Judge Addy

I am writing to update the court and counsel regarding our trial conflict noted below. The parties in the Anderson case have reached a settlement. So our conflict has now resolved. Look forward to seeing everyone on Wednesday.

Regards, Jamie

Jamie Hood
(843) 577-1223 w
(843) 324-5582 c

> On Jun 10, 2019, at 3:06 PM, Robert Brunson <robert.brunson@nelsonmullins.com> wrote:

>

> Dear Judge Addy and all counsel:

>

> Attached please find a motion for continuance filed on behalf of the Wellin Children. Copies of the motion are also being served by regular mail. By filing this motion the Wellin Children do not waive objections to jurisdiction of this court, based upon the automatic stay. In addition, we respectfully request a court reporter for the status conference scheduled in McCormick on Wednesday. If a court reporter is not available, please inform us and we will bring one.

>

> Thanks,

>

> Robert H. Brunson

> Nelson Mullins

> 843-534-4226

>

> From: Robert Brunson

> Sent: Wednesday, June 5, 2019 9:27 PM

> To: James Hood <james.hood@hoodlaw.com>

> Cc: Addy, Frank R. Secretary (Freda Sartin) <faddyisc@sccourts.org>; Bobby Hood

<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>; John Beach

<john.beach@arlaw.com>; John Hagerty <john.hagerty@nelsonmullins.com>; John Hudson

<jhudson@gwblawfirm.com>; John Lay - GWB <jl原因@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>; DTAA - Molly Craig <molly.craig@hoodlaw.com>; Patricia

Scarborough <scarborough@eckb.com>; Patrick Wooten <Patrick.Wooten@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 Flood

<Virginia.Floyd@hoodlaw.com>; Caroline Crisler. Leonard <cleonard@charlestoncounty.org>; Addy, Frank

R. Law Clerk (Meagan White) <faddylic@sccourts.org>; Al Eargle <aeargle@lex-co.com>; Chiles, Gwendolyn

D. <gchiles@mccormickcountysc.org>; Buffey Hodges <bhodges@mccormickcountysc.org>

> Subject: Re: 2014-CP-10-07038 (Wendy C H Wellin, et al v. Peter J Wellin, et al)

>

> Dear Judge Addy:

>

>

>

> The Wellin Children also have a significant conflict with respect to a trial during the final two weeks of June. Keith Plum—the son of our client Ceth Plum—is getting married on Friday, June 28<x-apple-data-detectors://0>, and his rehearsal dinner is on Thursday, June 27.<x-apple-data-detectors://1> Keith is Ceth’s only son and is her first child to get married, and she is heavily involved in the planning and preparation for the events surrounding the wedding and the rehearsal dinner, which have been planned for these dates for nearly a year and which are in Colorado. All three of the Wellin Children and their families plan to attend both events. In light of this, the Wellin Children respectfully request that the Court continue the trial until after Keith Plum’s wedding for a date that the parties and the Court can agree upon.

>
> We continue to believe that this Court lacks jurisdiction to have a trial in this action while the appeal is pending, but even setting those issues aside, a trial during the last two weeks of June would present a significant hardship for our clients in light of Keith Plum’s wedding and rehearsal dinner. Thank you for your consideration.

>
>
> Robert Brunson
> Nelson Mullins
> 151 Meeting Street
> Suite 600
> Charleston, SC 29401
>
> 843-534-4226
> robert.brunson@nelsonmullins.com<mailto:robert.brunson@nelsonmullins.com>

> On Jun 5, 2019, at 8:21 PM, Jamie Hood <james.hood@hoodlaw.com<mailto:james.hood@hoodlaw.com>>> wrote:

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

> Dear Judge Addy

> I am in receipt of your email setting a status conference for next Wednesday June 12th and the trial to begin on Monday June 17th to conclude at the end of the week of the 24th. 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 21st 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 24th 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<mailto:faddysc@sccourts.org>>

> Sent: Tuesday, June 4, 2019 4:15 PM

> To: Bobby Hood, Sr. <bobby.hood@hoodlaw.com<mailto:bobby.hood@hoodlaw.com>>; Brian Duffy <bduffy@duffyandyoung.com<mailto:bduffy@duffyandyoung.com>>; Bryson Geer <bryson.geer@nelsonmullins.com<mailto:bryson.geer@nelsonmullins.com>>; Deirdre McCool <deirdre.mccool@nelsonmullins.com<mailto:deirdre.mccool@nelsonmullins.com>>; Edward Bennett <bennett@eckb.com<mailto:bennett@eckb.com>>; Gray Culbreath <gculbreath@gwblawfirm.com<mailto:gculbreath@gwblawfirm.com>>; Jamie Hood

<james.hood@hoodlaw.com<mailto:james.hood@hoodlaw.com>>; John Beach
<john.beach@arlaw.com<mailto:john.beach@arlaw.com>>; John Hagerty
<john.hagerty@nelsonmullins.com<mailto:john.hagerty@nelsonmullins.com>>; John Hudson
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whaley.com<mailto:kjessee@barnwell-whaley.com>>; Lauren Lynch
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whaley.com<mailto:mdc@barnwell-whaley.com>>; Marvin Infinger <minfinger@barnwell-
whaley.com<mailto:minfinger@barnwell-whaley.com>>; Melissa Urch
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<Patrick.Wooten@nelsonmullins.com<mailto:Patrick.Wooten@nelsonmullins.com>>; Robert Brunson
<robert.brunson@nelsonmullins.com<mailto:robert.brunson@nelsonmullins.com>>; Rutledge Young Jr
<jry@duffyandyoung.com<mailto:jry@duffyandyoung.com>>; Stephanie Chickey
<stephanie.chickey@hoodlaw.com<mailto:stephanie.chickey@hoodlaw.com>>; Stephen Bell
<sbell@duffyandyoung.com<mailto:sbell@duffyandyoung.com>>; Tina Gault
<tina.gault@hoodlaw.com<mailto:tina.gault@hoodlaw.com>>; Virginia Floyd
<virginia.floyd@hoodlaw.com<mailto:virginia.floyd@hoodlaw.com>>
> Cc: Caroline Crisler. Leonard <cceleonard@charlestoncounty.org<mailto:cceleonard@charlestoncounty.org>>;
Addy, Frank R. Law Clerk (Meagan White) <faddylc@sccourts.org<mailto:faddylc@sccourts.org>>; Al Eargle
<aeargle@lex-co.com<mailto:aeargle@lex-co.com>>; Chiles, Gwendolyn D.
<gchiles@mccormickcountysc.org<mailto:gchiles@mccormickcountysc.org>>; Buffey Hodges
<bhodges@mccormickcountysc.org<mailto: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 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 : faddyse@sccourts.org<mailto:faddyse@sccourts.org>

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>

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> <2019.06.10 (filed) WC's Motion for a Continuance (State Court) - 4838-0708-7513 v 1.pdf>

EXHIBIT H

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

THIS MATTER COMES BEFORE THE COURT on multiple motions: the Wellin Children's motion for continuance, the Wellin Children's motion for entry of default against Mrs. Wellin, Mrs. Wellin's motion for entry of default against the Wellin Children, and the Wellin Children and Mrs. Wellin's motions to set aside entries of default. A hearing was held with all parties present in McCormick, South Carolina on June 12, 2019. The Court finds as follows:

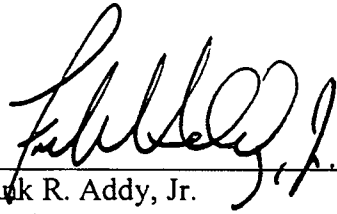
A handwritten signature in black ink, appearing to be 'ZNA', is located at the bottom center of the page.

Counsel for both the Wellin Children and for Mrs. Wellin have filed motions for entry of default against each other and both have filed motions to set aside entry of default. The parties have been involved in years of litigation in both state and federal court. Pursuant to Rule 1 of the South Carolina Rules of Civil Procedure the Court finds it is not just or proper to enter a default against either side in this case because all sides have been continuously aware of the issues involved in these actions. Therefore, the Court denies both motions for entry of default and grants both motions to set aside the motions for entry of default.

The Wellin Children also filed a motion for continuance. The Court took the matter under advisement at the hearing and now grants the motion for continuance. There were some logistical problems the Court had with proceeding to trial during the timeframe initially ordered, and these concerns were previous communicated to counsel via email.

In light of this Order granting the Wellin Children's motion for continuance, the Court also orders the parties to coordinate with each other and find a mutually convenient two full, consecutive weeks in January, February, or March of 2020 when this case may be tried. The parties shall notify the Court which dates have been selected by close of business Monday, July 15th. Should the parties be unable to agree to a trial date, the Court will contact the Chief Administrative Judge and Court administration and select any available dates which the court calendar will allow.

IT IS SO ORDERED.



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

July 2, 2019
Greenwood, South Carolina