

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPELLATE CASE NO. 2020-000021

APPEAL FROM LANCASTER COUNTY  
BRIAN M. GIBBONS  
Trial Court Case No. 2014-CP-29-00306

In the Matter of the Estate of Chris Combis,  
Desa Ballard, as Personal Representative of the Estate of Chris Combis,  
Respondent,

v.

George Combis, Diane Combis, and Chris Combis,  
Defendants,

Of whom

George Combis and Chris Combis are,  
Appellants.

**RECEIVED**  
JAN 17 2020  
SC Court of Appeals

**MOTION TO LIFT STAY  
OR TO EXPEDITE APPEAL**

Pursuant to Rule 241(c)(1) SCACR. Respondent Ballard hereby moves this Honorable Court to lift the stay granted in this matter by the trial judge. In the alternative, because of the unusual circumstances of this case, Ballard seeks to expedite the appeal with an abbreviated and accelerated briefing schedule as in Decker v. Smith, 322 S.C. 212, 471

S.E.2d 459 (1995)<sup>1</sup>. Alternatively, Ballard asks the Court to expeditiously decide the appeal on the merits based on the record presented, as in Green v. Lewis Truck Lines Inc., 314 S.C. 303, 443 S.E.2d 906 (1994).

In support of her motion, Ballard would show:

1. Ballard serves as personal representative of the Estate of Chris Combis, having been appointed by unanimous nomination of the heirs of the estate and appointed by order of the Probate Court on May 2, 2013.
2. Ballard's investigation into assets of the estate identified items of personal property which could not be located. Ballard requested certain individuals, including Appellants George Combis<sup>2</sup> (hereafter "George") and his adult son Chris Combis (hereafter "Chris"), to deliver to her items which belonged to the decedent at the time of his death. The requested items were acknowledged to be in the possession of Appellant George Combis by his then-counsel. (**Exhibit A**).
3. When the items were not produced, Ballard served subpoenas for production of the items on appellants. (**Exhibits B and C**). When no items were produced, Ballard moved to compel, and Circuit Judge Brian M. Gibbons<sup>3</sup> issued an order compelling production of

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<sup>1</sup> In Decker, the Supreme Court ordered the Record on Appeal and Appellant's brief to be filed within seven (7) days of its order, Respondent's brief seven (7) days later, and any reply brief three (3) days after that. Decker, 471 S.E.2d at 461.

<sup>2</sup> Decedent had three (3) adult children: George Combis, Linda Combis and Mary Combis. George is married to Diane Combis, and Chris is their adult son. Neither Linda nor Mary are married and neither have children.

<sup>3</sup> The matter was transferred to the Circuit Court by Lancaster County Probate Court order.

the items requested. (**Exhibit D**). Essentially, items involved included a coin collection, firearms and at least one expensive Rolex watch.

4. After numerous excuses for non-production, a box of items of personal property was delivered to Ballard's office. Items produced included limited rolls of coins, one cheap pistol (Appellants' counsel admitted there were more, more than once) and a fake Rolex watch. Photographs of some of the items are attached. (**Exhibits E**). It became apparent to Ballard that the items produced were not the items which had belonged to the decedent, and that Chris and George, and perhaps their counsel, were not in compliance with the Court's order.
5. Ballard filed a Petition and sought a Rule to Show Cause against George, Chris and Diane, asking the Court to inquire into the failure of the responding parties to comply with the order to compel<sup>4</sup>.
6. Following a day and a half of testimony, Judge Gibbons halted the proceedings and ordered a criminal investigation be conducted by SLED related to these missing items of personal property. (**Exhibit F**)<sup>5</sup>.

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<sup>4</sup> Both George and Chris were personally served with the Rule to Show Cause, in that the contempt complained of occurred outside the presence of the Court. Bakala v. Bakala, 352 S.E.2d 612, 576 S.E.2d 156 (2003); State v. Johnson, 249 S.C. 1, 152 S.E.2d 669 (1967). Judge Gibbon's order is based both upon conduct which occurred outside the presence of the court, as well as his observation of the witnesses and testimony which was submitted in Court. (October order, **Exhibit G**).

<sup>5</sup> Ballard continued litigating other issues relevant to the Estate, including the collection by the Estate of a \$230,000.00 promissory note owed to the decedent's estate by Superior Tile, Terrazzo and Marble Corporation, a Charlotte corporation. Superior Tile had been started by the decedent in 1957 but was determined to be owned by George at the time of decedent's death. Ballard could find no clear evidence that the decedent's 51% interest in the company had been transferred by decedent prior to his death, and originally claimed the stock as an asset of the estate. Subsequent litigation in North Carolina determined that George owned the entire company. The United States District Court for

7. While no criminal charges were initiated following the SLED investigation (the items were maintained in North Carolina), Judge Gibbons reconvened the hearing and issued an order in October, 2019, holding George and Chris in contempt of court and awarding compensatory contempt in the amount of \$70,000.00 be paid by George and Chris to the estate<sup>6</sup>. **(Exhibit H)**.
8. Judge Gibbons noted that, during the contempt proceedings, a real Rolex and a second gun were produced under odd circumstances in the courtroom at the insistence of counsel for George and Chris. Although no cognizable explanation had been offered for the failure to produce the items earlier. (Order ¶ 10).
9. Specifically, Judge Gibbons found that “it was the intent of Chris . . . to mislead Ballard and the Court.” *Id.* ¶ 11. He found that the decedent’s gold Rolex had been remodeled and given by Chris to his then-wife, who had testified and identified the gold Rolex. *Id.* ¶ 18. In juxtaposition to the production of the fake Rolex watch, Judge Gibbons found Chris’ denials and explanation of the history of the watch “not credible” and “disingenuous at best.” *Id.* ¶17. He also found that Chris’ testimony that he did not recognize a real Rolex from a fake one “lacks credibility.” *Id.* ¶ 23. Chris’s contempt was “intentionally and deliberately in willful noncompliance with the Court’s Order.” *Id.*
10. Judge Gibbons noted (although George did not testify) the record reflected earlier testimony from George and “his demeanor during these proceedings. . . which clearly

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the District of South Carolina recently ruled that Superior Tile owed the promissory note and recently entered judgment in favor of the estate against Superior Tile for principal and interest due on the promissory note. [USDC Case Number 0:14-cv-01839-JFA ECF Document Number 304)].

<sup>6</sup> Judge Gibbons ruled there was insufficient evidence from which to conclude that Diane had intentionally violated the Court’s order and did not find her to be in contempt of court. No appeal has been taken from that finding.

demonstrate his contempt for these proceedings and for Ballard.” *Id.* ¶ 12 (emphasis added).

11. Judge Gibbons further found that “[i]t is clear from the long and convoluted record . . . that [George] has thwarted every reasonable effort taken by Ballard to complete a full accounting . . . for [the] estate. George’s lack of respect for this Court is concerning his conduct has made it clear that he intends to obstruct these proceedings in every way he can.” *Id.* ¶ 29 (emphasis added).
12. Judge Gibbons’ findings regarding George’s attitude during these proceedings was echoed by that of United States District Court Judge Joseph F. Anderson<sup>7</sup> in other proceedings that George had been “less than forthcoming” and “internally inconsistent<sup>8</sup>” in that proceeding. Ballard v. Combis, Civil Action No. 0:14-cv-01839, p. 5-6. Judge Anderson also referenced deposition testimony from George which said “. . . not being smart, I don’t have to show anybody where it came from.” *Id.* p. 6<sup>9</sup><sup>10</sup>.

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<sup>7</sup> Judge Anderson’s order is referenced to establish that George’s contemptuous conduct was not limited to the instant proceedings and has characterized George’s obstructive behavior throughout Ballard’s service as personal representative and successor trustee.

<sup>8</sup> Judge Anderson noted that George had testified he spent large sums of money for the benefit of his sister, Linda, but “[b]y the next morning of trial, however, George had retreated from this position and acknowledged on cross-examination that none of these items were purchased with the Trust monies, if that they had been purchased at all.” *Id.* p. 6.

<sup>9</sup> When answering questions about the source of funds in a joint investment account which was later transferred by Pop into the trust and then subsequently “loaned” from the trust to her husband George by Diane, who was the trustee at the time. Judge Anderson found this Loan to be a breach of fiduciary duty and awarded the trust the amount of the loan \$412,000 plus interest for a total at that time of \$711,619.94.

<sup>10</sup> At the request of the parties, Ballard also became successor trustee of the decedent’s trust. The trust had minimal funds (which Diane refused to release to

13. Judge Anderson also noted that prior counsel for George and Diane, Charles Bridgmon, had “assisted Diane and George in furthering George’s plans to purchase” an estate/trust asset (house) by appearing at the foreclosure hearing and consenting to foreclosure<sup>11</sup>. *Id.* ¶ 57.

14. Judge Gibbons found that Ballard had established her burden of proof by clear and convincing evidence. (Order p. 20). “. . . Respondents George and Chris A. have intentionally and knowingly violated” the Court’s order requiring them to produce assets to Ballard. “Most egregiously, these Respondents have shown a complete disregard for the authority of this Court and its order” and characterized their conduct as “intentional obstruction of Ballard’s reasonable efforts as personal representative.” (Order. P. 20). Furthermore, he noted “Ballard and her attorney, Mr. Truslow, have done everything in

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Ballard), but held title to a home in Lancaster that Linda lived in, and in which Mary was then residing, after George and Diane sold the house she had lived in, which was also owned by the trust. Ballard discovered foreclosure proceedings on the Lancaster property and sold Mary’s unencumbered house (which was being leased to a tenant) to reinstate the mortgage. George admitted in deposition testimony that he had planned to purchase the Lancaster house at foreclosure sale and would work something out with his sisters so they would have a place to live. This, of course, followed his sale of Mary’s house and his earlier efforts to evict Linda from the house she occupied, both of which houses were owned by the trust. Ballard pursued a civil action for \$412,000.00 that George and Diane had removed from the trust and applied to their personal line of credit secured by their home. Judge Anderson entered judgment against George and Diane for the theft of the funds, but the Fourth Circuit Court of Appeals reversed the judgment as to George. The Court of Appeals noted, in footnote 3, that counsel for George and Diane had a conflict of interest, which became clear when counsel succeeded in vacating the judgment as to George, leaving Diane as the only judgment debtor. Ballard v Combis No. 16-2057, ECF 61 (4<sup>th</sup> Cir, January 8, 2019)

<sup>11</sup> Judge Anderson also found that George and Diane’s counsel had failed to disclose to Ballard the existence of the foreclosure proceeding when she agreed to become successor trustee of the trust. *Id.* ¶ 58. The counsel also “failed to respond to her inquiry as to the status of the foreclosure.” *Id.* ¶ 59.

their power in attempting to recover or fully account for property . . . of the [e]state. Their reasonable efforts have been rebuffed at almost turn. . .” (Order p. 21).

15. Judge Gibbons awarded sanctions via a contempt jail sentence that could be purged if his award of compensatory contempt<sup>12</sup> was paid prior to December 31, 2019. (Order pp. 20-21). Judge Gibbons specifically found that the order of contempt was “conditional” and “civil” in nature “because the party being sanctioned for contempt could end the sentence and discharge himself at any moment . . .” *Id.*
16. On rehearing, Judge Gibbons confirmed his award, clarified it to make clearer still the civil nature of the contempt order imposed, and noted that “[t]he arguments set forth by George and Chris merely confirms this Court’s conclusion . . . that both ‘knew they had additional items that were the subject of this Court. . . order and deliberately withheld the items from Ballard in violation of the Court’s order.’”. (Order dated Dec. 31, 2019, p. 1).
17. Upon separate motion by counsel for George and Chris on January 3, 2020, Judge Gibbons granted a stay pending appeal, (Order dated January 3, 2020, **Exhibit I and J**).

### **Discussion**

Ballard moves, pursuant to Rule 225(c)(1) for an order of the Court of Appeals lifting the stay pending appeal. It is respectfully submitted that the stay pending appeal issued by Judge Gibbons will defeat the purpose of the contempt order, making the appeal moot. *See Jennings v. Jennings*, 104 S.C. 242, 88 S.E. 527 (1916), citing *Klink v. Black*, 14 S.C. 241 (1880). Further, a stay while an appeal wends its way through the Courts prevented Ballard from concluding the probate of the estate.

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<sup>12</sup> As explained in his order, Judge Gibbons calculated the amount of compensatory contempt based on the amount of time Ballard and her counsel had necessarily devoted to seeking compliance with the Court’s earlier order.

By its very nature, an order of civil contempt is “to coerce that individual to do the thing required by the order for the benefit of the complainant.” Posner v. Posner, 383 S.C. 26, 577 S.E.2d 616, 619 (Ct.App. 2009), citing Miller v. Miller, 375 S.C. 443, 456, 652 S.E.2d 754, 761 (Ct.App. 2007). Judge Gibbons has found overwhelming evidence of George and Chris’ deliberate attempts to mislead the Court and to engage in obstructionist behavior. As noted above, Judge Gibbons found noted “Ballard and her attorney, Mr. Truslow, have done everything in their power in attempting to recover or fully account for property . . . of the [e]state. Their reasonable efforts have been rebuffed at almost turn. . .” (October Order p. 21).

Judge Gibbons expressly calculated the amount of sanctions assessed against George and Chris based on the conduct of George and Chris during this litigation “which was unnecessarily prolonged by the conduct of George and Chris. . .” (October Order p. 21). “The estate needs to be made whole.” *Id.* In his order on rehearing, Judge Gibbons stressed that the sanctions were awarded as “compensatory contempt” and were “calculated on the basis of the amount of time spent by both Ms. Ballard and Mr. Truslow, [but] the award is a sanction.” (December Order p. 2).

By granting a stay pending appeal, especially after the appeal had been filed, Judge Gibbons has essentially vacated and/or made meaningless the sanctions award. The sanctionable conduct has already occurred. The estate has already been damaged<sup>13</sup>. The compensatory contempt is a small sum when compared to the years of litigation and delays

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<sup>13</sup> As is evident from the order appointing Ballard as personal representative in the spring of 2013, there have been multiple delays in concluding this proceeding, with the litigation entering its seventh year in mere months.

caused by George and Chris (and Diane) and in light of their severe abuse of the judicial system.

Because the order of contempt was civil in nature, Judge Gibbons need not have required any mechanism by which the contempt could be purged, but he elected to do so as an accommodation to George and Chris. Cannon v. Georgia Attorney General's Office, 397 S.C. 541, 726 Ss.E.2d 698 (2012). "The award of attorney's fees is not a punishment but an indemnification to the party who instituted the contempt proceedings. . . Thus, the court is not required to provide the contemnor with an opportunity to purge himself of these attorney's fees in order to hold him in civil contempt." *Id.* 725 S.E.2d at 702.

An order of civil contempt is not automatically stayed by appeal. Brunson v. Brunson, 91 S.C. 411, 74 S.E.2d 928 (1912). Granting the stay requested by George and Chris has effectively vacated the order of contempt<sup>14</sup>; however, as a matter of accommodation, Judge Gibbons provided George and Chris with a means to purge the contempt, yet they chose not to do so.

It is respectfully submitted that the grant of a stay by the trial court was not appropriate, in that the court had already provided George and Chris with a means to purge their civil contempt, but they chose not to do so. Ballard prays for an order vacating the stay pending appeal.

In the event this Court deems a lifting of the stay to be unwarranted, because of the egregious nature of the conduct of George and Chris, Ballard urges this Court to issue an expedited briefing schedule, *ala* Decker, so that this appeal may be decided in an

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<sup>14</sup> See State v. Passmore, 363 S.C. 568, 611 S.E.2d 273 (Ct.App. 2005) (finding appellant's case moot after service of sentence for criminal contempt).

accelerated fashion. Alternatively, Ballard will submit the entire record on appeal of these contempt proceedings for the Court to decide the appeal on the merits, should the Court determine that would be an appropriate means of addressing this unusual and distasteful matter.

**Conclusion**

For the reasons set forth above, Ballard moves this Court for an order lifting the stay granted by Judge Gibbons, leaving to George and Chris to determine whether they will purge themselves of civil contempt using the option provided to them by the trial court by paying the contempt sanction to the Estate.

Alternatively, Ballard submits that this matter is appropriate for an expedited appeal *ala Decker*, or a decision on the merits as part of the Court's consideration of this motion.

All of which is respectfully submitted,

Truslow & Truslow Law Firm



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January 16, 2020

**Mara Ballard**

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**From:** Charlie Bridgmon <cjblaw@carolina.rr.com>  
**Sent:** Thursday, October 17, 2013 11:41 AM  
**To:** Mara Ballard  
**Cc:** Desa Ballard; Charlie Bridgmon  
**Subject:** Re: Combis: CD information  
**Attachments:** image001.jpg

Yes, and thanks for reminding me.

The Rolex was given to Chris, Jr. (George's son) during Pop's lifetime.

There are no rifles that George is aware of, only a couple of pistols. He has those.

Pop gave the Silver Dollars to Diane as a thank you before he passed. That said, she is not going to let them interfere with trying to get this case resolved.

Charles J. Bridgmon\*  
Law Office of Charles J. Bridgmon, PLLC  
5970 Fairview Rd., Suite 700  
Charlotte, NC 28210  
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Cell: (803) 331-6013  
Fax: (704) 552-5271  
Email: [cjblaw@carolina.rr.com](mailto:cjblaw@carolina.rr.com)

\* Admitted in NC & SC

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**From:** Mara Ballard <[Mara@desaballard.com](mailto:Mara@desaballard.com)>  
**Date:** Thursday, October 17, 2013 11:32 AM  
**To:** Charlie Bridgmon <[cjblaw@carolina.rr.com](mailto:cjblaw@carolina.rr.com)>  
**Cc:** Desa Ballard <[desab@desaballard.com](mailto:desab@desaballard.com)>, Mara Ballard <[Mara@desaballard.com](mailto:Mara@desaballard.com)>  
**Subject:** RE: Combis: CD information

Sometime last week, Desa sent you an email about a Rolex, rifle and maybe some silver coins (trying to recall off the top of my head). Do you have that email and have you asked George about those items?

Mara T. Ballard, CMA, CFE  
Forensic Accountant (not a lawyer)  
Ballard Watson Weissenstein  
226 State Street (29169)  
Post Office Box 6338  
West Columbia, South Carolina 29171  
803.796.9299  
803.796.1066 Facsimile  
[www.desaballard.com](http://www.desaballard.com)



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**From:** Charlie Bridgmon [<mailto:cjblaw@carolina.rr.com>]

**Sent:** Thursday, October 17, 2013 11:07 AM

**To:** Mara Ballard

**Cc:** Desa Ballard; Charlie Bridgmon

**Subject:** Re: Combis: CD information

Mara:

It's document number 00398 in the materials. I don't have any documentation other than the deposit receipt, so I've asked Diane to call her contact at the bank to see if they can give her a quick report on balance as of Feb. 3, 2009.

Thanks,

Charlie

Charles J. Bridgmon\*

Law Office of Charles J. Bridgmon, PLLC

5970 Fairview Rd., Suite 700

Charlotte, NC 28210

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**From:** Mara Ballard <[Mara@desaballard.com](mailto:Mara@desaballard.com)>

**Date:** Wednesday, October 16, 2013 5:58 PM

**To:** Charlie Bridgmon <[cjblaw@carolina.rr.com](mailto:cjblaw@carolina.rr.com)>

**Cc:** Desa Ballard <[desab@desaballard.com](mailto:desab@desaballard.com)>, Mara Ballard <[Mara@desaballard.com](mailto:Mara@desaballard.com)>

**Subject:** Combis: CD information

ON the attached with I believe was done by Diane there is listed a First Citizens CD 5789 with a balance of \$4,887.00. I don't see that I have any documentation on that account and I've been through the 900+ page file several times. Can you look and see if you have anything? I'm looking particularly for a value of that account at 2/9/2009. Anything remotely close to that date would do as well, but I'd like it to be a bank document.

Thank you.

Mara

## Mara Ballard

---

**From:** Charles Bridgmon <CBridgmon@braylong.com>  
**Sent:** Friday, November 15, 2013 4:23 PM  
**To:** Desa Ballard  
**Cc:** Mara Ballard; douglastruslow@truslowlaw.com; Terrie Stafford; Charles Bridgmon  
**Subject:** Re: Trust funds

Thanks, Desa. I will see what I can do on the check. (It's locked up very securely on my end.) It will be Monday before I can talk to them, but it may be that I can hand-deliver it to you on Thursday.

Same for the guns. They are in a safe, but they are out of town until Monday.

On a somewhat aside, what is Lochridge on the market for? I may know someone interested in it as a rental property as well.

Have a good weekend.

Charlie

Charles J. Bridgmon\*  
Bray & Long, PLLC  
2820 Selwyn Avenue, Suite 400  
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Phone: (704) 523-7777, ext. 31  
Cell: (803) 331-6013  
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**From:** Desa Ballard <desab@desaballard.com>  
**Date:** Friday, November 15, 2013 4:20 PM  
**To:** Charlie Bridgmon <cbridgmon@braylong.com>  
**Cc:** "Mara@desaballard.com" <Mara@desaballard.com>, "douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>, Terrie Stafford <Terrie@desaballard.com>  
**Subject:** Trust funds

Charlie, we have received the November rent from Mr. Springstead. Concerns about the security of funds in my hands is a non-issue. Any other lawyer in the state, maybe not. But me – I'm a sure thing.

I would again ask that you release the balance of the trust funds (the check you photocopied and sent to Doug).

By the way, I have obtained a copy of the insurance policy on Lochridge so you can stop looking for that.

I do still need the make, model and serial number on the firearms.

Have a good weekend. I'll look for that check in the Monday mail.

db

db

Desa Ballard  
Ballard Watson Weissenstein  
Telephone 803.796.9299

Facsimile 803.796.1066

E-mail: [desab@desaballard.com](mailto:desab@desaballard.com), copy to [terrie@desaballard.com](mailto:terrie@desaballard.com)

STATE OF SOUTH CAROLINA

EXHIBIT B

ISSUED BY THE PROBATE COURT IN THE COUNTY OF LANCASTER

IN THE MATTER OF: CHRIS COMBIS

SUBPOENA IN A CIVIL CASE

Case Number: 2012-ES-29-00415

Pending in Lancaster County

TO: CHRIS A. COMBIS

YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY: COURTROOM
DATE AND TIME: , AM

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:
DATE AND TIME: , AM

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

ORIGINAL ROLEX WATCH ALLEGEDLY GIFTED TO YOU BY THE DECEASED FOR APPRAISAL. If watch is produced to Plaintiff by US mail or courier, please require signature for delivery.

PLACE: Ballard & Watson, Attorneys at Law, 226 State Street, West Columbia, South Carolina 29169
DATE AND TIME: April 6, 2017 at 10:00 AM

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:
DATE AND TIME: , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF. SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Desa Ballard (Signature) 03/16/2017 (Date) Desa Ballard (Print Name)
Attorney/Issuing Officer's Signature: personal
Indicate if Attorney for Plaintiff or Defendant: representative
Attorney's Address and Telephone Number: Post Office Box 6338, West Columbia, South Carolina 29171
803.796.9299

Desa Ballard (Signature) 03/16/2017 (Date) Desa Ballard (Print Name)
Clerk of Court/Issuing Officer's Signature: personal
Pro Se Litigant's Name, Address and Telephone Number: representative
803.796.9299

## PROOF OF SERVICE

<b>SERVED</b>	DATE 03/16/2017  PLACE Chris A. Combis c/o Charles Bridgmon Bray & Long, PLLC 2820 Selwyn Avenue, Suite 400 Charlotte, NC 28209 <u>AND</u> Chris A. Combis c/o Joseph R. Pellington, Esquire Redding & Jones, PLLC 2907 Providence Road, Suite A303 Charlotte, NC 28211	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO    AMOUNT \$
SERVED ON: Chris A. Combis		MANNER OF SERVICE: US Mail
SERVED BY: Mara T. Ballard, CMA, CFA, FA		TITLE: Forensic Accountant

### DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on: 03/16/2017

*Mara T. Ballard*  
SIGNATURE OF SERVER

Post Office Box 6338, West Columbia, South Carolina 29171  
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the

provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA

EXHIBIT C

ISSUED BY THE PROBATE COURT IN THE COUNTY OF LANCASTER.

IN THE MATTER OF: CHRIS COMBIS

SUBPOENA IN A CIVIL CASE

Case Number: 2012-ES-29-00415

Pending in Lancaster County

TO: GEORGE COMBIS

[ ] YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME AM

[ ] YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME AM
---------------------	------------------

[X] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

ANY AND ALL FIRE ARMS ALLEGEDLY RECEIVED FROM OR GIFTED TO YOU BY THE DECEASED FOR APPRAISAL AS WELL AS CONTENTS OF THE SAFE IN WHICH THE DECEASED STORED CASH AND DOCUMENTS. If production is by US mail or courier, please use deliver which requires signature for receipt.

PLACE Ballard & Watson, Attorneys at Law 226 State Street West Columbia, South Carolina 29169	DATE AND TIME: April 6, 2017 at 10:00 AM
--	--

[ ] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME AM
----------	------------------

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

03/16/2017

Desa Ballard

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

Post Office Box 6338, West Columbia, South Carolina 29171

803.796.8299

*Desa Ballard*

03/16/2017

Desa Ballard


## PROOF OF SERVICE

SERVED	DATE 03/16/2017  PLACE George Combis c/o Charles Bridgmon Bray & Long, PLLC 2820 Selwyn Avenue, Suite 400 Charlotte, NC 28209  AND George Combis c/o Joseph R. Pellington, Esquire Redding & Jones, PLLC 2907 Providence Road, Suite A303 Charlotte, NC 28211	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL  <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO    AMOUNT \$
SERVED ON: George Combis		MANNER OF SERVICE: US Mail
SERVED BY: Mara T. Ballard, CMA, CFA, FA		TITLE: Forensic Accountant

### DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 03/16/2017

  
 \_\_\_\_\_  
 SIGNATURE OF SERVER

Post Office Box 6338, West Columbia, South Carolina 29171  
 \_\_\_\_\_  
 ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the

provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception of waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

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(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LANCASTER )  
 )  
 IN THE MATTER OF ESTATE )  
 OF CHRIS COMBIS, )  
 )  
 Desa Ballard, as Personal Representative )  
 of the Estate of Chris Combis, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 George Combis, Chris A. Combis, )  
 Diane Combis, )  
 )  
 Respondents. )  
 )

IN THE COURT OF COMMON PLEAS  
 Case No. 2014-CP-29-00306

**ORDER GRANTING:**  
**MOTION TO COMPEL**

FILED  
 OFFICE OF CLERK  
 OF COURT  
 2017 AUG - 8 PM 12: 24  
 CLERK OF COURT  
 LANCASTER, SC

Petitioner Desa Ballard (hereafter "Ballard"), in her capacity as personal representative of the Estate of Chris Combis (hereafter "Estate"), seeks an order compelling production of items which have been subpoenaed from the Respondents for purposes of appraisal. Respondents objected to the subpoenas, ~~but offered no explanation for why the documents should not be produced as requested.~~ The motion is granted. The court will hold in abeyance Ballard's motion for sanctions under Rule 37, SCRPC.


Petitioner Desa Ballard (hereinafter Ballard) was appointed Personal Representative of the Estate on May 2, 2013. This court consolidated several earlier actions involving these parties and others, and the cases were removed to United States District Court for the District of South Carolina. The cases were tried non-jury before District Judge Joseph F. Anderson, who issued a judgment against Respondents George and Diane Combis, in favor of the Trust of Chris Combis (hereafter "Trust"), in excess of

eight hundred and fifty-thousand dollars (\$850,000.00). That judgment is on appeal to the Fourth Circuit Court of Appeals.

In awarding judgment, Judge Anderson specifically excluded from his consideration certain items of personal property Ballard had identified as owned by Chris Combis at the time of his death. (Order of Judge Anderson, pp. 6-7).

Following entry of the District Court Judgment, on March 17, 2017 Ballard served the subpoenas upon Respondents to deliver certain items in their possession turned over to the Estate for purposes of appraisal. (Subpoenas dated March 16, 2017). The request was ~~refused~~ <sup>not granted. Jro</sup>. Ballard filed a Motion Compel, seeking an order compelling production and awarding sanctions. The motion clearly stated that the subpoenas were requesting items for the purpose of appraisal only, as the items of personal property are alleged to have been owned by decedent Chris Combis at the time of his death. (Motion ¶ 9).

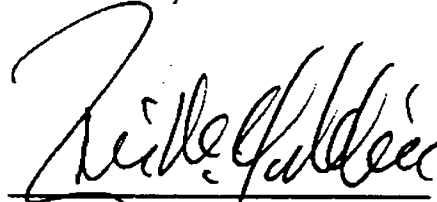
At the hearing, Ballard reiterated her earlier requests that the purpose of subpoenaing the items was to enable her to have the items appraised for probate of the estate. Ballard advised she has made arrangements with a vendor to appraise all the property of the decedent which is in the possession of the Respondents.

Respondents indicated surprise that the purpose of the subpoenas was for appraisal, but the subpoenas themselves as well as the Motion to Compel make clear Ballard's request for production of the specified items of personal property were for appraisal. Respondents' counsel indicated no affirmative opposition to that request. 

It is ordered that the items sought for production in the subpoenas from Ballard to Respondents dated March 16, 2017 shall be delivered her at her office by Respondents or their counsel no later than close of business August 15, 2017. In her capacity as personal representative, Ballard shall inventory the items and take such action as is deemed by her necessary to appraise the items, and then return them to Respondents, through counsel.

This Court reserves the motion for sanctions until a later date.

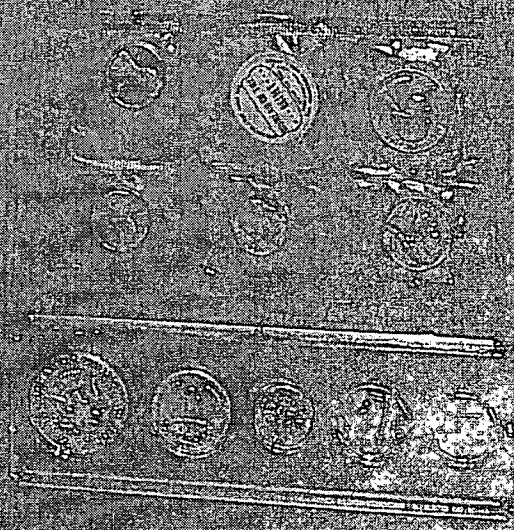
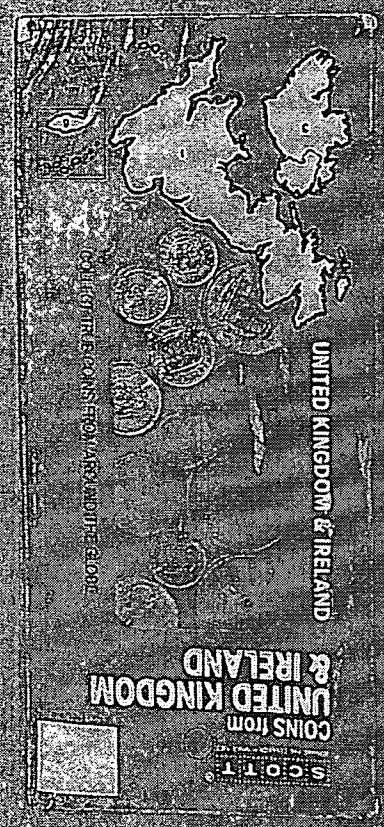
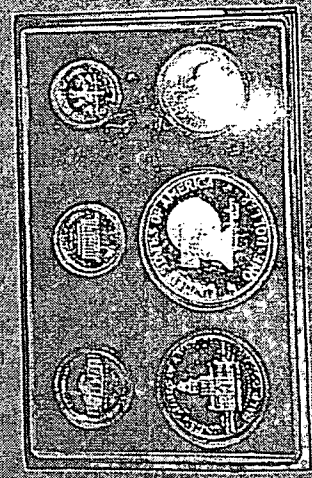
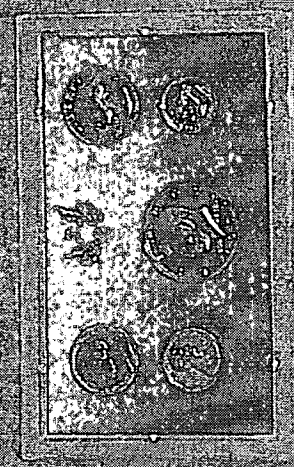
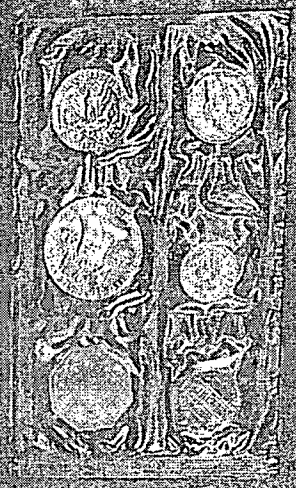
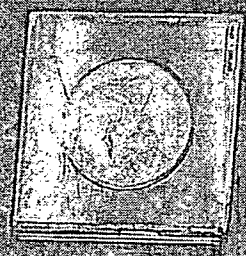
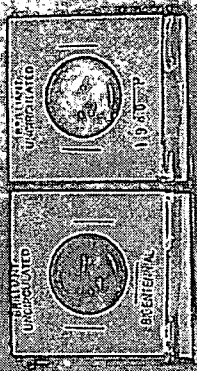
IT IS SO ORDERED. *(as amended)*

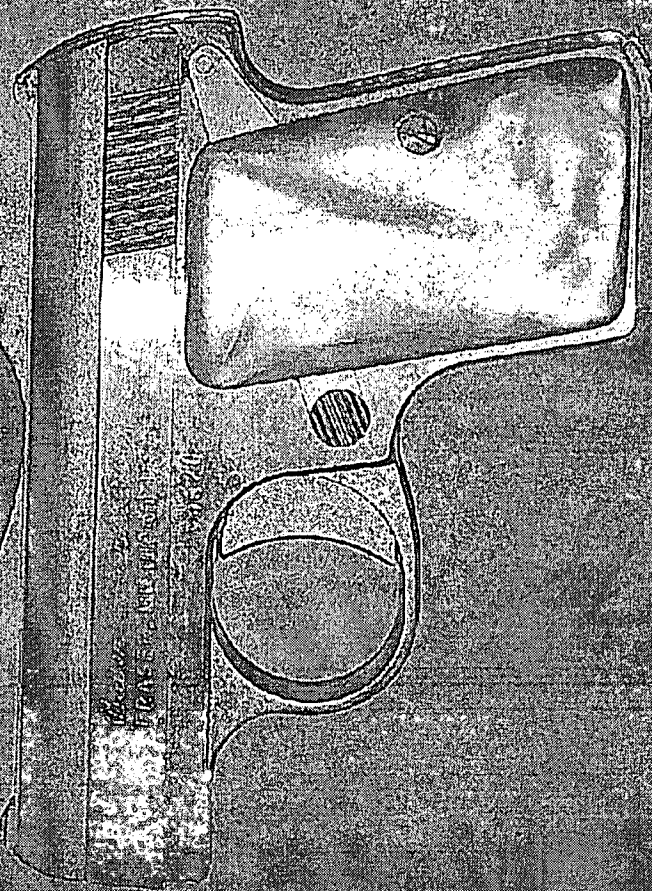
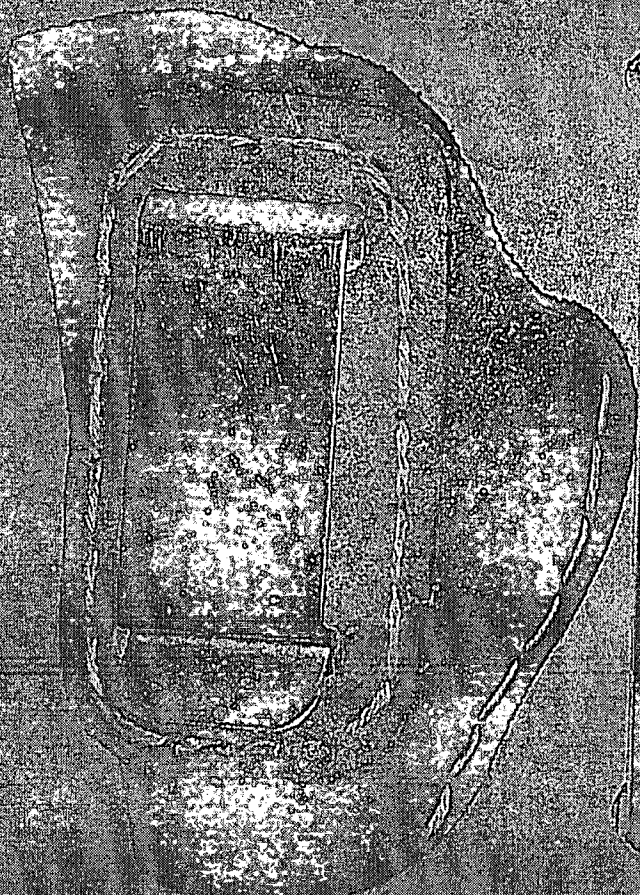
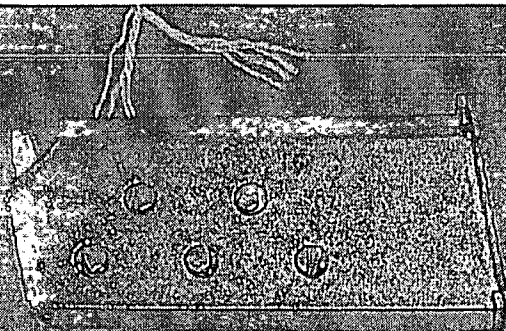


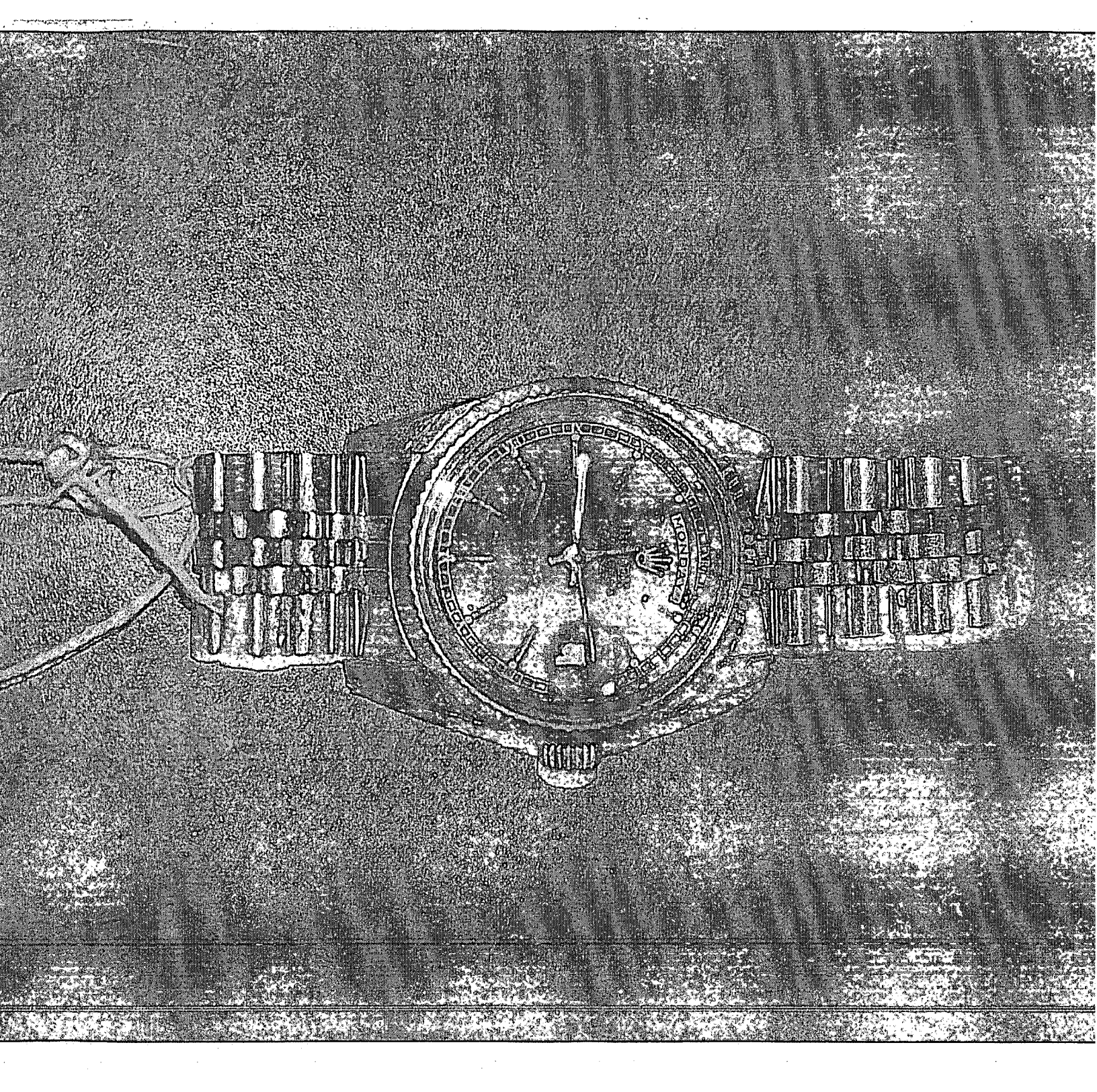
Brian M. Gibbons  
Chief Administrative Judge

August 9, 2017

8 0889 4 6 3







STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) SIXTH JUDICIAL CIRCUIT  
COUNTY OF LANCASTER ) 2014-CP-29-0306

DESA BALLARD PER REP: )  
ESTATE OF CHRIS COMBIS )

vs. )

TRANSCRIPT OF RECORD

GEORGE COMBIS, DIANE )  
COMBIS, BLACK HORSE RUN )  
PROPERTY OWNERS ASSOCIA- )  
TION, SUPERIOR TILE, )  
MARBLE & TERRAZZO CORP. )

(DAY 2)

NOVEMBER 17, 2017  
LANCASTER, SOUTH CAROLINA

BEFORE THE HONORABLE BRIAN GIBBONS

APPEARANCES:

DOUGLAS TRUSLOW, ESQUIRE  
COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE PLAINTIFF

JOSEPH PELLINGTON, ESQUIRE  
CHARLOTTE, NORTH CAROLINA

T. KIMMELL MCTIER, ESQUIRE  
CHARLOTTE, NORTH CAROLINA

ATTORNEYS FOR THE DEFENDANTS

SHIRLEY BROOM  
16<sup>TH</sup> Circuit Court Reporter

I N D E X

DIRECT      CROSS      RE-DIRECT      RE-CROSS

WITNESSES:

Larry Garris

By Mr. Truslow      13

By Mr. Pellington      18

By Mr. Truslow      21

Linda Combis

By Mr. Truslow      24

By Mr. Pellington      48

By Mr. Truslow      71

Desa Ballard

By Mr. Truslow      75

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
R-7	10/18/13 Letter with inventory & appraisalment		50

1 chambers, please. That's Mr. Truslow and Mr. Pellington.  
2 Mr. Gregory?

3 MR. GREGORY - Yes, sir.

4 (WHEREUPON, THE JUDGE MEETS WITH COUNSEL IN  
5 CHAMBERS WHICH IS NOT ON RECORD.)

6 THE COURT - All right, Ms. Ballard, I'm going to  
7 have you step down, please.

8 MS. BALLARD - Okay. Thank you, Your Honor.

9 THE COURT - All right, madam court reporter, I'm  
10 going to -- well, you don't have to mark it separable to  
11 what I'm fixing to say, but this is going to be what people  
12 are going to need, but -- all right, just let me go ahead  
13 and explain what's going to happen. I took your lawyers  
14 into the back so as not to blindside them with what I'm  
15 fixing to say, and I'm going to say it right now. Okay?  
16 You know, one of the -- the most important thing that the  
17 Judge has to do is to make sure that people's  
18 constitutional rights are protected. Okay? Having said  
19 that, having sit -- having sat through almost a full day's  
20 worth of testimony in this case, it's this Court's opinion,  
21 at least at this point, that this has gone beyond a civil  
22 or criminal contempt complaint into possible criminal  
23 malfeasance. And let me say why I say that. Okay? As  
24 your lawyers' know, the burden of proof in a civil case for  
25 contempt, for civil contempt, is clear and convincing

1 evidence per the Miller vs. Miller case. The burden of  
2 proof for criminal contempt, of course, is beyond a  
3 reasonable doubt, just like in any criminal court. The  
4 burden of proof, however, for a criminal charge or a  
5 criminal investigation is probable cause, which is a very  
6 small burden, and that's probable cause just from one side.  
7 I know I've only heard one side of the story. I -- I know  
8 -- and like I told Mr. Pellington back in chambers, you  
9 know, he hadn't called any witnesses yet; he's cross-  
10 examined witnesses. Well, I understand that. You know,  
11 the grand jury in South Carolina only hears from one side;  
12 that's the prosecution's side. But in an abundance of  
13 caution and to protect, Mr. Pellington, your client's  
14 constitutional rights, I'm recessing this hearing and  
15 staying this proceedings -- and staying these proceedings  
16 until further notice. As the officer of this Court, as the  
17 representative of justice, I have a duty to report what  
18 I've heard as possible criminal violations of both South  
19 Carolina law and North Carolina law. What I've heard can  
20 possibly arise to breach of trust in South Carolina, which  
21 is punishable by up to ten years in prison, a felony. What  
22 I've heard could possibly arise to criminal conspiracy,  
23 which in South Carolina is up to ten years in prison.  
24 Also, what I've possibly -- what I've heard could possibly  
25 arise to perjury. Now, I'm not making any findings on

1 that. I'm just saying, again, it's a probable cause  
2 standard, and I want to make sure everybody's rights are  
3 protected. Mr. George Combis, Mr. Chris Combis and Ms.  
4 Diane Combis, I want to make sure that your rights are  
5 protected. That's why I'm stopping these proceedings at  
6 this point in time. Okay? However, this Court has a duty  
7 to report any alleged violations of the law to the proper  
8 authorities for investigation. Okay? Mr. Gregory is a  
9 retired SLED agent, South Carolina Law Enforcement  
10 Division. Mr. Gregory, I'm ordering that you contact the  
11 South Carolina Law Enforcement Division and have them  
12 contact the North Carolina counterpart, SDI, I believe, is  
13 what it's called, and have them open up an investigation on  
14 these alleged activities by the Combises to see if any  
15 violations arise to the level of criminal prosecution.  
16 Okay?

17 MR. GREGORY - Yes, sir.

18 THE COURT - Having said that, this Court is going  
19 to stay these proceedings until further notice. That's the  
20 order of the Court. Okay? Court's adjourned.

21 MR. TRUSLOW - Your Honor, I have one --

22 THE COURT - Yes, sir.

23 MR. TRUSLOW - -- one request, technical request  
24 in this regard, that we have -- I think Mr. Pellington will  
25 agree -- we've had this discussion before with Mr. George

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

IN THE MATTER OF THE ESTATE OF  
CHRIS COMBIS

DESA BALLARD, as Personal Representative  
of the Estate of Chris Combis,

Plaintiff/Petitioner,

vs.

GEORGE COMBIS, DIANE COMBIS, and  
CHRIS COMBIS,

Defendants/Respondents.

IN THE COURT OF COMMON PLEAS

Case No. 2014-CP-29-306

**ORDER OF CIVIL CONTEMPT AS TO  
GEORGE COMBIS AND CHRIS A.  
COMBIS**

This matter was commenced by the Petitioner Desa Ballard (“Ms. Ballard”) with the filing of a Verified Petition and Request for Rule to Show Cause (the “Petition”) on August 28, 2017. The Court issued an Order and Rule to Show Cause (the “Order”) to George Combis (“George”), Diane Combis (“Diane”), and Chris A. Combis (“Chris or Chris A.”) (collectively, George, Diane and Chris are the “Combises”) on September 5, 2017. A hearing on the Petition and Order was scheduled for November 13, 2017, and the matter was eventually heard on November 14, 2017, November 17, 2017, and concluded on August 5, 2019<sup>1</sup>.

This matter arises out of a dispute between the Petitioner and Respondents over the production of certain items subpoenaed by Petitioner as the personal representative of the Estate of Chris Combis (“Pop”). On March 16, 2017, Petitioner issued three subpoenas (collectively the “Subpoenas”) to the Combises. The first subpoena (the “Chris Subpoena”) was issued to Chris,

<sup>1</sup> The Court, stayed this matter on November 17, 2017 pending an investigation by S.L.E.D. into any wrongdoing by the Combises. S.L.E.D. determined no criminal charges were to be made and closed the case on or about July 20, 2018. See Court’s Exhibit Number 1.

and it requested the production of the "ORIGINAL ROLEX WATCH ALLEGEDLY GIFTED TO YOU BY THE DECEASED FOR APPRAISAL." *See* Respondent's Exhibit Number 8. The second subpoena (the "Diane Subpoena") was issued to Diane, and it requested the production of "COINS ALLEGEDLY RECEIVED FROM THE DECEASED." *See* Respondent's Exhibit Number 9. The third subpoena (the "George Subpoena") was issued to George, and it requested the production of "ANY AND ALL FIRE ARMS ALLEGEDLY RECEIVED FROM OR GIFTED TO YOU BY THE DECEASED FOR APPRAISAL AS WELL AS CONTENTS OF THE SAFE IN WHICH THE DECEASED STORED CASH AND DOCUMENTS". *See* Respondent's Exhibit Number 10.

On March 30, 2017, the Combises served an objection to the Subpoenas. In response, on or about May 15, 2017, the Petitioner filed a motion to compel, and following a hearing on the matter, on August 8, 2017, the Court entered an order (the "MTC Order") granting the motion to compel.

The MTC Order ordered the Combises to produce the items requested by the Subpoenas on or before August 15, 2017. As set out in greater detail below, the Combises timely produced a number of items to the Petitioner by August 15, 2017, however the Petitioner claims that the Combises failed to adhere to the MTC Order by producing the wrong items and/or only a portion of the items requested. Petitioner's belief that the Combises violated the MTC Order prompted her to file the Petition and the Court to issue the Order.

During the multiple days of hearings on this matter in November of 2017, the Court heard testimony from Chris, Diane, Lauren Combis ("Lauren"), Linda Combis ("Linda"), Larry Garris ("Mr. Garris") and Petitioner. When this matter resumed and concluded on August 5, 2019, the Court heard the remaining testimony from Petitioner.

North Carolina Attorney David Redding appeared at the August 5, 2019 hearing, seeking permission to transfer his *pro hac vice* status from the United States District Court to allow him to appear *pro hac vice* in this proceeding for parties George, Diane and Chris A. Ballard objected, pointing out that Redding had not complied with Rule 404, SCACR which governs admissions *pro hac vice* in the state courts. It is undisputed that Redding did not properly seek *pro hac vice* admission in the state court. However, the Court examined Redding as to qualifications for *pro hac vice* admission, and granted the motion. The Court also directed Redding to immediately file the appropriate documents and filing fee as required by Rule 404, SCACR for his participation in this case. Based upon his representation that he did so, Redding's *pro hac vice* application was granted for this case.

For the reasons set forth below, this Court finds Chris and George to be in civil contempt of Court, but declines to find same as Diane.

#### **PROCEDURAL HISTORY**

1. Pop passed away in February of 2009. (27:17-20, November 17, 2017).
2. In 2013, Petitioner was appointed personal representative of Pop's estate. (75:17-21, November 17, 2017).
3. This Court consolidated several earlier actions involving the Petitioner, the Combises, and others, and those cases were removed to the United States District Court for the District of South Carolina. See the MTC Order.
4. That matter was tried in US District Court before The Honorable Joseph F. Anderson, and in the judgment entered by that Court, Judge Anderson remanded issues related to personal property owned by Pop at the time of his death. *Id.*

5. On March 16, 2017, in her capacity as Personal Representative, Ballard served subpoenas on George, Chris A. and Diane to produce specific items of personal property she has identified as assets of the estate and that had been advised by prior counsel to be in the possession of George, Chris A. and Diane. Counsel for Respondents acknowledged receipt of the subpoenas but advised counsel for Ballard that his clients refused to respond to the subpoenas. Ballard filed a Motion to Compel.
6. The Chris Subpoena requested the production of the "ORIGINAL ROLEX WATCH ALLEGEDLY GIFTED TO YOU BY THE DECEASED FOR APPRAISAL." See Respondent's Exhibit Number 8.
7. The Diane Subpoena requested the production of "COINS ALLEGEDLY RECEIVED FROM THE DECEASED." See Respondent's Exhibit Number 9.
8. The George Subpoena requested the production of "ANY AND ALL FIRE ARMS ALLEGEDLY RECEIVED FROM OR GIFTED TO YOU BY THE DECEASED FOR APPRAISAL AS WELL AS CONTENTS OF THE SAFE IN WHICH THE DECEASED STORED CASH AND DOCUMENTS". See Respondent's Exhibit Number 10.
9. Following the Petitioner issuing the Subpoenas, and the Combises' objecting to the Subpoenas, the parties were before this Court on Petitioner's motion to compel. This Court issued an Order dated August 8, 2017 in which it required Respondents to deliver the subpoenaed items to Ballard for purposes of appraisal and valuation for the estate proceedings. In addition to a request for a finding of civil contempt, Ballard's Petition seeks, *inter alia*, a citation of criminal contempt against Respondents. For that reason, this Court's order dated August 30, 2017, which required George, Chris A. and Diane to

appear before this Court, specifically advised the Respondents that, while they were required to appear before the Court, they had a right to counsel at the hearing and of their right to remain silent.

10. During the hearing, the Court heard arguments regarding the disposition of the items sought by Petitioner while this action was pending. In its MTC Order, the Court ordered the Combises to produce the items sought by Petitioner on or before August 15, 2017, that Petitioner would inventory and appraise the items, and then return them to the Combises. *Id.*
11. On August 14, 2017, the Combises delivered a box of items to Petitioner. (106:8-107:23, August 5, 2019; Petitioner's Exhibit Number 3). As memorialized in the letter accompanying Petitioner's Exhibit Number 3, the items delivered by the Combises to the Petitioner were:
  - a. Four rolls of pennies;
  - b. Ten sealed packages of various coins;
  - c. Five blue encased coins;
  - d. One firearm;
  - e. One holster;
  - f. One empty detachable magazine; and
  - g. One Rolex watch.
12. The Petitioner claims that the items delivered by the Combises on August 14, 2017 were not the items compelled by the Subpoenas and the MTC Order. (110:13-17, August 5, 2019; the Petition). Ballard also introduced deposition excerpts from a companion action regarding the items of personal property.

13. The Court finds that Petitioner brought this Petition to address her contentions that the Combises violated the MTC Order.
14. In the Petition, the Petitioner sought both civil and criminal contempt. *See* the Petition, page 11; the Order.
15. At the conclusion of Petitioner's presentation of her evidence, the Combises moved pursuant to Rule 41 of the South Carolina Rules of Civil Procedure to dismiss the Petition. (171:6-185:5, August 5, 2019).
16. The Court granted the Combises' Rule 41 motion with respect to Petitioner's request that the Court hold the Combises in criminal contempt. The Court denied the Combises' Rule 41 motion with respect to civil contempt. *Id.*
17. Ballard presented her own testimony, as well as that of Linda Combis, and Lauren Combis. She also called as witnesses, Diane and Chris A. Lastly, she called Larry Gasser, a jeweler in Lancaster as an expert witness who verified that the watch produced by Chris A. pursuant to the Court's order was a fake Rolex. Respondents George, Chris A. and Diane presented no witnesses or evidence. The Court also considered George's deposition testimony, in which he told conflicting stories about Pop's Rolex, and suggested there may have been multiple Rolex watches owned by Pop at one time or another. George also said that he had loaned his Rolex to Pop when Pop wanted to impress his friends. George testified that Pop bought himself a cheap fake Rolex after he had borrowed George's real Rolex and wore it every day. As to the pistols, George testified that any pistols that Pop had were kept in safe that only Diane had access to, and when he was ordered to produce the pistols to Ballard, he asked Diane and Diane gave him the single pistol that was produced to Ballard.

18. The following findings of fact are based on the exhibits, my deliberate and careful review of the testimony as well as the credibility of the witnesses and the weight of the testimony. I have carefully observed each witness, and I noticed such things as their tone of voice, gesture, hesitation or readiness to answer questions, their sincerity and mannerisms, all of which assisted in my evaluation of their credibility. While this Court did not rely on it for determinations regarding credibility, the Court is aware of and had read the order of the United States District Court Judge Joseph F. Anderson Jr., which found that George and Diane had misappropriated approximately \$500,000.00 from Pop's trust. The court is also aware that the Fourth Circuit Court of Appeals vacated the joint and several judgment against George, leaving Diane as the sole obligor on the judgment for breach of fiduciary duty.
19. At the hearing, the Court personally examined the box and items of personal property that were produced to Ballard by Respondents, through counsel, which had been have been in Ballard's possession since they were delivered and until the box was entrusted to counsel for Respondents at the conclusion of the first part of the hearing on November 17, 2017.
20. The Court personally examined the watch that was delivered to Ballard, alleged to be the one demanded by the subpoena (which was primarily of a silver color, with a black face), and a real gold-colored Rolex with a brown face that Respondent's counsel brought to Court and showed to witnesses. The Court took judicial notice of the difference in the weight of the two watches, with the "real" Rolex being significantly heavier and more substantial than the one that was produced to Ballard.

**FINDINGS OF FACT**

1. On August 14, 2017, counsel for George, Diane and Chris delivered to Ballard's office a box containing certain item of personal property, along with a cover letter that stated "[i]n response to your Subpoena. . . our office is producing the following items . . . for appraisal." (Petition and Rule to Show Cause, Exhibit B, with attachments). The response did not indicate which of the Respondents was producing which items, or if all of them were producing the items, or if the law firm was producing them without assistance of its clients.
2. Respondents' counsel initially asked Ballard to accept photographs of the items that this Court ordered produced in its Order dated August 8, 2017, but Ballard insisted on production of the items as ordered. Respondents' counsel delivered certain items to Ballard's office on Monday, August 14, 2017.
3. Upon receipt of the box of items by Respondents' counsel, Ballard examined the documents and concluded that the items produced were not the items she had subpoenaed. She filed the instant Rule to Show Cause, asserting that the items delivered to her were not the items she had requested to be produced by subpoena, and she asserted that Respondents were attempting to perpetrate a fraud on the Court.
4. Ballard produced the box of delivered items to the courtroom on November 14, 2017. The box contained various coins, a silver-colored watch which was labeled a Rolex and a pistol in a leather-like case.
5. Ballard did a thorough investigation to determine the assets owned by Pop at the time of his death. Prior counsel confirmed to Ballard that Respondents had possession of the items she requested in the subpoenas, which included a gold Rolex, several pistols and a coin collection.

6. Curiously, Respondents provided a real gold Rolex watch the morning of trial on August 17, 2017, but declined to offer any authentication or identification of the Rolex or advise where it had come from; the real Rolex was presented to the Court “out of an abundance of caution.” This Court directed Ballard to have the Rolex appraised and she did, providing an appraisal that valued the Rolex watch at present at \$5,200.00, noting the removal of several links of the gold bracelet. The court also directed Ballard to have the pistol appraised and she did so. The pistol was appraised at a value of less than \$100.
7. Chris A. asserted he had complied with the subpoena by delivering to his father George, the silver-colored watch that was determined to be a fake Rolex. He testified the fake Rolex was the “original Rolex” gifted to him by Pop and he asserted that he had fully complied with the Court’s Order. Chris A. also testified that Pop has also gifted to him a real Rolex, but he had produced only the “original” Rolex. The real gold Rolex was not produced by Respondents’ counsel until after prior to Chris A.’s testimony and, as a result, Chris A. was not asked about the real Rolex.
8. At the hearing on August 5, 2019, a second pistol was located in the courtroom; Respondents’ counsel advised he had brought the second pistol to Court on that date and entrusted it to the deputies at the security desk in the courtroom. This pistol was similar in appearance to the gun Respondents had produced to Ballard in 2017, except it did not have a case. Ballard was asked to have the second pistol appraised after the conclusion of the August 5, 2019 hearing. Thereafter, the parties stipulated that the value of the second pistol was \$125.00.
9. No explanation was provided as to why these items had not been provided to Ballard in response to the subpoenas, or after the Court issued its Order compelling production of the

items subpoenaed by Ballard. The mysterious appearance of the real gold Rolex and a second pistol during these proceedings, as well as the testimony by the parties, establish by clear and convincing evidence to this Court's satisfaction that Respondents knew they had additional items that were the subject of this Court's August 9, 2017 order and deliberately withheld the items from Ballard in violation of the Court's Order.

### WATCH

10. Chris A. testified that the watch he produced was the "original" Rolex he got from Pop. However, the watch produced to Ballard pursuant to this Court's Order was not a Rolex, so Chris A. did not respond to the subpoena at all. The Court find Chris A.'s explanation that he did not know the difference between a fake Rolex and a real Rolex lacks credibility and the Court find that it was the intent of Chris A. to mislead Ballard and the Court.
11. Lauren Combis (former wife of Chris A.) identified the gold Rolex produced during the hearing by counsel for Respondents was a gold Rolex that had previously been Pops' watch. Chris A. gave the watch to Lauren sometime after Pop's death after having it remodeled and cut down to fit her. Chris A. later asked for the watch back after this litigation started, but he did not produce the watch in response to the subpoena and did not produce it at all until the hearing in these proceedings.
12. George did not testify. However, the Court observed his demeanor in the courtroom during these proceedings and reviewed his deposition testimony, which clearly demonstrate his contempt for these proceedings and for Ballard.
13. The watch delivered to Ballard by Respondents is not a real Rolex.
14. It is undisputed that Pop owned at least one real gold Rolex. When Pop created his trust in 2003, he included a specific trust distribution that left his Rolex watch to Chris A., his

grandson. When Pop amended his trust in 2006, he continued to include the gift of the Rolex to Chris A. in the amended trust agreement. In 2008, the final time he amended his trust, Pop deleted this gift, as well as many others; the elimination of the specific gifts of personal property from the trust was the primary change effected by the 2008 amendment of the trust.

15. The real gold Rolex watch was in Pop's possession until shortly before his death. The Rolex watch disappeared in the last year of Pop's life when Pop was spending days at Sunrise, a day-care facility for senior citizens. Pop was very upset at the loss of his watch and Linda and Diane helped Pop look for the watch, finally locating it at Sunrise.
16. Diane took Pop's gold Rolex from Sunrise for "safekeeping." It seems likely that this is the watch that was given to Chris A. and remodeled for Lauren, but there is not sufficient evidence to make that determination by clear and convincing evidence.
17. Chris A. received a gold Rolex by Pop before Pop's death. Chris A. also testified that Pop had earlier given him the fake Rolex. He produced the fake Rolex rather than the real Rolex in response to this Court's Order because he considered the fake Rolex to be the "original" Rolex, and that is what the subpoena asked for. It is not known when Chris's counsel became aware of the existence of the real gold Rolex. Chris's position is not credible and is disingenuous at best.
18. Chris A. denied having any work done on the real Rolex, but I find, based on the testimony of Lauren Combis and my examination of the watch, that the real Rolex was modified by Chris A. after he received it, the face was changed to mother-of-pearl, links were removed and diamonds added on the face. Chris A. gave the modified Rolex to his then-wife Lauren,

and she wore it on family occasions for several years but then stopped wearing it. She gave it to Chris A. in 2015 when he insisted she give it back to him.

19. The gold Rolex has been in Chris A.'s possession since he took it back from Lauren in 2015 and was in his possession at the time Ballard's subpoena for Pop's "original" Rolex was served and this Court's Order of August 8, 2017 was issued. In response to the subpoena and order, Chris A. did not produce or reveal the existence of the real Rolex.
20. For more than four years, Ballard has been attempting to locate Pop's gold Rolex for appraisal to include on the estate inventory. She communicated with Respondent's prior counsel, who acknowledged that Pop's gold Rolex existed, but had been gifted by Pop to Chris A. At no point did Respondents reveal to Ballard the existence of two (2) Rolexes belonging to Pop.
21. The first mention of Pop having a second Rolex came during George's deposition, which began on September 13, 2017. That deposition occurred several weeks after Ballard had filed her petition alleging that the watch that was produced to her was a fake Rolex and was not Pop's Rolex that she has listed on the estate inventory.
22. Ballard subpoenaed from Chris A. the "original Rolex" allegedly gifted by Pop to him. Chris A. produced a fake Rolex and did not disclose his ownership or possession of the real Rolex.
23. I also find that Chris A.'s claim that he did not know the fake Rolex was a fake lacks credibility. The watches are vastly different in quality, and even without expert testimony, it is apparent that the fake Rolex produced to Ballard is not a watch of quality. Chris acted intentionally and deliberately in willful noncompliance of this Court's Order.

PISTOL

24. Pop owned at least two (2) nice pistols at the time of his death. One was a heavily engraved silver handgun with pearl colored grips. Multiple non-family witnesses interviewed by Ballard described the heavily engraved handgun and Pop's propensity to carry it frequently, at least before his health deteriorated and he stopped his social encounters.
25. Respondent's prior counsel, Charles Bridgmon, acknowledged to Ballard, in response to her inquiries, that George had possession of two (2) pistols that had been owned by Pop during his lifetime. No details or photographs were disclosed, despite repeated requests by Ballard and her counsel. When Ballard persisted in attempting to gain information about the pistols, communication ceased.
26. This Court examined the handgun produced by George in response to the subpoena and Order. It is not in a case, but is held in what appears to be a sleeve, not a holster. Ballard also had the handgun examined by a former SLED agent who has expertise in firearms, who valued the gun at less than \$100.
27. The pistol produced by George in response to the subpoena and Order is a cheap, inferior quality, and well-worn "Saturday night special." George did not provide any evidence as to the origin or ownership of this gun. Ballard presented deposition testimony from George that Diane gave the produced pistol to him, after removing it from a safe maintained by Diane to which George had no access. This request to Diane was made by George after this Court's Order of August 9, 2017. Diane provided no testimony regarding the gun that was produced to Ballard by George. George did not testify either.
28. George has two (2) pistols owned by Pop. The admissions of his prior counsel establish this fact. One of them may or may not be the silver, heavily engraved handgun that Pop

sometimes carried. Pop may have owned more guns, however, there is insufficient evidence to establish this.

29. While George did not testify, this Court reviewed his deposition taken in a different case brought by Ballard and observed his behavior in the courtroom during the two (2) days of hearings in this proceeding. It is clear from the long and convoluted record in this case that he has thwarted every reasonable effort taken by Ballard to complete a full accounting and inventory for Pop's estate. George's lack of respect for this Court is concerning and his conduct has made it clear that he intends to obstruct these proceedings in every way he can.

30. Respondents produced a single pistol; even if the pistol produced was owned by Pop (of which there is no evidence), George has provided no explanation for his failure to produce the second pistol that his prior counsel acknowledged he had in 2013 when Ballard was appointed Personal Representative and began gathering and identifying the assets owned by Pop at the time of his death. In the deposition testimony provided by Ballard, George testified that he produced only one gun because that's all Diane gave him in response to his request. Mysteriously however, another pistol appeared at Court on August 5, 2019, more than two years after the subpoenas and accompanying Order to Compel had been issued. George also did not testify, and the Court draws an adverse inference to this fact.

### COINS

31. The Court heard extensive testimony with regard to the coins from Diane, Linda, and the Petitioner.

32. In her Petition, the Petitioner claimed that the coins produced by Diane in August of 2017 were not the coins that Linda asked Diane to safekeep prior to Pop's passing, and therefore Diane's production was not responsive to the Diane Subpoena and the MTC Order. *See* the Petition, page 10. Specifically, Petitioner claimed that Pop owned: between 75-100 silver dollars in a Ziplock bag, including a "Carson City" silver dollar worth \$1,800.00, a mint set of coins, and enough blue collector coin books to fill a shoe box. *Id.*
33. During the hearing, Diane testified, in pertinent part, to the following with respect to the coins:
- a. She received some coins that belonged to Pop around 2000 and they were not "messed with" since they were brought to her house. (81:4-9; 89:17-22, November 14, 2017);
  - b. She did not take an inventory of the coins. (89:23-25, November 14, 2017);
  - c. She could not recall a series of coins or a Ziplock bag with 75-100 silver dollars. She did not know what a Carson City silver dollar was. (99:10-15; 100:7-101:18, November 14, 2017);
  - d. She could not recall a mint series of coins or blue collector coin books. (101:19-102:6, November 14, 2017);
  - e. She denied that Linda gave her the coin collection for safekeeping. (102:6-103:6);
  - f. She stated that there were no other coins, other than the coins she produced, that could be responsive to the Diane Subpoena and/or the MTC Order. (104:5-106:10).
34. With regard to the coins, Linda testified, in pertinent part, to the following:

- a. She stated that what Pop owned “wasn’t really a coin collection”. Her grandfather would give her silver dollars, but they were not necessarily Pop’s. Pop had some silver dollars, bluebooks with various coins including pennies and nickels, but “it wasn’t a huge coin collection.” (40:10-18, November 17, 2017);
- b. Pop kept some of the coins in a baggy. Pop had 50-70 silver dollars in a bag, but she noted that Pop would hide his money. (40:23-41:5; 41:21-42:8, November 17, 2017);
- c. She stated that some of the coins produced by Diane might have been Pop’s. (41:12-16; 63:5-6, November 17, 2017);
- d. She did not take any photographs of the coins. (42:11-12, November 17, 2017);
- e. The last time she saw the coins was in 2000, and she did not count them at the time. She stated that the number of silver dollars could be as low as 25. (57:23-58:2; 61:7-11; 62:8-16; 62:21-22, November 17, 2017);
- f. The Carson City silver dollar was not Pop’s. It was her ex-husband’s and he gave it to her. (40:20-21; 56:14-16, November 17, 2017);
- g. To the extent her information was relied upon for the Petition, it was from information she provided five or six years ago. (57:16-18, November 17, 2017).

35. With regard to the coins, the Petitioner, in pertinent part, testified to the following:

- a. She was looking for Diane to produce the Carson City silver dollar and three blue velvet containers. (73:3-6, August 5, 2019);
- b. Linda and Mary Combis (“Mary”) were her sources for the coins. (86:2-9, August 5, 2019);

- c. She acknowledged that the Diane Subpoena sought “coins” received by Diane “from the deceased”. The Diane Subpoena does not specifically describe the coins, that it sought coins received by Diane from Linda, state the number of coins sought by Petitioner, or contain a description of the blue books. (95:23-98:14; 131:17-132:4, 135:3-12, August 5, 2019; Respondent’s Exhibit Number 9);
- d. She does not know what the coin collection specifically consists of. (97:13-17, August 5, 2019).

36. Based upon the extensive testimony by the above witnesses, and the documents submitted during the hearing, the Court finds that Diane did not willfully disobey the MTC Order for the following reasons:

- a. Diane timely produced the coins in her possession;
- b. In order for Diane to be found in contempt of Court, the Court must find that she willfully disobeyed the MTC Order. Therefore, the issue before the Court is whether Diane voluntarily and intentionally produced the incorrect coins with the specific intent of violating the Diane Subpoena and MTC Order;
- c. The only witnesses with direct knowledge of the coins called by the Petitioner were Linda and Diane, and neither took any pictures of the coins, counted them, itemized them, or created an inventory; and both witnesses agreed that Diane came into possession of the coins approximately 20 years ago. Linda has not seen the coins since approximately 2000;
- d. Linda was also unsure of the amount of silver dollars in Pop’s coin collection;

- e. There is no itemized description of the coins or coin collection in Pop's trust documents that would allow the Court to compare Pop's collection with what Diane produced;
  - f. With respect to the Carson City silver dollar, Linda's testimony was that it was her coin given to her by her ex-husband. The Court is not making any findings as to what property was (or was not) part of Pop's estate in this hearing, but for the purposes of this contempt hearing, there is no evidence to suggest that the Carson City silver dollar was Pop's and/or part of Pop's estate, and therefore it could not be compelled by the Diane Subpoena and/or the MTC Order;
  - g. Taking all of the testimony and exhibits together, the Court finds that it cannot identify the coin collection to any reasonable degree of certainty. Since the Court cannot identify the coin collection, the Court cannot find by clear and convincing evidence that Diane specifically intended to produce the wrong coin in response to the Diane Subpoena and MTC Order;
37. Based upon the Court's findings, the Court concludes that Diane did not willfully disobey the MTC Order by producing the coins contained in Petitioner's Exhibit Number 3. Therefore, the Court holds that Diane is not in civil contempt of Court.

## LEGAL DISCUSSION

The burden of proof in this matter remains on Ballard, who is the moving party. Rule 301, SCRE; Ford v. Atlantic C.L.Ry.Co., 169 S.C. 41, 168 S.E. 143 (1933) *affirmed* 287 U.S. 602.

The moving party must show the existence of a court order and the facts establishing the Respondent's noncompliance with the order. Hawkins v. Mullins, 359 S.C. 497, 597, S.E.2d 897 (Ct. App. 2004); Lindsay v. Lindsay, 328 S.C. 329, 491 S.C.2d 583 (ct. App. 1997). Once the moving party establishes the existence of the order allegedly violated and sufficient facts to show an intentional violation of the Order, the burden then shifts to the Respondents to establish their defense or inability to comply with the Court's Order. Henderson v. Henderson, 298 S.C. 190.

The burden of proof of a violation of an order that results in an order of civil contempt is "clear and convincing" evidence. Miller v. Miller, 375 S.C. 443, 652 S.E.2d 754 (Ct.App. 2007); Poston v. Poston, 331 S.C. 106, 502 S.E.2d 86 (Ct.App. 1998).

In Poston v. Poston, 331 S.C. 106, 502 S.E.2d 86 (1998), the Supreme Court defined civil contempt of court and criminal contempt of court, and clarified that a definite non-purgeable jail sentence is a criminal contempt sanction and the burden of proof for a criminal contempt proceeding is beyond a reasonable doubt. *Id. Citing State v. Bowers*, 270 S.C. 124, 241, S.E.2d 409 (1978); *State v. Bevilacqua*, 316 S.C. 122, 447, S.E.2d 213 (Ct. App. 1994) ("If it is for civil contempt the punishment is remedial, and the benefit of the complainant, but it is for criminal contempt the sentence is punitive, to vindicate the authority of the court.")

"Contempt results from willful disobedience of a court order." Lindsay v. Lindsay, 328 W.C. 329, 491 S.E.2d 583, 592 (Ct. App. 1997). Willful disobedience requires an act to be done "voluntarily and intentionally with the specific intent to do something the law forbids or with the

specific intent to fail to do something the law requires to be done; with bad purpose either to disobey or disregard the law." Spartanburg County DSS v. Padgett, 296 S.C. 79, 82-83, 370 S.E.2d 872, 874 (1998).

"In order to sustain a finding of contempt, the record must be clear and specific as to the acts or conduct upon which such finding is based." Whestone v. Whestone, 309 S.C. 227, 420 S.E.2d 877, 881, (Ct. App. 1992).

The elements of contempt are:

- A. The existence of a valid duty, order or obligation
- B. Knowledge of the mandate or duty to comply, and
- C. A willful or voluntary violation of the order.

Burnell v. Burnell, 359 S.C. 361, 597 S.E.2d 24 (Ct. App. 2004); Long v. McMillan, 226 S.C. 598, 86 S.E. 477 (1955); State v. Passmore, 363 S.C. 568, 611 S.E.2d 273 Ct. App. 2005)

#### **RULING AS TO CONTEMPT**

I find and conclude that Ballard has established by clear and convincing evidence that Respondents George and Chris A. have intentionally and knowingly violated this Court's Order of August 8, 2017 by producing items that are not the items that were subpoenaed, and in withholding items that were ordered to be produced. I find and conclude that they did so knowingly and intentionally. Most egregiously, these Respondents have shown a complete disregard for the authority of this Court and its order.

These Respondents have willfully failed and refused to comply with this Court's order and are held in contempt of court, for their total disregard for authority of this Court and their intentional obstruction of Ballard's reasonable efforts as personal representative.

Because the court directed a verdict in Respondents's favor at the conclusion of Ballard's case, the only issue before the court is whether Respondents are in civil contempt. The court concludes by clear and convincing evidence that Respondents, George and Chris A. are in civil contempt of this Court's Order of August 8, 2017.

Civil contempt is purgeable; that is, once a violating party comes into compliance the sanctions are lifted. In civil contempt, the sanctions are conditioned on compliance with the court's order. The conditional nature of the punishment renders the relief civil in nature because the contemnor can end the sentence and discharge himself at any moment by doing what he had previously refused to do. If relief provided is a sentence of imprisonment, it is remedial if the contemnor stand committed unless and until he performs the affirmative act required by the contempt order. It is said one who is imprisoned until he obeys the order "carry the keys of their prison in their own pockets." Miller v. Miller, 375 S.C. 652 S.E.2d 754, 761 (Ct. App. 2007).

The administration of the Estate of Pop Combis has been hampered and damaged by the action and inactions of George and Chris Combis as referenced in detail above. Ballard and her attorney, Mr. Truslow have done everything in their power in attempting to recover and or fully account for property of Pop's Estate. Their reasonable efforts have been rebuffed at almost every turn as demonstrated in my findings above.

The Court has reviewed the itemized billings and attorney fee affidavits of both Ballard and Mr. Truslow and finds their fees and costs to be reasonable based upon their professional standing and the time spent devoted to this contempt matter, which was unnecessarily prolonged by the conduct of George and Chris described above. Ballard obtained overall beneficial results in this contempt action even though she failed to sustain her burden of proof as to criminal contempt or as to civil contempt of Diane. George and Chris have the financial ability to pay an

award of attorney fees and costs. The Estate needs to be made whole. Ballard's fees and costs total \$52,000, and Mr. Truslow's fees and costs total \$52,000.

To that end, as a result of George and Chris Combis being held in civil contempt of court, I find and conclude that George and Chris are hereby committed to the custody of the Lancaster County Detention Center, each to serve a sentence of ninety (90) days, suspended however upon them being jointly and severally liable for payment of Ballard and Truslow's fees and costs in the amount of \$70,000 (roughly two thirds of the amount requested due to the results obtained). The remainder of fees and costs are held in abeyance pending the trial in this matter scheduled for March 2020.

George and Chris have until December 31, 2019, to pay these fees and costs. If not paid by then, upon the affidavit of Ballard and Truslow, George and Chris are to report to the Lancaster County Detention Center on or before 01/05/2020 to serve their civil contempt sentence of ninety (90) days apiece. If either fail to purge their contempt as stated above or fail to report to the detention center by 01/05/2020, a bench warrant shall be issued for their arrest.

AND SO IT IS ORDERED

Date \_\_\_\_\_

\_\_\_\_\_  
Brian M. Gibbons  
Presiding Circuit Judge



Lancaster Common Pleas

**Case Caption:** Desa per Rep; Ballard , plaintiff, et al VS George Combis ,  
defendant, et al  
**Case Number:** 2014CP2900306  
**Type:** Order/Other

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LANCASTER )  
 )  
 IN THE MATTER OF ESTATE )  
 OF CHRIS COMBIS, )  
 )  
 Desa Ballard, as Personal Representative )  
 Of the Estate of Chris Combis, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 George Combis, Chris A. Combis, )  
 Diane Combis, )  
 )  
 Respondents. )

IN THE COURT OF COMMON PLEAS  
 Case No. 2014-CP-29-00306

**ORDER GRANTING MOTION  
 FOR RECONSIDERATION IN  
 PART AND DENYING IN PART**

Respondents George Combis (hereafter "George") and Chris Combis (hereafter "Chris") have moved this Court to reconsider its order dated October 31, 2019, in which it found both Respondents to be in civil contempt of court and imposed sanctions.

A hearing was held on the motion of December 18, 2019. After hearing argument from counsel for both sides, the Court grants the motion in part and denies it in part.

All of the factual findings of the order dated October 31, 2019 are sufficiently supported by the record, and the Court is not persuaded that any factual error was made in its original order.

The arguments set forth by George and Chris merely confirms this Court's conclusion in its order that both "knew they had additional items that were the subject of this Court's August 9, 2017 order and deliberately withheld the items from Ballard in violation of the Court order." (Order dated October 21, 2019, page 9 ¶ 9).

**Nature of Contempt**

George and Chris further assert that the nature of the contempt imposed has elements of criminal contempt in it, and the Court agrees.

For that reason, the final two paragraphs of the order of October 21, 2019 are modified to read as follows:

To that end, as a result of George and Chris being held in civil contempt of court, I find and conclude that George and Chris are ordered to pay a sanction in the amount of \$70,000.00 to Desa Ballard, as personal representative of the estate of Chris Combis, no later than December 31, 2019. The amount awarded is awarded as compensatory contempt, and while it is calculated on the basis of the amount of time spent by both Ms. Ballard and MR. Truslow, the award is a sanction. See Miller v. Miller, 357 S. C. 443, 652 S.E.2d 754 (Ct.App. 2007); Poston v. Poston, 331 S.C. 106, 502 S.E.2d 86 (1998).

If not received by Ms. Ballard by December 31, 2019, upon the affidavit of Ballard and Truslow, George and Chris are to report to the Lancaster County Detention Center on or before 01/05/2020 to be held in custody until they purge themselves of the sanction by paying the contempt award to the Estate or for no longer than 90 days, whichever occurs first.

If either fail to purge their contempt as stated above or fail to report to the detention center by 01/05/2020, a bench warrant from this Court shall be issued for their arrest. After issuance of a bench warrant, neither George nor Chris may be released from custody of the Lancaster County Detention Center until further ordered by the Court.

The modification of the order of October 21, 2019 is made to recognize that the nature of the contempt imposed by this order is civil in nature, in that George and Chris hold the keys to the jail cells in their own hands. Clamp v. Hall, 287 S.C. 270, 335 S.E.2d 815 (1985).

In all other instances, the order of October 21, 2019 remains unmodified and is a final order; **AND IT IS SO ORDERED.**

---

Brian M. Gibbons  
Presiding Judge

December \_\_\_\_, 2019

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2014CP2900306

ELECTRONICALLY FILED - 2019-Dec-31 10:00 AM - LANCASTER - COMMON PLEAS - CASE#2014CP2900306

Desa per Rep; Ballard Linda Combis	Estate of Chris Combis	George Combis Diane Combis	Black Horse Run Property Owners Association, Inc. Superior Tile, Mable & Terrazzo Corporation
---------------------------------------	------------------------	-------------------------------	---

<b>PLAINTIFF(S)</b>	<b>DEFENDANT(S)</b>
<b>Submitted by:</b>	<b>Attorney for:</b> <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <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.  See Page 2 for additional information.
- 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: \_\_\_\_\_

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:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT 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)

If applicable, describe the property, including tax map information and address, referenced in the order:

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.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

\_\_\_\_\_  
 Circuit Court Judge

\_\_\_\_\_  
 Judge Code

12/31/2019  
 \_\_\_\_\_  
 Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

**Peter John Nosal** 852 Gold Hill Road #201 Fort Mill, SC  
29708-7206  
**Douglas Neal Truslow** PO Box 1465 Columbia, SC 29202

**Ashley D. Tison** 401 Hawthorne Lane Suite 110-147  
Charlotte, NC 28204  
**Brian Scott McCoy** 378 E. Main St. Rock Hill, SC 29730  
**Ty Kimmell McTier** 2907 Providence Road, Ste. A303  
Charlotte, NC 28211

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

---

**Court Reporter**

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**Jeff L. Hammond - Clerk of Court**

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Lancaster Common Pleas

**Case Caption:** Desa per Rep; Ballard , plaintiff, et al VS George Combis ,  
defendant, et al  
**Case Number:** 2014CP2900306  
**Type:** Notice/Other

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

IN THE MATTER OF THE ESTATE OF  
CHRIS COMBIS

DESA BALLARD, as Personal Representative  
of the Estate of Chris Combis,

Plaintiff/Petitioner,

vs.

GEORGE COMBIS, DIANE COMBIS, and  
CHRIS COMBIS,

Defendants/Respondents.

IN THE COURT OF COMMON PLEAS

Case No. 2014-CP-29-306

**JOINT MOTION FOR STAY PENDING  
APPEAL OF CONTEMPT ORDER**

NOW COME George Combis and Chris Combis, by and through their undersigned counsel and pursuant to Rule 62, SCRCP, and move this court to stay enforcement of its Order of Civil Contempt as to George Combis and Chris A. Combis filed October, 21, 2019, and modified by Order Granting Motion for Reconsideration In Part and Denying in Part filed on December 31, 2019 (collectively "the Orders").

Defendants George Combis and Chris Combis filed a Notice of Appeal of the Orders on December 31, 2019. At the hearing of the Motion to Reconsider on December 18, 2019, the presiding judge Hon. Brian M. Gibbons, Circuit Judge, announced that he would stay enforcement of the Orders until the resolution of the appeal.

WHEREFORE, Defendants respectively move the Court to issue a Stay of the Orders until resolution of the filed appeal, and for such other and further relief as the Court may deem just and proper.

THIS the 3<sup>rd</sup> day of January, 2020.

McCoy Law Firm, LLC

s/ Brian S. McCoy

Brian S. McCoy, Esq. (SC Bar #2155)  
378 E. Main Street  
Rock Hill, SC 29730  
(803) 366-2280 Phone  
Attorneys for Defendant Chris Combis

Redding Jones PLLC

s/ Ty K. McTier

Ty K. McTier, Esq. (SC Bar #102900)  
Redding Jones PLLC  
2907 Providence Road, Suite 303  
Charlotte, NC 28211  
(704) 900-2215 Phone  
Attorneys for Defendant George Combis

**[served via eflex]**

STATE OF SOUTH CAROLINA  
 COUNTY OF LANCASTER  
 IN THE MATTER OF THE ESTATE OF  
 CHRIS COMBIS  
 DESA BALLARD, as Personal Representative  
 of the Estate of Chris Combis,  
 Plaintiff/Petitioner,  
 vs.  
 GEORGE COMBIS, DIANE COMBIS, and  
 CHRIS COMBIS,  
 Defendants/Respondents.

IN THE COURT OF COMMON PLEAS  
 Case No. 2014-CP-29-306

**ORDER STAYING CASE PENDING  
 APPEAL OF CONTEMPT ORDER**

George Combis and Chris Combis have moved this court to stay the case and enforcement of the Order of Civil Contempt as to George Combis and Chris A. Combis filed October, 21, 2019, and modified by Order Granting Motion for Reconsideration In Part and Denying in Part filed on December 31, 2019 (collectively "the Orders").

Defendants George Combis and Chris Combis filed a Notice of Appeal of the Orders on December 31, 2019. Considering all relevant facts and legal considerations, I find good cause to stay the case and enforcement of the Contempt Orders until the appeal of said Orders is resolved.

**AND IT IS SO ORDERED.**

\_\_\_\_\_  
 Brian M. Gibbons  
 Presiding Judge

January \_\_, 2020.



Lancaster Common Pleas

**Case Caption:** Desa per Rep; Ballard , plaintiff, et al VS George Combis ,  
defendant, et al  
**Case Number:** 2014CP2900306  
**Type:** Order/Stay

So Ordered

s/Brian M. Gibbons #2168 Circuit Judge

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPELLATE CASE NO. 2020-000021

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APPEAL FROM LANCASTER COUNTY  
BRIAN M. GIBBONS  
Trial Court Case No. 2014-CP-29-00306

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In the Matter of the Estate of Chris Combis,  
Desa Ballard, as Personal Representative of the Estate of Chris Combis,  
Respondent,

v.

George Combis, Diane Combis, and Chris Combis,

Defendants,

**RECEIVED**

Of whom

JAN 17 2020

George Combis and Chris Combis are,

SC Court of Appeals

Appellants.

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**PROOF OF SERVICE**

I certify that I have served the **Motion to Lift Stay or to Expedite Appeal** on Appellants George Combis and Chris Combis by depositing a copy of same in the United States Mail, postage prepaid, on **January 16, 2020**, addressed to their attorneys of record, **Ty K. McTier, Esquire of Redding Jones, PLLC at 2907 Providence Road, Suite 303, Charlotte, NC 28211** and **Brian McCoy, Esquire of the McCoy Law Firm, PLLC at 378 E. Main Street, Rock Hill, SC 29730**.

(Signature on following page.)

**TRUSLOW & TRUSLOW LAW FIRM**



---

Douglas N. Truslow

✓ Neal D. Truslow

Attorneys for Respondent Desa Ballard

914 Richland Street, Suite B 102

P.O. Box 1465

Columbia, SC 29202

(803) 256-6276

Fax: (803) 256-7659

[douglastruslow@truslowlaw.com](mailto:douglastruslow@truslowlaw.com)

[nealtruslow@truslowlaw.com](mailto:nealtruslow@truslowlaw.com)

# Truslow & Truslow

Attorneys At Law

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Neal D. Truslow  
nealtruslow@truslowlaw.com

*Mailing Address:*  
P.O. Box 1465  
Columbia, SC 29202

January 16, 2020

**Re: Desa Ballard vs. George Combis and Chris Combis**  
**Appeal: 2020-000021**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211


Dear Ms. Kitchings:

Please see the original and three copies of *Respondent's Motion to Lift Stay or to Expedite Appeal and Proof of Service* of same, as well as the requisite filing fee of \$50.00.

Please file same and return the clocked copies in the self-addressed and stamped envelope enclosed.

By copy of this letter, I am serving same upon opposing counsel.

Sincerely,

  
Amanda Douglas Hilley  
Paralegal for Truslow & Truslow




cc: Desa Ballard, Esquire (via email)  
Brian McCoy, Esquire  
Ty K. McTier, Esquire

**RECEIVED**  
JAN 17 2020  
SC Court of Appeals

RECEIVED

JAN 17 2020

SC

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