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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2019-001065
Dorchester County Case No(s). 2019-CP-18-0677 and 2017-CP-18-1816

In Re: The Estate of Doris Duane Colucci

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci .....Appellant,

v.

Andrew W. Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Michael Fredrick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.....Respondents.

RECORD ON APPEAL
(VOLUME I)
(1-491)

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI	)	IN THE PROBATE COURT CASE NO: 2017-ES-18-00294 **TEMPORARY ORDER FOR THE APPOINTMENT OF A SPECIAL ADMINISTRATOR ON AN EMERGENCY BASIS**

PROBATE JUDGE DORCHESTER COUNTY, SC
2017 JUN -9 PM 4:26

Pending before this Court is an Application/Petition for Appointment of Special Administrator filed on May 3, 2017 requesting that the Court appoint Lester S. Schwartz, Esquire as the Special Administrator for the Estate of Doris Duane Colucci. The parties have been working together to prepare a consent order regarding the appointment of a Special Administrator, but at this time, the Court has not received an Order signed by all parties that is satisfactory to this Court without further hearing. Therefore, based on the various pleadings and documents, the Court makes the following findings:

1. Doris Duane Colucci (Decedent) passed away on April 14, 2017;

2. The Decedent's originally executed Last Will and Testament has not yet been located and presented to this Court;

3. Unless and until the originally executed Last Will of the Decedent is located and admitted to probate in this Court, the administration of the probate estate shall proceed pursuant to the South Carolina laws of intestate succession;

4. The Decedent was survived by her husband, Ivo Francesco Colucci;

5. The Decedent was also survived by her two (2) children, John Martin Antonio and Michael Frederick Antonio Colucci, both of whom are over the age of majority;

6. Christa M. Yantis, CPA (Ms. Yantis) is the Court-appointed Conservator for the Decedent's husband, Ivo Francesco Colucci;

7. Glenn P. Churchill, Esquire, is the Court appointed guardian ad litem for the Decedent's son, John Martin Antonio;

8. Ms. Yantis has requested that the Court authorize her to liquidate the assets belonging to Ivo Francesco Colucci;

9. Most of the assets Ms. Yantis is asking the Court to liquidate are jointly owned, in various capacities, by Decedent;

10. A Temporary Special Administrator is needed to protect and preserve the assets that should be part of the Decedent's Estate;

11. Further, there are several outstanding litigation matters that involve entities in which the Decedent's Estate may have an interest;

12. As the parties have been unable to execute a consent agreement agreeable to all parties and this Court, it is necessary to protect the interests of the Decedent's Estate and appoint an independent third-party attorney to serve as Temporary Special Administrator on an emergency basis pending a hearing;

13. Therefore, the Court appoints Andrew W. Chandler, Esquire as Temporary Special Administrator for Decedent's Estate;

14. Andrew W. Chandler, Esquire has extensive experience in probate matters, is recognized state-wide for his knowledge in this area, and he has agreed to serve as a fiduciary to this Court;

15. The appointment herein is necessary to "collect and manage the assets of the estate, to preserve them, [and] to account therefor" pursuant to South Carolina Code § 62-3-616.

16. As Temporary Special Administrator, Andrew W. Chandler, Esquire shall only perform those duties and responsibilities to secure, preserve, and protect the assets of the Decedent's Estate; and

17. The Court shall schedule a hearing within thirty (30) days, or as soon as all interested parties are available, to appoint a permanent Special Administrator, unless a consent order is entered into by all interested parties and approved by this Court.

NOW THEREFORE, it is ORDERED, ADJUDGED, and DECREED that:

A. Andrew W. Chandler, Esquire shall be appointed and serve as the Temporary Special Administrator of the Estate of Doris Duane Colucci on an emergency basis;

B. Andrew W. Chandler, Esquire shall be bonded for one hundred five percent (105%) of the value of Decedent's Estate once the Inventory and Appraisement is filed with this Court, and the bond shall be paid from the Estate's assets;

C. Andrew W. Chandler Esquire, as Special Administrator of Decedent's Estate, shall be compensated by the Estate at the hourly rate of Two Hundred and 00/100 Dollars ($200.00) and his paralegal shall be billed at the hourly rate of One Hundred and 00/100 Dollars ($100.00) to be paid by the Estate;

D. If necessary, Andrew W. Chandler, Esquire, as Temporary Special Administrator of Decedent's Estate, may retain the services of a third-party agent, including an attorney, only with prior Court approval;

E. In the role as Temporary Special Administrator of Decedent's Estate, Andrew W. Chandler, Esquire shall only perform those duties and responsibilities to secure, preserve, and protect the assets of the Decedent's Estate; and

F. The Court shall schedule a hearing within thirty (30) days, or as soon as all interested parties are available, to appoint a permanent Special Administrator, unless a consent order is entered into by all interested parties and approved by this Court.

AND IT IS SO ORDERED!

9th day of June, 2017
St. George, South Carolina

Mary Blunt

The Hon. Mary Q. Blunt
Probate Court Judge
Dorchester County Probate Court

FILED-RECORDED
2017 NOV -1 PM 1:01
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	IN THE PROBATE COURT
COUNTY OF DORCHESTER	CASE NO. 2017-ES-18-00294
IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI,	2017-CP-18- 1816
LESTER S. SCHWARTZ, ESQUIRE Petitioner,	CONSENT ORDER FOR THE APPOINTMENT OF A SPECIAL ADMINISTRATOR
vs.	
IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI, Respondents.	

PROBATE JUDGE
DORCHESTER COUNTY
2017 JUL 10 PM 12:17

This matter came before this Court on an Application/Petition for Appointment of Special Administrator filed with this Court on May 3, 2017, requesting that the Court appoint Lester S. Schwartz, Esquire as the Special Administrator for the Estate of Doris Duane Colucci. Based on the various pleadings and documents, the Court makes the following findings:

1. Doris Duane Colucci (Decedent) passed away on April 14, 2017;

2. The Decedent's originally executed Last Will and Testament has not yet been located and presented to this Court;

3. Unless and until the originally executed Last Will of the Decedent is located and admitted to probate in this Court, the administration of the probate Estate shall proceed pursuant to the South Carolina laws of intestate succession;

4. The Decedent was survived by her husband, Ivo Francesco Colucci;

5. The Decedent was also survived by her two (2) children, John Martin Antonio, and Michael Frederick Antonio Colucci, both of whom are over the age of majority;

 MG 7/10/17

6. Christa M. Yantis, CPA, is the Court appointed Conservator for the Decedent's husband, Ivo Francesco Colucci;

7. Glenn P. Churchill, Esquire is the Court appointed Guardian ad Litem for the Decedent's son, John Martin Antonio;

8. The Court appoints Andrew W. Chandler, Esquire as the Special Administrator for the Decedent's Estate. On June 9, 2017, the Court appointed Andrew W. Chandler as Temporary Special Administrator in order to commence administration of the Estate;

9. Andrew W. Chandler, Esquire has extensive experience in probate matters, is recognized state-wide for his knowledge in this area, and has agreed to serve as a fiduciary to this Court; and

10. The appointments herein are necessary to preserve the estate, to secure its proper administration, and to protect its assets.

NOW THEREFORE, Andrew W. Chandler, Esquire, Glenn P. Churchill, Esquire, as Guardian ad Litem for John Martin Antonio, Lester S. Schwartz, Esquire, and Christa M. Yantis, CPA as Conservator for Ivo Francesco Colucci, enter into this Consent Order and agree as follows:

A. Andrew W. Chandler, Esquire shall be appointed and serve as the Special Administrator of the Estate of Doris Duane Colucci;

B. Andrew W. Chandler, Esquire shall be bonded for one hundred five percent (105%) of the value of the Decedent's Estate once the Inventory and Appraisement is filed with this Court, and the bond shall be paid from the Estate's assets;

C. If additional proceeds come into the estate after the initial Inventory and Appraisement is filed, then Andrew W. Chandler, Esquire shall file a Supplemental Inventory

and Appraisement and the bonded amount shall be modified by a Bond Modification issued by the Court;

D. Andrew W. Chandler, Esquire as Special Administrator of the Decedent's Estate, shall be compensated by the Estate at the hourly rate of Two Hundred and 00/100 Dollars ($200.00) and his paralegal shall be billed at the hourly rate of One Hundred and 00/100 Dollars ($100.00) to be paid by the Estate;

E. If necessary, Andrew W. Chandler, Esquire, as Special Administrator of Decedent's Estate, may retain the services of a third-party agent, including an attorney, only with prior Court approval;

F. Glenn P. Churchill, Esquire shall continue to serve in his role as Guardian ad Litem for the Decedent's son, John Martin Antonio;

G. Any and all medical records and medical reports pertaining to the Decedent's son, John Martin Antonio, shall be sealed and kept private, and shall not be part of the general public probate file;

H. Andrew W. Chandler, Esquire as Special Administrator of Decedent's Estate, has a fiduciary duty to investigate any and all claims and litigation related to the death of the Decedent;

I. As such, Andrew W. Chandler, shall retain a personal injury attorney to represent him in this matter to investigate and consult with regarding any and all claims and litigation that may be appropriate to bring in this estate, including wrongful death and/or survival claims, related to Decedent's death;

J. Prior to retaining a personal injury attorney to represent him in this matter as set out above in paragraph I, Andrew W. Chandler, Esquire shall seek this Court's approval as

 MB 7/10/17

provided for in paragraph E above, and provide the court with the following information: the proposed fee agreement, the extent of the proposed attorney's personal injury practice, and the number of years of experience the proposed attorney has in pursuing personal injury claims;

K. If the Court is satisfied with the proposed attorney by the written information provided in the Motion and supporting documents submitted by Andrew W. Chandler, Esquire, the Court may execute a proposed Order approving the hiring of the personal injury attorney without a hearing;

J. Until such time that a determination is made pursuant to S.C. Code Ann. § 62-2-803(f) of the South Carolina Probate Code regarding the status of Ivo Francesco Colucci as an heir of the Decedent's Estate pursuant to the Slayer's Act, Andrew W. Chandler, Esquire shall consider Ivo Francesco Colucci an heir of the Decedent's Estate and any funds or property to which Ivo Francesco Colucci may otherwise be entitled as an heir of the Decedent's Estate shall be retained by Andrew W. Chandler, Esquire in a separate account pending a final Order of this Court;

K. Pursuant to S.C. Code Ann. § 62-3-617, and other relevant statutory provisions of the South Carolina Probate Code, Andrew W. Chandler, Esquire, as Special Administrator, shall have all the powers of a general Personal Representative as applied under PART 7 (S.C. Code Ann. §§ 62-3-701 through 62-3-721) of the South Carolina Probate Code, and such powers are incorporated herein by specific reference thereto;

L. Andrew W. Chandler, Esquire as Special Administrator shall not be personally liable for claims filed against the Decedent;

M. Andrew W. Chandler, Esquire, as Special Administrator, shall proceed with the administration of the Decedent's Estate pursuant to the South Carolina Probate Code; and

N. This Consent Order may be executed in multiple counterpart originals, and all of which shall constitute one and the same Consent Order.

AND IT IS SO ORDERED.

Mary Q. Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

10th day of July, 2017
St. George, South Carolina

 MB 7/10/17

AGREED AND CONSENTED TO:

27th day of June, 2017

Andrew W. Chandler, Esquire
Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
P.O. Box 369
Charleston, S.C. 29402-0369
Special Administrator for Estate of Doris Duane Colucci

PROBATE JUDGE
DORCHESTER COUNTY
2017 JUL -3 PM 2:17

 MMB 7/10/17

PROBATE JUDGE
DORCHESTER COUNTY
2017 JUN 29 PM 1:30

AGREED AND CONSENTED TO:

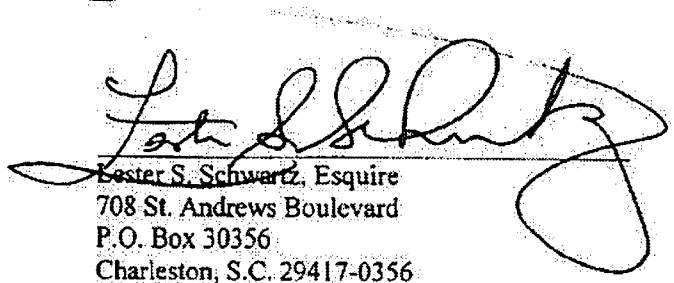
27th day of JUNE, 2017

Glenn P. Churchill, Esquire
115 River Landing Drive
Suite 102
Charleston, S.C. 29492
Guardian ad Litem for Decedent's son, John Martin Antonio

 NJB 7/10/17

AGREED AND CONSENTED TO:

28th day of June, 2017



Lester S. Schwartz, Esquire
708 St. Andrews Boulevard
P.O. Box 30356
Charleston, S.C. 29417-0356
Attorney for the Decedent's children, John Martin Antonio and Michael Frederick Antonio Colucci, Petitioners

 MB 7/10/17

AGREED AND CONSENTED TO:

June 27th, 2017



~~David~~ K. Haller, Esquire
Haller Law Firm
604 Savannah Highway
Charleston, SC 29407
Attorney for Christa Yantis, CPA, CFE, CEBS, in her role as Conservator for Decedent's husband, Ivo Francesco Colucci

PROBATE JUDGE
DORCHESTER COUNTY
2017 JUN 28 PM 2:39

 MB 7/10/17

FILED-RECORDED
2017 NOV -1 PM 1:02
CLERK OF COURT
DORCHESTER COUNTY
2017 JUL 24 AM 11:27
PROBATE JUDGE
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI, ANDREW W. CHANDLER, ESQUIRE Petitioner, vs. IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI, Respondents.	)	IN THE PROBATE COURT CASE NO. 2017-ES-18-00294 2017-CP-18- 816

ORDER APPROVING SPECIAL ADMINISTRATOR'S EMPLOYMENT OF ROSEN, ROSEN & HAGOOD, LLC, AND ASSOCIATION OF LESTER S. SCHWARTZ, ESQUIRE

This matter is before the Court on the Motion to Approve Employment of Rosen, Rosen & Hagood, LLC, filed on July 21, 2017, by Andrew W. Chandler, Esquire, Special Administrator for the Estate of Doris Duane Colucci (the "Estate"). The Petitioner requests that the Court approve his retention and employment of Rosen, Rosen & Hagood, LLC ("RRH"), to represent him in connection with the investigation and pursuit of all litigation matters and claims related to the Estate. The Petitioner further seeks approval of RRH's association of Lester S. Schwartz, Esquire, as co-counsel in the investigation and pursuit of the wrongful death and survival actions. Based on the various pleadings and documents, the Court makes the following findings:

I MB 7/24/17

1. Doris Duane Colucci ("Decedent") passed away on April 14, 2017. She was killed by a gunshot wound to her head alleged to have been inflicted by her husband, Ivo Francesco Colucci, who survived the Decedent.

2. The Decedent was also survived by her two (2) children, John Martin Antonio, and Michael Frederick Antonio Colucci, both of whom are over the age of majority.

3. Petitioner was appointed as Special Administrator of the Estate by Order filed on July 10, 2017. As Special Administrator, Petitioner has a fiduciary duty to investigate and pursue any and all claims and litigation related to the death of the Decedent.

4. Pursuant to the Order appointing Petitioner as Special Administrator, he is required to obtain the Court's approval of his employment of any third-party agents, including attorneys.

5. The Court is satisfied that RRH and its attorneys possess the requisite experience, skill, and resources to competently and adequately represent Petitioner and investigate and pursue any and all claims and litigation that may be appropriate to bring in this Estate, including wrongful death and/or survival claims, related to Decedent's death;

NOW THEREFORE, based upon the above findings of fact, the Court orders as follows:

A. Petitioner is authorized to employ RRH to represent him in his capacity as Special Administrator of the Estate and in connection with the investigation and pursuit of all litigation matters and claims related to the Estate.

B. RRH is authorized to associate Lester S. Schwartz, Esquire, as co-counsel in the wrongful death and survival actions.

2 MB
7/24/17

C. With regard to the wrongful death, survival, and any other personal injury or tort-based claims or actions, Petitioner is authorized to enter into a contingency-based fee arrangement whereby the amount of attorneys' fees paid, collectively, to RRH and Mr. Schwartz[1] will be one-third (1/3) of the "gross recovery" before suit is filed and forty percent (40%) of the "gross recovery" after suit is filed. For this purpose, the term "gross recovery" shall mean the total of the cash or other monetary funds received (whether by settlement, judgment, or otherwise) prior to deducting any costs, disbursements, or other charges incurred in connection with the prosecution or settlement of such claims and actions.

D. For all other aspects of RRH's representation of the Petitioner, including the investigation and pursuit of any claims to collect, preserve, and protect the assets of the Estate, RRH's attorneys shall be compensated by the Estate at the hourly rate of Two Hundred and 00/100 Dollars ($200.00) and their paralegal(s) shall be billed at the hourly rate of One Hundred and 00/100 Dollars ($100.00) to be paid by the Estate.

E. The employment of RRH, and RRH's limited association of Mr. Schwartz in the wrongful death and survival actions, are necessary to preserve the estate, to secure its proper administration, and to protect its assets.

AND IT IS SO ORDERED.

Mary Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

24th day of July, 2017
St. George, South Carolina

[1] The association of Mr. Schwartz by RRH will not result in any additional cost to the Estate. The amount allocated to attorneys' fees, be it one-third or forty percent of the gross recovery, will be split equally between RRH and Mr. Schwartz.

3 MMB 7/24/17

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI. ANDREW W. CHANDLER, ESQUIRE Petitioner, vs. IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI, Respondents.	IN THE PROBATE COURT CASE NO. 2017-ES-18-00294 2017-CP-18- 1816

FILED-RECORDED
2017 NOV -1 PM 1:08
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

PROBATE JUDGE
DORCHESTER COUNTY
2017 JUL 28 PM 4:52

ORDER APPROVING SPECIAL ADMINISTRATOR'S EMPLOYMENT OF EVANS, CARTER, KUNES & BENNETT, P.A.

This matter is before the Court on the Motion to Approve Employment of Evans, Carter, Kunes & Bennett, P.A., filed on July 28, 2017, by Andrew W. Chandler, Esquire, Special Administrator for the Estate of Doris Duane Colucci (the "Estate"). The Movant requests that the Court approve his retention and employment of Evans, Carter, Kunes & Bennett, P.A. ("ECKB"), to provide legal counsel to him in connection with probate matters related to the Estate, on an as needed basis. Based on the various pleadings and documents, the Court makes the following findings:

1. Doris Duane Colucci ("Decedent") passed away on April 14, 2017. She was killed by a gunshot wound to her head alleged to have been inflicted by her husband, Ivo Francesco Colucci, who survived the Decedent.

2. The Decedent was also survived by her two (2) children, John Martin Antonio, and Michael Frederick Antonio Colucci, both of whom are over the age of majority.

1 MAS 7/28/17

3. Movant was appointed as Special Administrator of the Estate by Order filed on July 10, 2017. As Special Administrator, Movant has a fiduciary duty to properly administer the Estate of the Decedent.

4. Pursuant to the Order appointing Movant as Special Administrator, he is required to obtain the Court's approval of his employment of any third-party agents, including attorneys.

5. The Court is satisfied that ECKB and its attorneys possess the requisite experience, skill, and resources to competently and adequately represent Movant;

NOW THEREFORE, based upon the above findings of fact, the Court orders as follows:

A. Movant is authorized to employ ECKB to represent him in his capacity as Special Administrator of the Estate and in connection with probate matters related to the Estate, on an as needed basis.

B. For all aspects of ECKB's representation of the Movant, ECKB's attorneys shall be compensated by the Estate at the hourly rate of Two Hundred and 00/100 Dollars ($200.00) to be paid by the Estate.

C. The employment of ECKB is necessary to preserve the estate, to secure its proper administration, and to protect its assets.

AND IT IS SO ORDERED.

Mary Q. Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

28th day of July, 2017
St. George, South Carolina

PROBATE JUDGE
DORCHESTER COUNTY, SC FILED-RECORDED
2017 JUL 28 PM 3:08 2017 NOV -1 PM 1:03
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

2 mb 7/28/17

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

IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,

ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR

Plaintiff(s)

vs.

IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI,

Defendant(s)

ROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 15 PM 4:07

) CIVIL ACTION COVERSHEET

2017-CP-18-[illegible]

CERTIFIED COPY
11/1/17
Clerk of Court
Dorchester County

Submitted By: Elizabeth J. Palmer, Esquire
Rosen, Rosen & Hagood, LLC
Address: 151 Meeting Street, Suite 400
Charleston, SC 29401

SC Bar #: 73680
Telephone #: 843-577-6726
Fax #: 843-724-8036
Other:
E-mail: epalmer@rrhlawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts	Torts - Professional Malpractice	Torts – Personal Injury	Real Property
☐ Constructions (100)	☐ Dental Malpractice (200)	☐ Conversion (310)	☐ Claim & Delivery (400)
☐ Debt Collection (110)	☐ Legal Malpractice (210)	☐ Motor Vehicle Accident (320)	☐ Condemnation (410)
☐ General (130)	☐ Medical Malpractice (220)	☐ Premises Liability (330)	☐ Foreclosure (420)
☐ Breach of Contract (140)	Previous Notice of Intent Case #	☐ Products Liability (340)	☐ Mechanic's Lien (430)
☐ Fraud/Bad Faith (150)	20___-NI-_____-_____	☐ Personal Injury (350)	☐ Partition (440)
☐ Failure to Deliver/ Warranty (160)	☐ Notice/ File Med Mal (230)	☐ Wrongful Death (360)	☐ Possession (450)
☐ Employment Discrim (170)	☐ Other (299) _____	☐ Assault/Battery (370)	☐ Building Code Violation (460)
☐ Employment (180)		☐ Slander/Libel (380)	☐ Other (499) _____
☐ Other (199) _____		☐ Other (399) _____	

Inmate Petitions	Administrative Law/Relief	Judgments/Settlements	Appeals
☐ PCR (500)	☐ Reinstate Drv. License (800)	☐ Death Settlement (700)	☐ Arbitration (900)
☐ Mandamus (520)	☐ Judicial Review (810)	☐ Foreign Judgment (710)	☐ Magistrate-Civil (910)
☐ Habeas Corpus (530)	☐ Relief (820)	☐ Magistrate's Judgment (720)	☐ Magistrate-Criminal (920)
☐ Other (599)	☐ Permanent Injunction (830)	☐ Minor Settlement (730)	☐ Municipal (930)
_____	☐ Forfeiture-Petition (840)	☐ Transcript Judgment (740)	☐ Probate Court (940)
	☐ Forfeiture—Consent Order (850)	☐ Lis Pendens (750)	☐ SCDOT (950)
	☐ Other (899)	☐ Transfer of Structured Settlement Payment Rights Application (760)	☐ Worker's Comp (960)
	_____	☐ Confession of Judgment (770)	☐ Zoning Board (970)
		☐ Petition for Workers Compensation Settlement Approval (780)	☐ Public Service Comm. (990)
			☐ Employment Security Comm (991)

Special/Complex /Other

☐ Environmental (600) ☐ Pharmaceuticals (630)
☐ Automobile Arb. (610) ☐ Unfair Trade Practices (640)

☐ Medical (620) ☐ Out-of State Depositions (650) ☐ Other (799) _____ Other (999) _____

☒ Other (699) Action to determine heirs under SC Code § 62-2-803 ☐ Motion to Quash Subpoena in an Out-of-County Action (660)

☐ Sexual Predator (510) ☐ Pre-Suit Discovery (670)

☐ Permanent Restraining Order (680)

Submitting Party Signature: _____ **Date:** 10/30/17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later then 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.

4. Cases are exempt from ADR only upon the following grounds:

   a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

   b. Requests for temporary relief;

   c. Appeals

   d. Post Conviction relief matters;

   e. Contempt of Court proceedings;

   f. Forfeiture proceedings brought by governmental entities;

   g. Mortgage foreclosures; and

   h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

2017-CP-18-1816

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE PROBATE COURT
MOTION FOR REMOVAL

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017-ES-18-00294

A formal proceeding concerning the above matter was commenced on October 4, 2017. The undersigned hereby moves for removal of this action to the Circuit Court and asserts that this action is removable because it involves the following:

CERTIFIED COPY
10/4/17
Clerk of Court
Dorchester County

- ☐ Probate of Will
- ☐ Appointment of Personal Representative
- ☐ Construction of Will
- ☒ Title to property in which the Estate of a decedent asserts an interest
- ☐ Internal or external matter involving a trust (excluding "special needs trusts")
- ☒ Action in which there is a right to trial by jury and in which the amount in controversy is at least $5,000
- ☐ Action concerning gifts under the SC Uniform Gifts to Minors Act

This Motion is made no later than ten (10) days from N/A, the date on which all responsive pleadings were filed. By copy of this Motion, the undersigned is giving notice to interested persons as required by law.

2017 OCT -5 PM 3:12
CLERK OF COURT
PROBATE COURT
DORCHESTER COUNTY
Mary Blount

Executed this 4th day of October, 2017.

Signature:	
Print Name:	Elizabeth J. Palmer
Address:	151 Meeting St., Ste. 400
	Charleston, SC 29401
Telephone (Work):	(843) 577-6726
(Home):	(843) 601-2219
(Cell):	(843) 601-2219
Email:	epalmer@rrhlawfirm.com
Relationship to Decedent/Estate:	Attorney for Andrew Chandler, Special Administrator of the Estate

2017 OCT -4 PM 1:16
CLERK OF COURT
DORCHESTER COUNTY

ORDER FOR REMOVAL

☐ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☑ The Motion for Removal is hereby GRANTED. This action shall be removed to the Circuit Court.
- ☑ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ It is hereby ORDERED that the Motion for Removal is DENIED because _____

Executed this 5th day of Oct., 2017

Mary Blount
Probate Court Judge

2017 OCT -5 PM 1:20
CLERK OF COURT
DORCHESTER COUNTY

FORM #109ES (1/2018)
62-1-302

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)

PROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 15 PM 4:07

PROOF OF DELIVERY

IN THE MATTER OF
Doris Duane Colucci
(Decedent)) CASE NUMBER: 2017-ES-18-00294

On the 14 day of November, 2017, I mailed or delivered the following document(s):

Certified Copy of the filed Civil Action Coversheet and Order for Removal

☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
David K. Haller, Esquire	604 Savannah Highway, Charleston, SC 29407
Angus M. Lawton, Esquire	496 Bramson Court, Suite 100, Mt. Pleasant, SC 29464
Evan A. Smith, Esquire	127 King Street, Suite 203, Charleston, SC 29401

SWORN to before me this 14 day of November, 2017

Notary Public for South Carolina
My Commission Expires: 5/5/25

Signature: Taylor Davis
Print Name: Taylor Davis
Address: 151 Meeting Street, Suite 400
Charleston, SC 29401
Telephone (Work): 843-577-6726
(Home):
(Cell):
E-mail: tdavis@rrhlawfirm.com
Relationship to Decedent/Estate: Legal Assistant to Andrew Gowdown, Esquire

L. Ensley Mahoney
NOTARY PUBLIC
State of South Carolina
My Commission Expires 5/5/2025

FORM #120PC (1/2014)
62-1-401, 62-3-709, 62-3-1201, SCRCP 4(d)(5)

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)

RECOR
2017 NOV -1 PM 1:12
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

APPLICATION FOR SALE OF PERSONAL PROPERTY

IN THE MATTER OF: THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI (Decedent)

CASE NUMBER: 2017-ES-18-00294

2017 OCT 16 PM 1:3

2017-CP-18- 1816

The undersigned states as follows:

1. I am the duly appointed Special Administrator.
2. The Inventory for said Estate was filed with the Probate Court on October 10, 2017
3. Pursuant to SCPC 62-3-711(b), certain personal property listed on the Estate inventory has an aggregate value of Ten Thousand Dollars ($10,000) or more. I hereby seek permission to sell by professional public auction or, if not successful, on consignment, the personal property listed below as early as possible in order to pay Estate expenses or to prevent waste, decay, or depreciation of the property

6.81 carat Lady's Diamond Solitaire Ring - Platinum	$TBD by public auction or by sale on consignment
18 kt. Yellow Gold Ladies Rolex Oyster Wristwatch	$TBD by public auction or by sale on consignment

WHEREFORE, applicant prays for an Order of the Court authorizing and directing sale of the above-listed property.

SWORN to before me on this the 11th day of October, 2017

Notary Public for South Carolina
My commission expires: 01/13/2026

Andrew W. Chandler, Special Administrator

NOTICE TO INTERESTED PARTIES: You are being provided with a copy of the above Application as required by the Probate Court. You will have ten (10) days to DEMAND A HEARING IN WRITING concerning this request by directing your written objection to the Dorchester County Probate Court.

NOTE: Probate Court reserves the right to require an official appraisal.

2017 NOV 9 PM 2:55

ORDER TO SELL PERSONAL PROPERTY

Upon due consideration of the above Application, it is ORDERED, ADJUDGED, AND DECREED that the Special Administrator for the above-named Estate be and is hereby authorized and directed to sell the personal property described upon the following terms: The listed jewelry may be sold at public auction by a professional auction company or by consignment

The said fiduciary is further ordered to make a return hereto by filing Bill of Sale with the Court after the sale.

IT IS SO ORDERED this the 26th day of October, 2017.

Molly D. Edwards
Mary Blunt, Probate Judge
Molly D. Edwards, Assoc. Probate Judge

FORM #329ES (1/2014)
62-3-711

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)

IN THE MATTER OF:)
DORIS DUANE COLUCCI)
(Decedent))

RECOR
2017 NOV -1 PM 1:11
CHERYL G. AHRENS
CLERK OF COURT
DORCHESTER COUNTY

PROOF OF DELIVERY

CASE NUMBER: 2017 ES 18 00284

2017-CP-18- 1816

2017 OCT 16 PM 1:39

On the 11th day of October, 2017, I mailed the Inventory & Appraisement.

☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery ☒ ordinary first-class mail
☐ certified mail ☐ registered mail
☐ commercial delivery ☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
David K. Haller, Esq., Attorney for Christa M. Yantis as Conservator (Demand for Notice)	604 Savannah Highway Charleston, SC 29407
Stefan Colucci (Demand for Notice)	102 Devon Court Summerville, SC 29485
Angus Lawton, Esq., Attorney for Michael A. Colucci & John M. Antonio	496 Bramson Court #100 Mt. Pleasant, SC 29464

(DEMAND FOR NOTICE)

SWORN to before me this 11th day of October, 20 17

Brenda F. Nelson
Notary Public for South Carolina
Print Name: Brenda F. Nelson
My Commission Expires: 11/05/2025

Signature: Amy Nelson
Print Name: Amy Nelson
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street, Charleston, SC 29401
Telephone (Work): (843) 577-2300
(Home):
(Cell):
E-mail: amy@eckb.com

Relationship to Decedent/Estate: Paralegal to Andrew W. Chandler, Esq.

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI, ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR, Petitioner, vs. IVO FRANCESCO COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI, Respondents.	IN THE PROBATE COURT CASE NO. 2017-ES-18-00294 ORDER DENYING MOTION TO ALTER OR AMEND

PROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 20 PM 4:12

On October 4, 2017, a Motion for Removal to Circuit Court of the Petition to Determine Heirs (Slayer Act) was filed by Elizabeth J. Palmer, Esquire, attorney for Andrew Chandler, Esquire, who is the Court-appointed Special Administrator of the Estate of Doris Duane Colucci. Because the Petition involves title to property in which the Estate of Doris Duane Colucci asserts an interest and because it is an action in which there is a right to trial by jury and in which the amount in controversy is at least $5,000, the Court issued an Order for Removal on October 5, 2017. S.C. Code Ann. § 62-1-302(d)(3), (5). In addition, the Court has the authority to remove this action on its own motion. S.C. Code Ann. § 62-1-302(f).

Therefore, the Motion to Alter or Amend filed by the Conservator and Guardian of Ivo Francesco Colucci is DENIED.

 MHB 11/20/2017

AND IT IS SO ORDERED.

Mary Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

November 20, 2017
St. George, South Carolina

MQB
11/20/2017

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-ES-18-00294
	)	
The Estate of Doris Duane Colucci	)	**ORDER OF WITHDRAWAL APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR**
	)	
	)	**(Regarding Application for Sale of Personal Property and disposition of other personal property)**

The Petitioner, Michael Fox has moved this Court to withdraw, without prejudice, his Application to Restrain the Special Administrator. I find this is proper and grant his motion; Petitioner's Application is hereby withdrawn without prejudice.

Mary Blunt
Honorable Mary L. Blunt
Dorchester County Probate Judge

February 23, 2018

CERTIFIED TO BE A TRUE COPY
PROBATE JUDGE
DORCHESTER COUNTY
Mary Blunt
2018 FEB 23 PM 4:47

PROBATE JUDGE
DORCHESTER COUNTY
2018 FEB 23 PM 4:31

ELECTRONICALLY FILED - 2019 Apr 18 5:28 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN RE: ESTATE OF
DORIS DUANE COLUCCI A/K/A
DORIS D. COLUCCI

ANDREW W. CHANDLER as the
Special Administrator for the Estate of
DORIS DUANE COLUCCI A/K/A
DORIS D. COLUCCI,
Petitioner.

IN THE PROBATE COURT
CASE NO. 2017 ES 18 00294

ORDER
(Authorizing the Sale of Real Estate)

2018 JUL 30 PM 2:26

PROBATE JUDGE
FOURTH JUDICIAL CIRCUIT

THIS MATTER comes before the Court on a Petition to Sell Real Estate filed by Andrew W. Chandler, the duly appointed Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci. One parcel of real property located in Colleton County is subject to this action.

On the basis of the Petition and other documentation and information published to this Court, the Court finds and determines that:

1. This Court has jurisdiction over this matter, and venue is proper.

2. All interested parties were properly served with the pleadings.

3. Doris Duane Colucci a/k/a Doris D. Colucci (Decedent) died intestate on April 14, 2017, a resident of Dorchester County, South Carolina, leaving the following heirs: Ivo Francesco Colucci, John Martin Antonio and Michael Frederick Antonio Colucci.

4. Andrew W. Chandler has been duly appointed by this Court to serve as Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci.

5. Decedent died seized and possessed of an interest in certain real property located at 7674 Legare Road, Colleton County, Edisto Island, SC, identified as TMS# 361-00-00-003.

6. A *Lis Pendens* was filed in the Office of the Clerk of Court for Colleton County, South Carolina pursuant to S.C. Code Ann. § 62-3-1308.

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ELECTRONICALLY FILED - 2019 Apr 18 5:28 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

7. A *Comparable Market Analysis* of the property was performed by Matt Van Bakergem and Van Leer Rowe of Carolina One Real Estate, licensed Real Estate Agents. The agents assigned a fair market value of $580,000 to the property as of March 4, 2018. Due to the damage from vandalism, the *Comparable Market Analysis* for 7674 Legare Road was revised to reflect a decrease of $27,000 to $553,000 as the current market value.

8. Upon the advice of Matt Van Bakergem and Van Leer Rowe, the Special Administrator has agreed to list the property for a purchase price of $611,500.

9. The list price of $611,500 is a fair price considering the condition of the property and the present state of the real estate market in general.

10. After the costs associated with the sale of the property are paid, then one-half (1/2) of the net proceeds shall be paid to the Estate subject to the outstanding litigation regarding the slayer statute.

11. The statutory period for creditors to file claims against the Estate has expired. To date, the following claims have been filed against the Estate: Air Harbor Veterinary Clinic, AscensionPoint Recovery services on behalf of Citibank, N.A., AscensionPoint Recovery Services on behalf of Synchrony Bank, DCM Services on behalf of Verizon Wireless, James A. Dyal Funeral Home and Christa M. Yantis, CPA, Conservator for Ivo Francesco Colucci.

12. No creditors of the Estate will be prejudiced by the sale of the property because the claims filed by Air Harbor Veterinary Clinic, AscensionPoint Recovery services on behalf of Citibank, N.A., AscensionPoint Recovery Services on behalf of Synchrony Bank, and James A. Dyal Funeral Home have been satisfied. The claims filed by DCM Services on behalf of Verizon Wireless and Christa M. Yantis, CPA were disallowed and forever barred.

13. All interested parties have filed a *Waiver of Hearing on Petition for Sale of Real Property* with the Dorchester County Probate Court.

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14. It is necessary or desirable to sell by public or private sale the real property described in the Petition and a sale of the real property would be in the best interest of the Estate of Doris Duane Colucci a/k/a Doris D. Colucci.

It is therefore ORDERED, ADJUDGED, and DECREED that:

A. Andrew W. Chandler, as Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci, may sell the property located at 7674 Legare Road, Colleton County, Edisto Island, SC, identified as TMS# 360-00-00-003, by public or private sale for a price equal to or more than $611,500, but not less than eighty-five (85%) of *Comparable Market Analysis* value of $553,000.

B. Andrew W. Chandler, as Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci, shall have the authority to execute all the documents necessary to complete the sale of said real property.

C. After the costs associated with the sale of the property are paid, then one-half (1/2) of the net proceeds shall be paid to the Estate subject to the outstanding litigation regarding the slayer statute.

D. The Special Administrator shall provide to the Court proof of the sale in the form of a HUD-1 Statement, to be submitted to the Court within thirty (30) days of closing.

E. Any *Lis Pendens* filed in conjunction with this action is hereby dissolved.

IT IS SO ORDERED!

Mary L Blunt
Hon. Mary L. Blunt
Dorchester County Probate Court

July 30, 2018
St. George, South Carolina

 MLB 7/30/18

ELECTRONICALLY FILED - 2018 Aug 27 10:01 AM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF DORCHESTER)	CASE NO.: 2017-CP-18-1816
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,)	
MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,)	
Petitioner,)	
Versus)	**ORDER GRANTING SUMMARY JUDGMENT AND ORDERING PROBATE OF WILL DATED JUNE 18, 2013**
ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, HENRY BURKES, AND RICHARD HYMAN, JR.,)	
Respondents.)	

THIS MATTER was before the Court on Motion for Summary Judgment filed by Christa M. Yantis as Conservator for Ivo Francesco Colucci seeking, among other things, probate of a Last Will and Testament of Doris Duane Colucci dated June 18, 2013, and filed with the Dorchester County Probate Court on August 24, 2017 (hereinafter "the Will"). Petitioner Michael C. Fox is named as successor personal representative under the Will and filed a Petition for Formal Testacy that was removed to this Court. This order addresses only that portion of the motion relating to the probate of the Will.

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Pursuant to S.C. Code Ann. § 62-3-405, the Court may probate the Will on the pleadings before it with no testimony:

> If a petition in a testacy proceeding is unopposed, the court may order probate or intestacy on the strength of the pleadings if satisfied that the conditions of Section 62-3-409 have been met or conduct a hearing in open court and require proof of the matters necessary to support the order sought. If evidence concerning execution of the will is necessary, the affidavit (including an affidavit of self-proof executed in compliance with Section 62-2-503) or testimony of one of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

S.C. Code Ann. §62-3-405.

At the call of the motion, no party raised any objection to the Will being probated. A review of the pleadings before the Court indicates that all parties are in agreement that the Will is the Last Will and Testament of Doris Duane Colucci. According, the motion is properly granted as to the prayer for probate of the Will only and the Will is entered into probate.

THEREFORE IT IS ORDERED that the Last Will and Testament of Doris Duane Colucci dated June 18, 2013 is probated as the Will of Doris Duane Colucci.

AND IT IS SO ORDERED!

_____
Edgar W. Dickson
Presiding Judge

This _____ day of _____, 2018

At _____, South Carolina

ELECTRONICALLY FILED - 2018 Aug 27 10:01 AM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816



Dorchester Common Pleas

Case Caption:	Estate of Doris Duane Colucci VS Ivo Francesco Colucci , defendant, et al
Case Number:	2017CP1801816
Type:	Order/Summary Judgment

So Ordered

s/ Edgar W. Dickson #2153

ELECTRONICALLY FILED - 2019 Feb 25 3:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO. 2017-ES-18-00294
	)	
IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI	)	MODIFIED ORDER FOR THE APPOINTMENT OF A SPECIAL ADMINISTRATOR

2018 AUG 27 P 12:19
PROBATE JUDGE
DORCHESTER COUNTY

This modification of the Probate Court's July 10, 2017 Consent Order for the Appointment of a Special Administrator is in response to the Order dated August 27, 2018, of the Honorable Edgar Dickson of the First Judicial Circuit granting Summary Judgement for the Probate of the Last Will of Doris D. Colucci. Based on the Order probating the Last Will of Doris D. Colucci, the Probate Court makes the following modifications to its July 10, 2017 Consent Order for the Appointment of a Special Administrator:

1. The administration of the probate Estate of Doris D. Colucci (the "Decedent") shall proceed pursuant to the terms of the Last Will of Doris D. Colucci;

2. The sole devisee under the Last Will of Doris D. Colucci is the "Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto" and, therefore, all assets that will be distributable out of the Decedent's Estate shall be transferred to the then-serving Trustee of the Colucci Living Trust, unless otherwise ordered by this Court;

3. The Court has appointed Andrew W. Chandler, Esquire, as the Special Administrator for the Decedent's Estate;

4. Andrew W. Chandler has extensive experience in probate matters, is recognized state-wide for his knowledge in this area, and has ably served as a fiduciary to this Court; and

 awc 8/27/18

EXHIBIT 1

ELECTRONICALLY FILED - 2019 Feb 25 3:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

5. The continued appointment and service of Andrew W. Chandler as the Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets.

NOW THEREFORE,

A. Andrew W. Chandler shall continue to serve as the Special Administrator of the Estate of Doris Duane Colucci, pursuant to the terms of the Last Will of Doris D. Colucci, the applicable terms of the Consent Order dated July 10, 2017, and the terms of this modified Order;

B. Andrew W. Chandler, as Special Administrator of Decedent's Estate, has retained the services of an accountant and attorneys with the prior express approval of the Court and may continue to retain such services as he determines necessary for the proper administration of the Decedent's Estate;

C. Until such time that a determination is made pursuant to S.C. Code Ann. § 62-2-803(f) of the South Carolina Probate Code regarding the status of Ivo Francesco Colucci (as an heir of the Decedent's Estate, a beneficiary of the Colucci Living Trust, a joint owner with right of survivorship, and a designated beneficiary) pursuant to the Slayer's Act, Andrew W. Chandler, as Special Conservator, shall hold any funds or property to which Ivo Francesco Colucci may otherwise be entitled as a joint owner with right of survivorship or a designated beneficiary, if the Slayer's Act does not apply, in a separate account, unless otherwise ordered by this Court;

D. Pursuant to S.C. Code Ann. § 62-3-617, and other relevant statutory provisions of the South Carolina Probate Code, Andrew W. Chandler, as Special Administrator, shall continue to have all the powers of a general Personal Representative as applied under PART 7 (S.C. Code

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Ann. §§ 62-3-701 through 62-3-721) of the South Carolina Probate Code, and such powers are incorporated herein by specific reference thereto.

E. This Order is subject to such further orders of the Dorchester County Probate Court or the First Judicial Circuit Court as may be or shall become necessary for the custody, control, and administration of the Estate of Doris Colucci.

AND IT IS SO ORDERED.

Mary Q. Blunt

The Honorable Mary Q. Blunt
Dorchester County Probate Court

27th day of August, 2018
St. George, South Carolina

 MB 8/27/18

ELECTRONICALLY FILED - 2019 Feb 08 12:08 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN THE ESTATE OF: DORIS DUANE COLUCCI MICHAEL C. FOX, named Personal Representative in the Last Will of Doris Colucci, Petitioner, vs. ANDREW CHANDLER, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, MICHAEL C. FOX, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, and RICHARD HYMAN, JR., Respondent.	)	IN THE PROBATE COURT CASE NO. 2017-ES-18-00294 ORDER DENYING REMOVAL

On January 4, 2018, this Court received a Motion for Removal ("Motion") filed by Gordon Garrett, Esquire on behalf of his client, Michael C. Fox ("Petitioner"). The Motion cites that the basis for removal of this action is because it involves "Probate of Will" and "Appointment of a Personal Representative." A Petition for Removal of Special Administrator ("Petition") accompanied the Motion.

In review of the Petition, the primary issue that the Petitioner is seeking to be resolved is the removal of the Special Administrator. The removal of a Special Administrator would not be considered a matter involving "Probate of Will"[1] or "Appointment of a Personal Representative." Further, the Court finds that only subject matters concerning representatives of estates that are

[1] Petitioner previously requested this Court to remove the issue of probating Decedent's Will and that request was granted on November 20, 2017. Furthermore, since removal, the Circuit Court has issued an Order dated August 27, 2018 wherein Decedent's Will was formally admitted to probate.

EXHIBIT 3

ELECTRONICALLY FILED - 2019 Feb 08 12:08 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

removable to circuit court as a matter of right are formal proceedings for the "appointment of general personal representatives." S.C. Code Ann. § 61-1-302(d)(1). The term "general personal representative" is defined to specifically exclude special administrators. S.C. Code Ann. § 61-1-201(33) ("'General personal representative' excludes special administrators.").

In the Petition's prayer for relief, the Petitioner makes a request for the appointment of a general Personal Representative after the Special Administrator is removed. However, the issue of the appointment of a general Personal Representative was already removed to the Circuit Court at the request of the Petitioner on November 20, 2017 when the Court removed the Petition for Formal Testacy and Appointment of a Personal Representative.

Based on the foregoing, the Motion for Removal is DENIED.

IT IS SO ORDERED!

Mary Blunt

Hon. Mary Q. Blunt
Probate Judge
Dorchester County Probate Court

January 8, 2019
St. George, South Carolina

PROBATE JUDGE
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF DORCHESTER 2019 JAN 15 PM 3:33 CASE NO. 2017 ES 18 00294

IN RE: ESTATE OF
DORIS DUANE COLUCCI A/K/A
DORIS D. COLUCCI

ANDREW W. CHANDLER as the
Special Administrator for the Estate of
DORIS DUANE COLUCCI A/K/A
DORIS D. COLUCCI,
Applicant.

ORDER
(Authorizing Distribution from Estate)

THIS MATTER comes before the Dorchester County Probate Court (the "Court") on an Application for Hearing to Approve Distribution by Special Administrator filed on November 20, 2018, by Andrew W. Chandler, the duly appointed Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci (the "Estate").

On the basis of the Application and information offered by the Special Administrator and attorneys present at the Hearing held on January 9, 2019, the Court finds and determines that:

1. This Court has jurisdiction over this matter, and venue is proper.

2. Notice was given to all interested parties and those having filed Demands for Notice.

3. Andrew W. Chandler has been duly appointed by this Court to serve as Special Administrator for the Estate.

4. Decedent's Last Will dated June 18, 2013, which was probated pursuant to an Order of the Court of Common Pleas for Dorchester County dated August 27, 2018, devises the rest and residue of the Decedent's estate to the Trustee of the Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto (the "Trust"), the relevant and applicable terms

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of which may be determined by the Court. Michael C. Fox is the currently serving Trustee of the Trust.

5. The Special Administrator requested in his Application and Proposal for Distribution that $10,000 be distributed from the Estate to the Trust, though he asked at the Hearing that the Trustee's attorney identify the cash needs of the Trust. After information provided by the attorneys present at the Hearing held on January 9, 2019, the Court has approved the distribution of $100,000 from the Estate to the Trust, to be used by the Trustee consistent with the terms and purposes of the Trust.

It is therefore ORDERED, ADJUDGED, and DECREED that:

A. Andrew W. Chandler, as Special Administrator for the Estate of Doris Duane Colucci a/k/a Doris D. Colucci, shall distribute $100,000 from the Estate to the Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto, the relevant and applicable terms of which may be determined by the Court. The distribution shall be used by the Trustee consistent with the terms and purposes of the Trust.

B. The Trustee should take notice of the impact of the Petition to Determine Heirs filed in the Dorchester County Probate Court on October 4, 2017, which was removed to the Circuit Court as 2017-CP-18-1816 (the "Slayer Action"). All assets distributed to the Trustee are subject to and should be administered with reference to whatever final judgment may be rendered in the Slayer Action.

IT IS SO ORDERED!

Mary L. Blunt
Hon. Mary L. Blunt
Dorchester County Probate Court

January 15, 2019
St. George, South Carolina

ELECTRONICALLY FILED - 2019 Feb 08 12:08 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, Petitioner, v. ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	IN THE PROBATE COURT CASE NO: 2017-ES-18-00294 ORDER

PROBATE JUDGE
DORCHESTER COUNTY
2019 FEB -7 PM 3:00

This matter came before the Court on Petitioner Michael Fox's Petition for Removal of Special Administrator pursuant to S.C. Code Ann. § 62-3-611. For the reasons set forth herein, and after considering the evidence presented, law, and arguments of counsel, this Court finds that the Petition should be denied and that certain costs and fees should be assessed against Petitioner Fox pursuant to S.C. Code Ann. § 62-1-111.

PROCEDURAL HISTORY

Doris Duane Colucci was killed by her husband, Ivo F. Colucci, on April 14, 2017. Respondent Andrew W. Chandler, Esquire, was appointed Special Administrator of the

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EXHIBIT 2

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Estate of Doris Duane Colucci (the "Estate") by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis.

On August 24, 2017, Decedent's purported Last Will and Testament, dated June 18, 2013 (the "Will"), was filed with this Court, although no petition seeking to have the Will admitted to probate was filed at that time. The Will nominates Ivo F. Colucci as the personal representative and Michael Fox, Henry Burkes, and Richard Hyman (in that order) as successor personal representatives. The primary devisee of the Will is the Colucci Living Trust (the "Trust"), dated February 24, 2005, which names Petitioner Fox as a successor trustee. On October 27, 2017, Petitioner Fox accepted the trusteeship of the Trust and, to date, continues to serve in that capacity.

On October 30, 2017, Petitioner Fox filed a Petition for Formal Testacy and Appointment, seeking to have the Decedent's Will admitted to probate and also seeking to have himself appointed as the personal representative of the Estate. Upon motion by Petitioner Fox, the Petition for Formal Testacy and Appointment was removed to the Dorchester County Court of Common Pleas by Order of this Court filed November 20, 2017. By Circuit Court Order filed August 27, 2018, Decedent's Will was admitted to probate, making the Colucci Living Trust the sole devisee of the Estate. To date, no decision has been rendered by the Circuit Court on Petitioner Fox's Petition for Appointment as personal representative. Following the probate of the Will, this Court entered a Modified Order for the Appointment of a Special Administrator, confirming Respondent Chandler's appointment as Special Administrator in this matter and directing that he administer the Estate pursuant to the terms of the Will.

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On January 4, 2019, Petitioner Fox filed a Petition for Removal of Special Administrator[1] as well as a Motion for Removal, seeking to remove the Petition for Removal of Special Administrator to the Dorchester Court of Common Pleas. By Order filed on January 8, 2019, this Court denied the Motion for Removal on the basis that a petition seeking removal of a Special Administrator is not removable to the circuit court as a matter of right pursuant to S.C. Code Ann. § 61-1-302.

Also on January 8, 2019, Respondent Chandler filed a Motion for Emergency Hearing, requesting that Petitioner Fox's Petition for Removal of Special Administrator be scheduled for an emergency hearing and that the Estate's costs and fees incurred in responding to, and defending, Petitioner Fox's Petition, be assessed against Petitioner Fox pursuant to S.C. Code Ann. § 62-1-111. The request for an emergency hearing was granted, and that hearing was held on January 9, 2019. In attendance were: Gordon Garrett, Esquire, and Ryan Love, Esquire, counsel for Petitioner Fox; Respondent Chandler with his attorney, Elizabeth Palmer, Esquire; David Haller, Esquire, counsel for Christa M. Yantis, as Conservator for Ivo Colucci, and Alice Norton, as Guardian for Ivo Colucci; Brandt Shelbourne, Esquire, counsel for Robert Colucci; Eduardo Curry, Esquire, counsel for Stefan Colucci; and Angus Lawton, Esquire, counsel for Michael Antonio and Michael Colucci.

APPLICABLE LAW

A personal representative, which is defined to include a special administrator, is a fiduciary under this state's probate code. S.C. Code Ann. § 62–3–703; S.C. Code Ann. §

[1] While titled "Petition for Removal of Special Administrator," the Petition attaches a Motion to Restrain Special Administrator, previously filed by Petitioner Fox in the Circuit Court on November 26, 2018, and requests that this Court grant the relief sought therein. As such, before this Court is both Petitioner Fox's request that Respondent Chandler be removed and also that he be restrained.

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62–1–201. A special administrator must "take all steps reasonably necessary for the management, protection, and preservation of, the estate in his possession" and has a duty "to settle and distribute the estate of the decedent in accordance with the terms of a probated and effective will and this code, and as expeditiously and efficiently as is consistent with the best interests of the estate." S.C. Code Ann. §§ 62-3-703(a), 62-3-709. A special administrator "shall use the authority conferred upon him by this code, the terms of the will, and any order in proceedings to which he is party for the best interests of successors to the estate." S.C. Code Ann. § 62-3-703(a).

"A person interested in the estate may petition for removal of a [special administrator] for cause at any time." S.C. Code Ann. § 62-3-611(a). "Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a [special administrator] or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the [special administrator] has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office." S.C. Code Ann. § 62-3-611(b). The power to remove a special administrator "should be executed with great caution, and not at all, unless it is made to appear to be necessary for the protection of the estate, to prevent loss or injury to it from misappropriation, maladministration or fraud." Blackmon v. Weaver, 366 S.C. 245, 251, 621 S.E.2d 42, 45 (Ct. App. 2005) (quoting Smith v. Heyward, 115 S.C. 145, 164, 105 S.E. 275, 282 (1920)).

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FINDINGS OF FACT & CONCLUSIONS OF LAW

I. S.C. Code Ann. § 62-3-615 does not require the removal of Respondent Chandler.

Petitioner Fox contends that S.C. Code Ann. § 62-3-615 requires that he, or one of the other individuals named as successor personal representatives in Decedent's Will, be appointed as special administrator and, therefore, Respondent Chandler's appointment must be terminated. That section provides as follows:

> § 62-3-615. Special administrator; who may be appointed.
>
> (a) If a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.
>
> (b) In other cases, any proper person may be appointed special administrator.

This section is inapplicable to the matter before the Court and provides no basis for the removal of Respondent Chandler.[2] Contrary to the assertion of Petitioner Fox, Respondent Chandler was not appointed as Special Administrator pursuant to S.C. Code Ann. § 62-3-615 but was instead appointed pursuant to S.C. Code Ann. § 62-3-617. See Consent Order for the Appointment of a Special Administrator at 4, July 10, 2017. The statute cited by Petitioner Fox relates to a temporary appointment process for a special administrator. However, pursuant to this Court's July 10, 2017 Consent Order for the Appointment of a Special Administrator, Respondent Chandler was appointed pursuant to a formal proceeding that grants a special administrator the full duties and responsibilities

[2] The Court would further note that, contrary to Petitioner Fox's argument, this section, even when applicable, does not provide for the automatic appointment of a nominated personal representative as special administrator. Rather, just as with the appointment of a personal representative, there must first be a determination by a court of competent jurisdiction that the individual is available and qualified.

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as a personal representative. Therefore, Petitioner Fox's request that the Court remove Respondent Chandler as Special Administrator pursuant to S.C. Code Ann. § 62-3-615 is inappropriate and contrary to the current posture of this case.

II. The Special Administrator's fees, and those of his attorney, are not excessive and provide no basis for his removal as Special Administrator.

Petitioner Fox contends that the fees paid from the Estate to Respondent Chandler and his counsel for matters related to the administration of the Estate, as well as the contingency fee of 40% related to the wrongful death lawsuit that is pending, are excessive but he has failed to present evidence to substantiate this claim. Rather, Petitioner Fox makes the assumption that the fees paid to Respondent Chandler and his counsel, totaling approximately $165,000.00 as shown on the last Accounting filed by Respondent Chandler, are improper.[3] The Court disagrees and would further note that Respondent Chandler and his counsel are compensated for their work in this matter at an hourly rate of $200.00, which is substantially less than their standard hourly rates. Further, this Court has reviewed the detailed invoices submitted by Respondent Chandler, and on each occasion, has found them to be appropriate.

The fees collected by Respondent Chandler and his counsel in the amount of $165,849.91 that are challenged by Petitioner Fox are approximately 5.7% of the value of the Estate at the time of Decedent's death ($2,865,316.20). The statutorily allowed commission for personal representatives is 5% of the appraised value of the personal

[3] That Petitioner Fox made this claim of excessive fees without support is evidenced by the following statement in his Petition: "The Movant requires the Special Administrator's billing statements to determine which actions and how much time was spent by the Special Administrator and his experts to prevent the appointment of a Personal Representative. To date, the Movant has been prohibited from inspecting the records." The Court finds it concerning that Petitioner Fox would accuse two members of the Bar of excessive billing without having any knowledge as to the nature and extent of work performed by Respondent Chandler and his counsel.

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property of the probate estate (plus the sales proceeds of real property of the probate estate received on sales directed or authorized by will or court order). S.C. Code Ann. § 62-3-719. Fees incurred by a personal representative's attorney are generally paid out of an estate in addition to those paid to the personal representative. As such, just on its face, the amount paid here to Respondent Chandler and his counsel is reasonable given that, jointly, it is just slightly above that which is customarily allowed solely for the personal representative. Moreover, the Court has reviewed the reasonableness of these fees taking into consideration the novel and complex nature of the legal issues that have been addressed by Respondent Chandler and his counsel, the nature and quality of the work that has been performed, and the benefit that the Estate has derived from that work and confirms and concludes that the fees are reasonable and appropriate.

Likewise, Petitioner Fox's assertion that the contingency fee agreement between the Estate and Rosen, Rosen & Hagood, LLC ("RRH"), for the prosecution of the pending wrongful death lawsuit is excessive is without merit. Petitioner Fox contends that the contingency fee agreement, which provides for legal fees of 40% of the recovery from the wrongful death lawsuit, and which was previously approved by this Court, is "lavish" and "extraordinary." Petitioner Fox failed to present any argument or evidence substantiating his claim that the contingency fee agreement is unreasonable, and the Court takes notice that the contingency fee agreement is typical of those in other personal injury actions. The Court finds no basis on which to revisit its prior determinations that this agreement and the hiring of RRH to prosecute the wrongful death lawsuit are appropriate.

In questioning the fees RRH are receiving to serve as attorney for Respondent Chandler in matters related to the administration of the Estate as well as the contingency

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fee arrangement related to the pending wrongful death lawsuit, Petitioner Fox tried to establish that the law firm was double billing. Counsel for Respondent Chandler explained on the record RRH's billing practices with this case and how they actually benefit the Estate:

> Related to the fees issue, there are these allegations, I think, of double dipping. This arises out of the fact that my law firm is handling both the wrongful death action, obviously on contingency basis because it's a wrongful death, and also representing Mr. Chandler as his attorney as he administers the estate. Now, part of the administration of the estate includes the Slayer action which is currently pending. It would not be unusual for Mr. Chandler or for this Court to appoint two separate law firms to represent [him], one to do the wrongful death and one to represent Mr. Candler in the administration. If that was the case here, the [estate] would be charged for the discovery that's being done in these cases. So the Slayer case and the wrongful death, we have effectively combined or consolidated them for the purposes of discovery, because the discovery is very similar in the two of them. We have not charged one penny to the estate for any of the discovery. None of the expert witness fees, none of the court reporter fees. . . . [T]he fact that my firm is representing both has benefited the estate.

Hearing Transcript, pp. 49-50.

Therefore, by allowing RRH to serve the dual role as attorney for Respondent Chandler in his administration of the Estate and pursuing the Slayer case as well as representing him in the pending wrongful death case, the Estate is receiving a substantial benefit. The Estate is not having to pay for any attorney's fees or costs associated with the discovery RRH has done in pursuit of the Slayer case. RRH will only be compensated for their time and the costs they have incurred from the settlement proceeds of the wrongful death action. If the Court had allowed Respondent Chandler to engage separate attorneys to handle the slayer cases and the wrongful death, the Estate would have been liable to pay the attorney handling the Slayer case for their time and costs incurred in completing the

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discovery for that case in addition to what RRH will already receive as compensation from the wrongful death action.

Based on the foregoing, the Court finds that the fees paid to Respondent Chandler and his counsel are reasonable, the rate at which they are being compensated is reasonable, and that the work performed by Respondent Chandler and his counsel, which has involved novel and complex legal issues, has directly benefited the Estate.

III. The Special Administrator has appropriately collected and distributed the Estate's assets.

As a Special Administrator with all the powers of a general personal representative, Respondent Chandler is required to settle and distribute the Estate as expeditiously and efficiently as is consistent with the best interests of the estate. S.C. Code Ann. § 62-3-703. Petitioner Fox contends that Respondent Chandler has "unreasonably failed to disburse the Estate's assets according to the wishes of Doris Colucci." Petitioner Fox also takes issue with the manner in which Respondent Chandler has effectuated distributions to the Trust, stating: "On November 19, 2018, without any warning, the Special Administrator attempted to have hand delivered an envelope containing the jewelry to Mr. Fox, via his attorney, without any explanation, itemization, or receipt."

These claims are without merit and provide no basis for the removal of Respondent Chandler. Petitioner Fox has failed to present evidence that there has been any unreasonable delay in distributing the Estate's assets to the Trust. The Trust, of which Petitioner Fox is the trustee, did not become the devisee of the Estate until the Will was probated on August 27, 2018. Given the circumstances surrounding the administration of this Estate, including, but not limited to, ongoing litigation and outstanding tax issues and

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potential tax liability, the Court finds that Respondent Chandler's actions with regard to the distribution of assets to the Trust have been proper and appropriate.

The Court further takes notice that Petitioner Fox and his counsel have taken measures to frustrate Respondent Chandler's distribution of Estate assets to the Trust. On November 19, 2018, counsel for Petitioner Fox refused to accept certain assets that the Estate distributed to the Trust, assets which were listed on the Proposal for Distribution filed by Respondent Chandler on or about September 24, 2018, and served on counsel for Petitioner Fox. Petitioner Fox and his counsel also attempted to hinder the sale of a ring by the Special Administrator. The Special Administrator had obtained an Order from this Court approving the sale of the ring to create liquid assets in the Estate. Petitioner Fox filed a Application to Restrain the Special Administrator from selling the ring, and then withdrew the Application. Additionally, while Petitioner Fox takes issue with the lack of cash distributed to the Trust from the Estate, Petitioner Fox was on notice that Respondent Chandler filed a second Proposal for Distribution on November 20, 2018, proposing the distribution of $10,000.00 to the Trust. A hearing on that Proposal for Distribution was initially scheduled for January 9, 2019. However, Petitioner Fox filed his Petition for Removal of Special Administrator with the stated intention of postponing the hearing on the Proposal for Distribution, which would result in the distribution of cash to the Trust being postponed.

Petitioner Fox also states that "complaints have been raised to [his] counsel that the house is in poor condition and the Special Administrator has failed to conduct maintenance." Petitioner Fox failed to present any evidence supporting this claim and the Court finds that this is not a basis for Respondent Chandler's removal.

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IV. The Special Administrator has not breached any duties owed to the Colucci Living Trust concerning the provision of information or the reimbursement of the Trustee's costs.

Petitioner Fox claims that Respondent Chandler has failed to provide him with information, stating that "[o]utside of the Proposed Distribution, Mr. Fox had not been forwarded a single document, including basic estate documents such as the Inventory and Appraisement and the estate account." The documents to which Petitioner Fox refers are attached to his Petition, namely, the Inventory and Appraisement which was filed in April 2018 and the Accounting which was filed in July 2018. The Trust did not become the devisee of the Estate until August 27, 2018. Prior to that time, Respondent Chandler had no duty to provide Petitioner Fox with any information given that Petitioner Fox neglected to file a Demand for Notice. Furthermore, the Estate file is a public record and was available to Petitioner Fox to review anytime. Petitioner Fox has failed to substantiate his claim that Respondent Chandler failed to provide him with information that Respondent Chandler had a duty to provide to him.

Petitioner Fox also appears to argue that Respondent Chandler acted improperly by not reimbursing him, as Trustee of the Colucci Living Trust, for "his costs to probate the [Decedent's] Last Will." The Court finds no impropriety on the part of Respondent Chandler and Petitioner Fox failed to present any authority to support his contention that Respondent Chandler is required to reimburse such costs. The Court further takes notice that Petitioner Fox has not submitted any request for payment to Respondent Chandler. The Court makes no determination as to whether those costs are properly reimbursed by the Estate, but only notes that Petitioner Fox had the opportunity to submit a claim for payment pursuant to the procedure set forth in S.C. Code Ann. § 62-3-804.

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V. The Special Administrator's use of Estate funds to object to the appointment of Petitioner Fox as personal representative of the Estate is not grounds for his removal.

After being served with Petitioner Fox's Petition for Formal Testacy and Appointment, which was removed to Circuit Court, Respondent Chandler submitted an Answer and Objection and, at a hearing, argued that the appointment of Petitioner Fox would not be in the best interests of the Estate. Petitioner Fox argues in his Petition that Respondent Chandler "has acted unreasonably and against the interest[s] of the Estate by using estate assets to prevent the appointment of a Successor Personal Representative as specified in the Last Will of Doris Colucci." The Court disagrees.

As Special Administrator, Respondent Chandler is required to use the authority conferred upon him by the Probate Code for the best interests of the successors to the Estate, which, in this case, is the Trust. S.C. Code Ann. § 62-3-703. He is also required to "take all steps reasonably necessary for the management, protection, and preservation of, the estate in his possession." S.C. Code Ann. § 62-3-709.

Respondent Chandler testified at length as to the basis for his objection to Petitioner Fox's appointment as personal representative of the Estate.

> Q: What was your basis for Mr. Fox to be disqualified?
>
> A: Let me back up and say, when you filed formal probate, it was removed at your request. I was served. I answered, as is required. I'd have to review my answer. And I'm happy, if you want to hand me my answers. But as I recall, by that point, because it had been several months, but at that point we were fully engaged in the administration of this estate. Which is not a simple estate. And so there's -- there has been or there is a vast array of litigation. But I'd have to review my answer. But as I recall, I believe Mr. Fox, or anyone else, frankly, nothing necessarily to do with Mr. Fox, it would be very inefficient for the court to appoint someone at that point as the personal representative because we'd already begun the process and were involved in a variety of pieces of litigation. It's, again, a complex estate. It had lots of moving parts. And the time it takes to be up to speed

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on all of those issues is not insignificant. And so at some point, it is not in the best interest of the beneficiaries.

...

It would be very difficult and would be costly for anyone else at that point to have been appointed, in my view. At the end of the day it's for the court to determine who the fiduciary is. It's not me who decides that. It's for the court to determine who is qualified, who is appropriate. In simple cases, perhaps it's easiest just to follow the will. This is not a simple case, Mr. Garrett. This is a very complex case.

On top of that, Mr. Fox, it just so happens, who had been a longtime friend of the Coluccis, had done their bookkeeping and tax returns for years, decades perhaps, would likely have been a witness. It turns out he is a witness. And he has been deposed and will be deposed. So as I predict, he potentially had a conflict. That may not be true of the next person in line. Although, Henry Burkes is also a witness to this killing. And that may not have been true of the next person in line. But again, it is a complex estate, it is costly to transfer it to someone else.

However, as special administrator, and being involved with a very complex case, which thankfully a lot of it has been resolved, but we still have ongoing litigation, it was just extremely inefficient and foolish, in my opinion, to transfer it to anyone else.

Hearing Transcript, pp. 16-19.

The estate is so complex that Petitioner Fox's attorney, Gordon Garrett, offered to hire Mr. Chandler as an expert if Mr. Chandler would agree to allow Petitioner Fox to serve as the Personal Representative.

Q. Did I offer to retain you as an expert to work for the Estate of Doris Colucci prior to the hearing in Court of Common Pleas in the summer of 2017[4]?

A. Did you ask me to?

Q. Serve as an expert if Mr. Fox was appointed as the personal representative?

A. Let me tell you what I recall from that conversation which occurred outside of Judge Dickson's courtroom. What I recall is, you said, well, if Mr. Fox is appointed – or if you agreed to have Mr. Fox appointed – which again I'm telling you I couldn't have agree to that because that's not my role – but if Mr. Fox were to be appointed, you know, we could hire you, Andrew, and Ms. Palmer, to continue to do what you do. But in the meantime, we'll also be in there, and then whatever you would do.

And from my perspective, that is in no way beneficial to the beneficiaries

[4] The hearing was in the summer of 2018 not 2017.

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> of this estate, which now it turns out that the designee, Mr. Fox, has accepted trusteeship. That is in no way beneficial to those beneficiaries, whoever they may have been, to go from the fees that we are charging, which by the way are a fraction of my regular billing rate, to add two more people and add their rate. I mean, how is that beneficial or helpful to the estate? No way do I think that's appropriate. And I think I told you such. But I don't know that I realized that it was a job offer.

Hearing Transcript, pp. 21-22.

The Court has a voluminous Estate file on this matter with over one thousand documents, and a sister guardianship and conservatorship file which is equally voluminous. The Estate file is rife with litigation and complex issues. On file with the Court are a large web of business interests involved in litigation and negotiation including I&M Colucci, HID LLC, and Terrivo Enterprises LLC. All of these businesses held real property that have complicating factors. The Estate also has multiple parcels of real property in multiple jurisdictions and multiple states with various ownership interests. There is litigation that was in place before Mrs. Colucci's death and after her death. For example, there is litigation involving the Slayer case, wrongful death, I&M Colucci, and Terrivo Enterprises LLC. Numerous attorneys are involved in the case representing various parties and interests which further complicates the Estate.

Additionally, there are ongoing and significant tax issues that the Special Administrator is attempting to resolve. For example, Mr. Chandler testified that Petitioner Fox, who had been the Colucci's long-time bookkeeper and tax preparer, had filed a tax return that is "patently wrong on its face ... that works a tremendous hardship on the estate and the beneficiaries of the estate." Hearing Transcript p. 40. Mr. Chandler testified at length about the complicating tax issues facing the Estate.

> Q. Are you aware that Ms. Palmer requested Michael Fox to prepare a Schedule K for an LLC called HID?

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Q. [Chandler] What do you mean by "Schedule K"?

A. [Garrett] A partnership return.

Q. Okay. So that's a different number. But yes, I am aware of that.

Q. So you believe that Mr. Fox was competent to prepare that document?

A. What I know is that HID is managed and controlled by Henry Burkes, whose name we've heard before. And he is the manager of that company. He hired Mr. Fox to prepare tax returns for that company. Ms. Doris Colucci owned 30 percent in that company. That's it. She doesn't control anything in that company. Mr. Burkes controls -- he prepares tax returns, not me. In fact, Mr. Fox prepared a tax return which is patently wrong on its face, and we simply asked him to correct the K1's, which by the way, if they're not corrected -- and I'll also note, Mr. Garrett, that Mr. Fox replied to your email saying he'll be glad to amend them. And then you in December decided, nevermind, we're not going to do that. But that works at tremendous hardship on the estate and the beneficiaries of the estate. Because if Mr. Fox does not amend that return, or Mr. Burkes does not amend that return properly and make a sub 4 election on the return and produce a K1 that is accurate, the estate of Doris Colucci would potentially lose a basic step up in its assets which negatively impacts the beneficiaries of that estate. So yes, I'm aware of that.

Q. But you're also a member of HID?

A. I am. Well, I'm not, but the estate is.

Q. The estate is. And you're capable of preparing the proper tax [return]?

A. I'm not qualified. I don't have the books and the things that are required to prepare returns, Mr. Garrett. Mr. Burkes has those items. He hires who he wants to prepare the returns. If he hired Mr. Fox, that's fine. If he thinks that's the proper person, great. But the return is not properly prepared. And it was filed improperly. For example, he listed [I&D], which is an accommodation party. It does not have an EIN. It is not a taxpayer. He filed that return on the IRS. That is absolutely an improperly filed return. It will be pulled. Mr. Colucci and Doris Colucci's estate are going to have issues because of that, because you can't file a return without an EIN. And I would think Mr. Fox would know that.[5]

Hearing Transcript pp. 39-41.

[5] Mr. Chandler is a Certified Specialist in Estate Planning and has an L.L.M. in Taxation.

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Based on the extremely litigious and multifaceted complications plaguing this Estate, removing the Special Administrator at this point would be illogical. It would cause an extreme hardship to the Estate for a new fiduciary to have to learn and understand all the management, negotiations, and issues that have been handled and will continue to need to be handled. Therefore, the Court finds no impropriety in Respondent Chandler's actions in objecting to the appointment of Petitioner Fox as personal representative of the Estate. Respondent Chandler is required to take all steps to protect the Estate and preserve its assets, and the Court is satisfied that his objection was based on a valid concern that the interruption of his administration of the Estate would not be in the best interests of the Estate or the Trust, its sole devisee, as it would result in unnecessary delay and expense.

Petitioner Fox also argues that, "[h]ad the Special Administrator truly believed that Mr. Fox was not qualified for any reason, he should have immediately notified any of the next two Successor Personal Representatives of his concerns." The Court is aware of no legal duty on the part of Respondent Chandler to take this action, nor did Petitioner Fox present any authority to support his contention that such a duty exists.

VI. The award of costs and expenses against Petitioner Fox is appropriate.

In a formal proceeding, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the estate that is the subject of the controversy. S.C. Code Ann. § 62-1-111. Petitioner Fox made a number of accusations against Respondent Chandler and his counsel but failed to present to this Court any evidence or law in support of his arguments that cause exists to remove Respondent Chandler as Special Administrator.[6]

[6] Rule 11 of the South Carolina Rules of Civil Procedures states that "[t]he written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleadings, motion or other paper;

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The Court finds that justice and equity require that Petitioner Fox pay the Estate's costs and expenses, including reasonable attorney's fees, incurred in responding to his Petition to Remove Special Administrator. Respondent Chandler and his counsel have submitted Affidavits of Fees and Costs which this Court has considered and finds to be appropriate.

IT IS HEREBY ORDERED that Petitioner Fox's Petition for Removal of Special Administrator is **DENIED**; and

IT IS FURTHER ORDERED that Petitioner Fox, pursuant to S.C. Code Ann. § 62-1-111, shall pay costs and expenses, including reasonable attorney's fees, incurred by the Estate in responding to the Petition to Remove Special Administrator in the amount of $10,882.96.

AND IT IS SO ORDERED!

Mary Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

February 7, 2019
St. George, South Carolina

that to the best of his knowledge, information and belief there is good grounds to support it; and that it is not interposed for delay." Based on Attorney Garrett's presentation of the case, it is clear that his intention in filing the Petition for Removal of Special Administrator was to interpose delay in administering the Decedent's Estate. Further, he failed to present any evidence to show that he had good grounds to support his Petition.

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ELECTRONICALLY FILED - 2019 Feb 13 8:45 AM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-CP-18-1816
	)	
The Estate of Doris Duane Colucci,	)	
	)	
Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,	)	**Order**
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	)	
	)	
Defendants.	)	
	)	

THIS MATTER comes before this Court on a Petition for Formal Testacy and Appointment filed in the Dorchester County Probate Court on October 30, 2017, and subsequently removed to this Court. This Petition was heard on August 13, 2018, and on August 27, 2018, this Court admitted the Last Will and Testament of Doris Duane Colucci to probate and took the matter of appointment of the Personal Representative under advisement. After careful consideration of the arguments of counsel and the record, this Court finds as follows:

The Last Will and Testament of Doris Duane Colucci, executed June 18, 2013, was admitted to probate on August 27, 2018 with no objection from any party. This Will named the following persons, in order of priority, as Personal Representative of the state: (1) Ivo Colucci, (2) Michael C. Fox, (3) Henry Burkes, (4) M. Richardson Hyman, Jr., Esq.

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This Court finds Michael C. Fox is qualified to serve as the Personal Representative of the Estate of Doris Colucci, and hereby appoints him to serve in this position in accordance with the Last Will.[1] See S.C. Code §§ 62-3-203, 62-3-414 & 62-3-618.

This Court additionally orders that the Special Administrator Mr. Andrew Chandler, Esq., and any former special administrators, forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. This Court further orders that the Special Administrator Mr. Chandler and the Personal Representative Mr. Fox work together for the benefit of the Estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter.[2]

IT IS SO ORDERED.

Edgar Dickson
Circuit Court Judge

St. George, South Carolina

[1] The Court has been made aware that property located at 39-41 Mary Street, Charleston, SC is scheduled to close on or about February 21, 2019. The property is owned by I&M Colucci, a general partnership, of which Mrs. Colucci's estate owns a twenty-five and a half (25.5%) interest. Nothing in this order should be construed as to limit the ability of Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci, from acting on behalf of the Estate in the business of I&M Colucci, a general partnership, and he is authorized to execute any and all documents necessary to act on behalf of the Estate's interest in the partnership to effectuate the sale of 39-41 Mary Street.

[2] Pending before this Court are also a Petition to Restrain the Special Administrator and a Motion to Dismiss this Petition. Both of these motions are moot and therefore will not need to be addressed by the Circuit Court.

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Dorchester Common Pleas

Case Caption:	Estate of Doris Duane Colucci , plaintiff, et al VS Ivo Francesco Colucci , defendant, et al
Case Number:	2017CP1801816
Type:	Order/Other

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2019-02-12 16:12:31 page 3 of 3

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JORCHESTER COUNTY
2019 FEB 13 PM 2:13

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF DORCHESTER	)	CASE NO. 2017-ES-18-00294
IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI	)	TEMPORARY ORDER RESTRAINING GENERAL PERSONAL REPRESENTATIVE

This matter came before the Court on the Emergency Application to Restrain General Personal Representative filed on February 13, 2019 by Elizabeth J. Palmer, on behalf of Rosen Hagood, LLC, as a creditor of the Estate Doris D. Colucci. For the reasons set forth herein, and after considering the emergency nature of this matter and the complexity of this Estate, this Court finds that the Emergency Application to Restrain General Personal Representative should be granted.

PROCEDURAL HISTORY

Doris Duane Colucci was killed by her husband, Ivo F. Colucci, on April 14, 2017. Applicant Andrew W. Chandler, Esquire, was appointed Special Administrator of the Estate of Doris Duane Colucci (the "Estate") by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis.

On August 24, 2017, Decedent's purported Last Will and Testament, dated June 18, 2013 (the "Will"), was filed with this Court, although no petition seeking to have the Will admitted to probate was filed at that time. The Will names Ivo F. Colucci as the personal representative and Michael Fox, Henry Burkes, and Richard Hyman (in that order) as successor personal representatives. The primary devisee of the Will is the Colucci Living Trust (the "Trust"), dated February 24, 2005, which names Mr. Fox as a successor trustee. On October 27, 2017, Mr. Fox accepted the trusteeship of the Trust and, to date, continues to serve in that capacity.

EXHIBIT E

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment, seeking to have the Decedent's Will admitted to probate and also seeking to have himself appointed as the personal representative of the Estate. Upon motion by Mr. Fox, the Petition for Formal Testacy and Appointment was removed to the Dorchester County Court of Common Pleas by Order of this Court filed November 20, 2017. By Circuit Court Order filed August 27, 2018, Decedent's Will was admitted to probate, making the Colucci Living Trust the sole devisee of the Estate. Following the probate of the Will, this Court entered a Modified Order for the Appointment of a Special Administrator, confirming Mr. Chandler's appointment as Special Administrator in this matter and directing that he administer the Estate pursuant to the terms of the Will.

By Circuit Court Order filed February 13, 2019, Mr. Fox was appointed as General Personal Representative.

APPLICABLE LAW

A personal representative may be restrained from exercising any and all powers by temporary order, upon application of an interested person. The matter shall be set for hearing within 10 days or at such other times as the parties may agree. S.C. Code Ann. § 62-3-607.

An interested person is defined to include "heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding." S.C. Code Ann. § 62-1-201(23).

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FINDINGS OF FACT & CONCLUSIONS OF LAW

I. Rosen Hagood, LLC is an Interested Person within the meaning of S.C. Code Ann. § 62-1-201(23).

Rosen Hagood, LLC filed a creditor's claim on February 13, 2019, along with an Emergency Application to Restrain General Personal Representative. A creditor is clearly delineated as an Interested Person within the meaning of S.C. Code Ann. § 62–1–201(23) and may bring an emergency application for purposes of S.C. Code Ann. § 62–3–607.

II. The best interests of the Estate of Doris D. Colucci are protected by restraining the general Personal Representative.

The Estate of Doris D. Colucci is complex. There are several pending litigation matters, business matters and tax matters that require a fiduciary familiar with the issues and who lacks any actual or potential conflicts of interest. The Court finds that Mr. Fox is not an appropriate fiduciary to serve as the general Personal Representative of the Estate of Doris D. Colucci given his actual or potential conflicts of interest and further adopts the findings of fact and conclusions of law from its Order dated February 7, 2019, which are incorporated herein by reference and shall become a part of this Order. The Court finds it is in the best interests of the Estate of Doris D. Colucci to restrain Mr. Fox, on a temporary basis until a hearing can be held, as general Personal Representative, from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62–3-607.

IT IS HEREBY ORDERED that the Emergency Application to Restrain General Personal Representative is **GRANTED**; and

IT IS FURTHER ORDERED that Mr. Fox shall be restrained, on a temporary basis until a hearing can be held, as general Personal Representative, from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62-3-607.

AND IT IS SO ORDERED!

Mary Blunt

Presiding Judge
Dorchester County Probate Court

This ___ day of February, 2019
St. George, South Carolina

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ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO. 2017-ES-18-00294
	)	
IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI	)	ORDER FOR APPOINTMENT OF TEMPORARY SPECIAL ADMINISTRATOR

This matter came before the Court on the Emergency Application to Appoint Temporary Special Administrator filed on February 13, 2019 by Elizabeth J. Palmer, Esquire, on behalf of Rosen Hagood, LLC, as a creditor of the Estate Doris D. Colucci. For the reasons set forth herein, and after considering the emergency nature of this matter and the complexity of this Estate, this Court finds that the Emergency Application to Appoint a Temporary Special Administrator should be granted.

PROCEDURAL HISTORY

Doris Duane Colucci was killed by her husband, Ivo F. Colucci, on April 14, 2017. Applicant Andrew W. Chandler, Esquire, was appointed Special Administrator of the Estate of Doris Duane Colucci (the "Estate") by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis.

On August 24, 2017, Decedent's purported Last Will and Testament, dated June 18, 2013 (the "Will"), was filed with this Court, although no petition seeking to have the Will admitted to probate was filed at that time. The Will names Ivo F. Colucci as the personal representative and Michael Fox, Henry Burkes, and Richard Hyman (in that order) as successor personal representatives. The primary devisee of the Will is the Colucci Living Trust (the "Trust"), dated February 24, 2005, which names Mr. Fox as a successor trustee. On October 27, 2017, Mr. Fox accepted the trusteeship of the Trust and, to date, continues to serve in that capacity.

EXHIBIT D

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP180816

On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment, seeking to have the Decedent's Will admitted to probate and also seeking to have himself appointed as the personal representative of the Estate. Upon motion by Mr. Fox, the Petition for Formal Testacy and Appointment was removed to the Dorchester County Court of Common Pleas by Order of this Court filed November 20, 2017. By Circuit Court Order filed August 27, 2018, Decedent's Will was admitted to probate, making the Colucci Living Trust the sole devisee of the Estate. Following the probate of the Will, this Court entered a Modified Order for the Appointment of a Special Administrator, confirming Mr. Chandler's appointment as Special Administrator in this matter and directing that he administer the Estate pursuant to the terms of the Will.

By Circuit Court Order filed February 13, 2019, Mr. Fox was appointed as General Personal Representative.

APPLICABLE LAW

An interested person is defined to include "heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding." S.C. Code Ann. § 62-1-201(23).

A special administrator may be appointed:

(1) informally by the court on the application of an interested person when necessary;

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(a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609;

(b) for a creditor of the decedent's estate to institute any proceeding under Section 62-3-803; or

(c) to take appropriate actions involving estate assets;

S.C. Code Ann. § 62-3-614.

The appointment of a special administrator may be temporary. Estate of Boyce v. Work 305 S.C. 43, 406 S.E.2d 184 (Ct. App. 1991) (the appointment of a Special Administrator is temporary and therefore not immediately appealable).

FINDINGS OF FACT & CONCLUSIONS OF LAW

I. Rosen Hagood, LLC is an Interested Person within the meaning of S.C. Code Ann. § 62-1-201(23).

Rosen Hagood, LLC filed a creditor's claim on February 13, 2019, along with an Emergency Application to Appoint Temporary Special Administrator. A creditor is clearly delineated as an Interested Person within the meaning of S.C. Code Ann. § 62-1-201(23) and may bring an emergency application for purposes of S.C. Code Ann. § 62-3-614.

II. The best interests of the Estate of Doris D. Colucci are protected by the appointment of a Temporary Special Administrator.

The ongoing litigation matters, business matters and tax matters in this Estate require a fiduciary familiar with the issues, who lacks any actual or potential conflicts of interest. Andrew W. Chandler has extensive experience in probate matters, is recognized state-wide for his knowledge in this area, and has ably served as a fiduciary to this Court. The appointment and

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service of Andrew W. Chandler as the Temporary Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets. The best interests of the Estate of Doris D. Colucci are protected by the appointment of Andrew W. Chandler as Temporary Special Administrator. The Court further adopts the findings of fact and conclusions of law from its Order dated February 7, 2019, which are incorporated herein by reference and shall become a part of this Order.

IT IS HEREBY ORDERED that the Emergency Application to Appoint Temporary Special Administrator is **GRANTED**; and

IT IS FURTHER ORDERED that

1. The administration of the probate Estate of Doris D. Colucci shall proceed pursuant to the terms of the Last Will of Doris D. Colucci;

2. The Court has appointed Andrew W. Chandler, Esquire, as the Temporary Special Administrator for the Decedent's Estate;

3. Andrew W. Chandler shall serve as the Temporary Special Administrator of the Estate of Doris Duane Colucci, pursuant to the terms of the Last Will of Doris D. Colucci and the terms of this Order, though the Court incorporates by reference the relevant provisions of the Consent Order dated July 10, 2017 and the August 27, 2018 Modified Order for the Appointment of a Special Administrator;

4. Andrew W. Chandler, in his prior role as the Special Administrator of Decedent's Estate, had retained the services of an accountant and attorneys and other agents with the prior express approval of the Court and may continue to retain such services as Temporary Special Administrator as he determines necessary for the proper administration of the Decedent's Estate;

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5. Until such time that a determination is made pursuant to S.C. Code Ann. § 62-2-803(f) of the South Carolina Probate Code regarding the status of Ivo Francesco Colucci (as an heir of the Decedent's Estate, a beneficiary of the Colucci Living Trust, a joint owner with right of survivorship, and a designated beneficiary) pursuant to the Slayer's Act, Andrew W. Chandler, as Temporary Special Administrator, shall hold any funds or property to which Ivo Francesco Colucci may otherwise be entitled as a joint owner with right of survivorship or a designated beneficiary, if the Slayer's Act does not apply, in a separate account, unless otherwise ordered by this Court;

6. Pursuant to S.C. Code Ann. § 62-3-617, and other relevant statutory provisions of the South Carolina Probate Code, Andrew W. Chandler, as Temporary Special Administrator, shall continue to have all the powers of a general Personal Representative as applied under PART 7 (S.C. Code Ann. §§ 62-3-701 through 62-3-721) of the South Carolina Probate Code, and such powers are incorporated herein by specific reference thereto.

AND IT IS SO ORDERED!

Mary Blunt
Presiding Judge
Dorchester County Probate Court

This ____ day of February, 2019
St. George, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF DORCHESTER	)	NOTICE OF: HEARING
IN THE MATTER OF: DORIS DUANE COLUCCI	)	CASE NUMBER: 2017ES1800294

DATE: FEBRUARY 22, 2019

TIME: 12:00 P.M.

PLACE: DORCHESTER COUNTY COURTHOUSE, 5200 EAST JIM BILTON BLVD., ST. GEORGE, SC 29477

PURPOSE:

REVIEW HEARING ON THE TEMPORARY ORDER RESTRAINING GENERAL PERSONAL REPRESENTATIVE.

*The Probate Court does not have a court reporter. If you wish to have a transcript of this hearing you must bring your own court reporter.

Executed this 15th day of February, 2019.

Signature: Mary Blunt
Print Name: Mary Blunt, Probate Judge
Address: 5200 East Jim Bilton Blvd.
Saint George, SC 29477
Telephone (Work): 843-563-5785

NOTE: Probate Court recommends that all interested parties be represented by counsel licensed to practice law in South Carolina. If any interested party wishes to represent him/herself, he/she will be required to adhere to the *South Carolina Rules of Civil Procedure* and *South Carolina Rules of Evidence*.

FORM #110ES (1/2014)
62-1-401, 62-3-310, 62-3-403, 62-3-414, 62-3-721, 62-3-1001

PROBATE JUDGE
DORCHESTER COUNTY
2019 APR 17 PM 2:33

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, ELIZABETH J. PALMER, ESQUIRE, ON BEHALF OF ROSEN HAGOOD, LLC, Applicant. v. MICHAEL C.FOX, IN HIS CAPACITY AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, IN HIS CAPACITY AS SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	)	**ORDER FOR TEMPORARY RESTRAINT OF GENERAL PERSONAL REPRESENTATIVE**

This matter came before the Court on the Emergency Application to Restrain General Personal Representative filed on February 13, 2019, by Rosen Hagood, LLC, as a creditor of the Estate Doris D. Colucci (the "Estate"). For the reasons set forth herein, and after considering the arguments of counsel, the record, and both the complexity of this Estate and its procedural posture, this Court orders that Michael C. Fox, as General Personal Representative of the Estate, shall continue to be temporarily restrained from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62-3-607, and the restrictions on Michael C. Fox set forth in the Temporary Order

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Restraining General Personal Representative entered by this Court on February 13, 2019 shall continue.

PROCEDURAL HISTORY

Doris Duane Colucci was killed by her husband, Ivo F. Colucci, on April 14, 2017. Andrew W. Chandler, Esquire, was appointed Special Administrator of the Estate by this Court on June 9, 2017 on a temporary basis and then by Consent Order dated July 10, 2017 on a permanent basis.

On August 24, 2017, Decedent's purported Last Will and Testament, dated June 18, 2013 (the "Will"), was filed with this Court, although no petition seeking to have the Will admitted to probate was filed at that time. The Will names Ivo F. Colucci as the personal representative and Michael Fox ("Mr. Fox"), Henry Burkes, and Richard Hyman (in that order) as successor personal representatives. The primary devisee of the Will is the Colucci Living Trust (the "Trust"), dated February 24, 2005, which names Mr. Fox as a successor trustee. On October 27, 2017, Mr. Fox accepted the trusteeship of the Trust and, to date, continues to serve in that capacity.

On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment, seeking to have the Decedent's Will admitted to probate and also seeking to have himself appointed as the personal representative of the Estate. Upon motion by Mr. Fox, the Petition for Formal Testacy and Appointment was removed to the Dorchester County Court of Common Pleas by Order of this Court filed November 20, 2017. By Circuit Court Order filed August 27, 2018, Decedent's Will was admitted to probate, making the Colucci Living Trust the sole devisee of the Estate. Following the probate of the Will, this Court entered a Modified Order for the Appointment of a Special Administrator, confirming Mr.

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Chandler's appointment as Special Administrator in this matter and directing that he administer the Estate pursuant to the terms of the Will.

By Circuit Court Order filed February 13, 2019, Mr. Fox was appointed as General Personal Representative. The entry of the Circuit Court's Order terminated Mr. Chandler's appointment as Special Administrator pursuant to S.C. Code Ann. § 62-3-618. Following the Circuit Court's Order appointing Mr. Fox as General Personal Representative, Rosen Hagood, LLC, filed in this Court a Creditor's Claim along with an Emergency Application to Restrain General Personal Representative.

Following its receipt of the Emergency Application to Restrain General Personal Representative, this Court entered an Order, also on February 13, 2019, temporarily restraining Mr. Fox as General Personal Representative on an emergency basis pursuant to S.C. Code Ann. § 62-3-607. Mr. Fox has been restrained since the entry of that Order and pursuant to the terms thereof. A Review Hearing on the Temporary Order Restraining General Personal Representative was held on February 22, 2019. Notice of the hearing was provided by the Probate Court and by the Applicant to Mr. Fox, as General Personal Representative, through his counsel, as well as to all others who have filed a Demand for Notice in this Estate.

Gordon Garrett, Esquire, and Ryan Love, Esquire, attorneys for Mr. Fox, filed a response to the Emergency Application to Restrain General Personal Representative and presented argument during the Review Hearing. Also in attendance were: Elizabeth Palmer, Esquire, and Andrew Gowdown, Esquire, on behalf of Applicant Rosen Hagood, LLC; David Haller, Esquire, attorney for Christa Yantis, as Conservator for Ivo Colucci;

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Mia Maness, Esquire, who was appearing on behalf of Angus Lawton, Esquire, attorney for Michael Colucci and John Colucci; and Michael Colucci.

APPLICABLE LAW

A personal representative may be restrained from exercising any and all powers by temporary order, upon application of an interested person if it appears to the Court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. S.C. Code Ann. § 62–3–607(a). The matter shall be set for hearing within 10 days or at such other times as the parties may agree. S.C. Code Ann. § 62–3–607(b).

FINDINGS OF FACT & CONCLUSIONS OF LAW

The Estate of Doris D. Colucci is complex. There are several pending litigation matters, business matters, and tax matters that require a fiduciary familiar with the issues and who lacks any actual or potential conflicts of interest. The Court finds that Mr. Fox is not an appropriate fiduciary to serve as the General Personal Representative of the Estate of Doris D. Colucci at this time given his actual or potential conflicts of interest and further adopts the findings of fact and conclusions of law from its Order dated February 7, 2019, which are incorporated herein by reference and shall become a part of this Order.

The Court finds it is in the best interests of the Estate of Doris D. Colucci that Mr. Fox, as General Personal Representative, continue to be restrained, on a temporary basis, from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62-3-607. Mr. Fox shall be restrained for a period of six months, with the period of restraint starting with the filing of this Court's February 13, 2019, Temporary Order Restraining General Personal Representative. At the conclusion of the six month restraint

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ELECTRONICALLY FILED - 2019 Apr 18 5:28 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

period, the Court shall hold a hearing to determine whether the temporary restraint continues to be necessary and in the best interests of the Estate.

IT IS HEREBY ORDERED that the Emergency Application to Restrain General Personal Representative is **GRANTED**; and

IT IS FURTHER ORDERED that Mr. Fox shall continue to be restrained, on a temporary basis for six months, as General Personal Representative, with the period of restraint starting with the filing of this Court's February 13, 2019, Temporary Order Restraining General Personal Representative, from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62-3-607; and

IT IS FURTHER ORDERED that Andrew W. Chandler, Esquire, shall continue to serve as the Temporary Special Administrator of the Estate of Doris Duane Colucci with all the powers of a General Personal Representative as applied under PART 7 (S.C. Code Ann. §§ 62-3-701 through 62-3-721) of the South Carolina Probate Code, and pursuant to the terms of this Court's Order for Appointment of Temporary Special Administrator, entered February 13, 2019, which is incorporated herein by reference and shall become a part of this Order; and

IT IS FURTHER ORDERED that Andrew W. Chandler, Esquire, as the Temporary Special Administrator of the Estate of Doris Duane Colucci is empowered to prosecute all claims on behalf of the Estate of Doris Duane Colucci, including, but not limited to *Chandler v. Colucci, et al.*, Case No. 2017-CP-10-5393 (an action pending under the South Carolina Wrongful Death Statutes), and *Chandler v. Colucci, et al.*, Case No. 2017-CP-18-1816 (an action pending under the "Slayer's Act"), with authority to settle the same, and to execute releases on behalf of the Estate, its devisees, and its statutory

5 MB 4/17/19

beneficiaries, pursuant to orders approving any settlement of those claims. Mr. Fox is restrained from involvement in those actions.

AND IT IS SO ORDERED!

Mary Blunt

The Honorable Mary Q. Blunt
Dorchester County Probate Court

This 17th day of April, 2019
St. George, South Carolina

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ELECTRONICALLY FILED - 2019 Apr 18 5:28 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

ELECTRONICALLY FILED - 2019 May 15 2:59 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

PROBATE JUDGE
DORCHESTER COUNTY
Mary B Hunt
2019 MAY 14 AM 11:16
2019 MAY 10 AM 8:58
PROBATE JUDGE
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI	)	
	)	
ANREW W. CHANDLER, AS TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI,	)	
	)	
Movant,	)	
	)	
v.	)	
	)	
MICHAEL C. FOX, AS PESRONAL REPRESENTATIVE OF THE ESTATE OF DORIS DUANE COLUCCI,	)	
	)	
Respondent.	)	

ORDER LIFTING STAY

This matter came before the Court on the Motion to Lift Stay filed by Andrew W. Chandler, Esquire, as Temporary Special Administrator of the Estate of Doris Duane Colucci. The Motion was filed following the filing and service of a Notice of Appeal by Respondent Fox, in which he purports to appeal to the Circuit Court nine orders of this Court, some dating back as far as October 2017. For the reasons set forth herein, and after considering the arguments made in the Motion to Lift Stay, as well as Respondent Fox's Return to the Motion to Lift Stay, Movant Chandler's Motion to Lift Stay is granted.

Pursuant to Rule 241(a), SCACR, this Court has the power to lift an automatic stay. See also Rule 205, SCACR ("Upon service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided in Rule 241."). As a

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EXHIBIT B

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procedural matter, the motion for an order to lift an automatic stay must be made to the lower court which entered the order. Rule 241(d)(1), SCACR.

Respondent Fox argues that Rule 241, SCACR, is inapplicable to appeals from Probate Court. That argument is without merit and not supported by S.C. Code Ann. § 62-1-208, which governs appeals from probate court, and provides only that "no party is required to comply" with any of the briefing and related filing requirements of the SCACR with the exception of Rules 208, 209, and 210. There is no provision stating that parties to an appeal from probate court may not apply or petition for relief under Rule 241, SCACR, and S.C. Code Ann. § 62-1-103 instructs that, "[u]nless displaced by the particular provisions of [the Probate] Code, the principles of law and equity supplement its provisions."

Respondent Fox also argues that if Rule 241, SCACR, is applicable, Movant Chandler's Motion is fatally defective as it does not comply with the requirements of Rule 241(d)(3) and (4). This argument also fails as the procedure and requirements set forth in those subsections apply to the filing of a petition "[a]fter the lower court or administrative tribunal has ruled" (Rule 241(d)(2)) on "an application for an order lifting stay" (Rule 241(d)(1)) made to the lower court. The rule's distinction between an "application", when referring to a party seeking relief from the lower court, and a "petition", when referring to a party seeking relief from the appellate court after the lower court has ruled, is instructive and the requirements set forth in Rule 241(d)(3) and (4) apply only to a petition.[1]

---

[1] Review of the requirements for ***petitions*** under Rule 241 makes it clear that they are inapplicable to ***applications*** made to the lower court. For example, Rule 241(d)(3) requires that a certified copy of the order of the lower court be filed with a petition. It would be nonsensical to require a party to file a certified copy of the lower court's order upon submission of an application ***to the lower court***. Likewise, Rule 241(d)(4)(C) requires a petition to contain "a showing that an application for this relief was made to the lower court" which again distinguishes between the two pleadings.

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"In determining whether an order should issue pursuant to [Rule 241], the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c), SCACR. The use of the word "should" instead of the directive "shall" or "must" evidences an intent to give the Court discretion in applying these criteria, or any other appropriate considerations. Thus, in deciding whether to lift the automatic stay, the Court may consider the stated factors as well as factors other than preserving jurisdiction of the appeal and preventing a contested issue from becoming moot.

This Court is intimately familiar with this Estate and the many attempts made by Respondent Fox to frustrate its administration. To the extent that Respondent Fox's Notice of Appeal acts to effectuate an automatic stay of the matters appealed and, based on the Court's familiarity of the Estate's administration to date, the Court concludes such a stay would substantially delay and frustrate the continued administration of this Estate.

Following two days of mediation and substantial post-mediation negotiations, agreements have been reached as to the settlement of both the pending wrongful death lawsuit and the lawsuit brought pursuant to the Slayer's Act. A considerable amount of time has been spent by the various parties' attorneys drafting settlement documents and related pleadings in an attempt to have the settlements approved and finalized by the appropriate courts. However, any stay effectuated by Respondent Fox's Notice of Appeal puts both of these settlements in jeopardy and will likely result in the Estate incurring unnecessary expenses.

Also jeopardized is the sale of the "Edisto House," which was jointly titled in the Decedent and her husband's name (with rights of survivorship) at the time of the Decedent's death. After sitting on the market for nearly a year, it is under contract. However, if there is a stay preventing

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Movant Chandler from acting on behalf of the Estate in consummating this sale, it is likely that the sale will fall through.

Until Respondent Fox's appeals are resolved, and absent an order from this Court lifting any stay that may be in place as a result of the filing of the Notice of Appeal, those dealing with Movant Chandler will, understandably, be uncertain as to the extent of Movant Chandler's authority, responsibilities, and duties, resulting in additional delays and complications.

To the extent Respondent Fox's Notice of Appeal resulted in an automatic stay of the issues so appealed, such a stay does not further the Probate Code's purpose of "promot[ing] a speedy and efficient system for liquidating the estate of the decedent and making distribution to his successors." S.C. Code Ann. § 62-1-102(b)(3) (2009). Moreover, the continued delays and complications that would result from any automatic stay would not benefit the Estate, but would act only to harm the Estate and those interested in it, frustrating the continued administration and closure of this Estate, which has now been open for over two years.

THEREFORE,

IT IS HEREBY ORDERED that Movant Chandler's Motion to Lift Stay is GRANTED; and

IT IS FURTHER ORDERED that any automatic stay resulting from Respondent Fox's Notice of Appeal, filed in the Circuit Court on April 18, 2019, is LIFTED.

AND IT IS SO ORDERED!

Mary Q. Blunt
The Honorable Mary Q. Blunt
Dorchester County Probate Court

This 9th day of May, 2019
St. George, South Carolina

MB 5/9/19

ELECTRONICALLY FILED - 2019 May 28 3:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-CP-18-01816
The Estate of Doris Duane Colucci,	)	
Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,	)	**Order**
Petitioner,	)	
vs.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	)	
Respondents.	)	

THIS MATTER COMES BEFORE THIS COURT due to a motion made by the Respondent Andrew Chandler for reconsideration of this Court's February 13, 2019[1], order appointing Michael C. Fox as Personal Representative of the Estate of Doris Colucci. The petition for Formal Testacy and Appointment was filed in the Dorchester County Probate Court on October 30, 2017, and subsequently removed to this Court. This Petition was heard on August 13, 2018, and on August 27, 2018, this Court admitted the Last Will and Testament of Doris Duane Colucci to probate and took the matter of appointment of the Personal Representative under advisement. After careful consideration of the arguments of counsel, the record, and the information available at the time, the Court found the following: the Last Will and Testament of Doris Duane Colucci, executed June 18, 2013, was admitted to probate on August 27, 2018 with no objection from any party. This Will nominated the following persons, in order of priority, as Personal Representative

[1] The February 13, 2019 order did not remove Andrew Chandler from his original position.

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of the state: (1) Ivo Colucci, (2) Michael C. Fox, (3) Henry Burkes, and (4) M. Richardson Hyman, Jr., Esq.

This Court found that Ivo Colucci was not appropriate to serve as Personal Representative, and thus as the second nominee in the Decedent's Last Will and Testament. Michael C. Fox was appointed to serve as the Personal Representative of the Estate of Doris Colucci. See S.C. Code §§ 62-3-203, 62-3-414 & 62-3-618. After reviewing the Respondent Chandler's Motion, reviewing the Petitioner's Return to Respondent's Motion, and reviewing other documents submitted to this Court, this Court has reconsidered its initial decision in conformity with the Probate Court's original removal order[2].

Upon reviewing all documentation, it is this Court's opinion that Mr. Michael C. Fox is not the best qualified person to be the Personal Representative for this estate.

THEREFORE IT IS ORDERED that, Mr. Michael C. Fox be immediately removed as the Personal Representative for the estate. The removal also includes removal of any and all access to documents, responsibilities, and transactions that the Personal Representative may be responsible for.

IT IS FURTHER ORDERED that all additional issues and motions are remanded back to the Probate Court in compliance with its original removal order.

IT IS FURTHER ORDERED, that any issues not discussed by the Circuit Court are hereby remanded to the jurisdiction of the Probate Court for adjudication. Those issues as well as any subsequent issues may not be appealed to the Circuit Court, as a matter of procedure, until there is a final disposition and order which completes all of the matters which may be properly be decided by the Probate Court.

IT IS SO ORDERED.

St. George, South Carolina

Edgar Dickson
Circuit Court Judge

[2] The original removal order gave jurisdiction to the Circuit Court to decide whether to probate the Will and whether Michael C. Fox, as the Petitioner, should be appointed as the Personal Representative. Therefore, the only jurisdiction that the Circuit Court has in the motion to reconsider is whether to leave Michael C. Fox as Personal Representative pursuant to this Court's February 13, 2019 order, or whether to remove him as the Personal Representative. The Court's February order did not remove Andrew Chandler from his position within the estate proceedings.

ELECTRONICALLY FILED - 2019 May 28 3:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816



Dorchester Common Pleas

Case Caption: Estate of Doris Duane Colucci , plaintiff, et al VS Ivo Francesco Colucci , defendant, et al

Case Number: 2017CP1801816

Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

ELECTRONICALLY FILED - 2019 May 28 4:10 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE COURT OF COMMON PLEAS FIRST JUDICIAL CIRCUIT
Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci, Appellant, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,** Respondents.	)	Circuit Court No.: 2019-CP-18-0677 Probate Court No.: 2017-ES-18-00294 **Order Denying Appellant's Emergency Petition for Writ of Supersedeas**

THIS MATTER comes before this Court on an Emergency Petition for Writ of Supersedeas submitted by the Appellant Michael C. Fox pursuant to Rule 241, SCACR. The Appellant filed this writ requesting the Circuit Court to suspend proceedings in the lower court.

On February 13, 2019, the Dorchester County Court of Common Pleas initially found the Appellant qualified on the sole basis of being one of the individuals the Decedent nominated in her Last Will and Testament to be the Personal Representative of her estate. Following the issuance of this order, also on February 13, 2019, the Dorchester County Probate Court issued two *ex parte* orders: one that re-appointed the Respondent on an emergency basis as Special Administrator; and a second that totally restrained the Appellant in all capacities for ten (10) days pending an evidentiary hearing.

On April 17, 2019, the Dorchester County Probate Court issued a third order reincorporating the terms of the two February 13, 2019 orders. This order would last for at least

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six (6) months and included language that completely barred Appellant from prosecuting all claims on behalf of the Estate of Doris Duane Colucci, and empowering the Respondent with authority to settle the same, and to execute releases on behalf of the Estate, its devisees, and its statutory beneficiaries, pursuant to orders approving any settlement of those claims.

On April 18, 2019, the Appellant filed his Notice of Appeal from Dorchester County Probate Court, staying the proceedings in Probate Court. Following the service of the Notice of Appeal, on May 1, 2019, Respondent moved the Probate Court to lift the automatic stay. On May 10, 2019, the Dorchester County Probate Court granted the Respondent's Motion to Lift Stay. On May 15, 2019, the Appellant filed the writ of supersedeas which this order addresses.

The Appellant contends that the following issues exist:

1.) The wrongful death and "slayer action" will be settled without knowledge or approval by the Personal Representative of [sic][1] the Trustee of the Colucci Living Trust.

2.) The "Edisto House" is a unique piece of real property that cannot be replaced if the stay is reinstituted and the home is sold.

3.) The Respondent's Motion to Lift Stay was fatally deficient.

4.) The Probate Court improperly granted Respondent's Motion to Lift Stay.

5.) It is necessary to file this petition in the Circuit Court.

This Court will only address the Appellant's fifth point, in detail.[2]

As to the Appellant's fifth point, that it was necessary to file this petition in the Circuit Court. The Appellant contends that, "except where extraordinary circumstances make it

[1] The use of "Personal Representative of the Trustee of the Colucci Living Trust" is an incorrect term of art. The Court surmises that this is a scrivener's error on the part of Appellant and should have read as "Personal Representative or the Trustee of the Colucci Living Trust".

[2] The appellant's first, second, third, and fourth points are not ripe for review due to the appellant not giving the Probate Court an opportunity for corrective action as the rule, which they used as a basis for the writ, requires.

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impracticable, application for an order…for supersedeas must first be made to the lower court" Rule 241(d)(1), SCACR. Appellant argues that, due to the time sensitive nature of property contained within the estate, it would be impracticable to move the probate court that ordered the lift of the automatic stay for a writ of supersedeas.

This Court disagrees. This Court's opinion is that there are no extraordinary circumstance that exist. Issues are being brought to the Circuit Court that have not been fully addressed or brought before the Probate Court. Should there be any part of this estate that is under a true time constraint, then this Court would not continually be put in a position of seemingly being used against the Probate Court and that the Probate Court is in turn being used against the Circuit Court. The very fact that this Court is forced to address the issue of the apparent utilization of one court against the other illustrates that, had there been actual concern with time constraints or had there been an actual issue of whether extraordinary circumstances exist, there would not be a continuous barrage of issues being filed when one party presumably is not happy with either the Probate Court's decision or the Circuit Court's decision. Especially when both parties agreed that the Circuit Court has limited jurisdiction to overturn the actions of the Probate Court except on appeal. "A Circuit Court's jurisdiction over matters related to the estates of decedents is limited to those distinct issues removed to it from the Probate Court and most appeals from decisions of the Probate Court". S.C. Code Ann. § 62-1-302(d), (f); S.C. Code Ann. § 62-1-308 (appeals from probate court).

Further, the Appellant partially quoted Rule 241(d)(1) SCACR. The complete rule states, "Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay *or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision* on appeal. Here, the lower court that instituted the

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order which the Appellant is attempting to appeal is the Probate Court. While the Appellant labeled their emergency petition as an appeal from the Probate Court's decision, the Appellant made it abundantly clear in their emergency petition that they did not give the Probate Court a chance for corrective action prior to filing the appeal. Since, this Court is of the opinion that there are no extraordinary circumstances that made it impracticable for supersedeas to be requested from the Probate Court, a required part of the writ of supersedeas step was bypassed unnecessarily. As a result, the writ of supersedeas to Circuit Court fails on procedural grounds. Accordingly,

IT IS THEREFORE ORDERED that, the Appellant's Emergency Petition for Writ of Supersedeas be and is DENIED.

IT IS FURTHER ORDERED that the issue be remanded back to Probate Court to allow the Probate Court the opportunity for corrective action should it be inclined to do so.

IT IS FURTHER ORDERED that this estate is to remain in the complete jurisdiction of the Probate Court until a final order is issued by the Probate Court disposing of all matters before it. At that point, should any appeals be necessary, only then can parties petition the Circuit Court in an appellate fashion. No appeals to the Circuit Court may be had or filed until this case is completed in Probate Court.

IT IS SO ORDERED.

Edgar Dickson
Circuit Court Judge

St. George, South Carolina

ELECTRONICALLY FILED - 2019 May 28 4:10 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

Dorchester Common Pleas

Case Caption: Michael C. Fox , plaintiff, et al VS Andrew W. Chandler , defendant, et al

Case Number: 2019CP1800677

Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
IN THE MATTER OF THE ESTATE OF)
DORIS DUANE COLUCCI, ALSO)
KNOWN AS DORIS D. COLUCCI)
)
LESTER S. SCHWARTZ, ESQUIRE,)
Petitioner,)
)
vs.)
)
IVO FRANCESCO COLUCCI, JOHN)
MARTIN COLUCCI AND MICHAEL)
FREDERICK ANTONIO COLUCCI,)
Respondent(s).)

IN THE PROBATE COURT

SUMMONS

CASE NO. 2017-ES18-_____

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

Charleston, South Carolina

Dated: May 2, 2017

Petitioner/Attorney for Petitioner

Address: Lester S. Schwartz, Esquire
708 St. Andrews Boulevard; P.O. Box 30356
Charleston, S.C. 29417-0356

PROBATE JUDGE
DORCHESTER COUNTY
2017 MAY -3 PM 4:31

SCCA 401PC (9/11)

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)

IN THE MATTER OF: ESTATE OF DORIS DUANE COLUCCI, ALSO KNOWN AS DORIS D. COLUCCI (Decedent)) CASE NUMBER: 2017-ES18-_____

***COMPLETE THIS SECTION ONLY IF FILING PETITION FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

*
Petitioner(s)
vs.
*
Respondent(s)

FILE COPY

APPLICATION FOR INFORMAL (check any that apply) ***PETITION FOR FORMAL**

☐ PROBATE OF WILL
☐ APPOINTMENT

☐ TESTACY
☒ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to *SC Rules of Civil Procedure*.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN addition TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Lester S. Schwartz, Esquire
Address: 708 St. Andrews Boulevard; PO Box 30356, Charleston, SC 29417-0356
Telephone (Work): (843) 571-7919
(Fax): (843) 571-0881
(Cell): (843) 345-1233
Email: Lester.Schwartz@sctaxlawyer.com
Relationship to Decedent: Nominee of Decedent's children, John Martin Antonio and Michael Frederick Antonio Colucci

2. Decedent Information:

Full Legal Name (including all known names): Doris Duane Colucci, also known as Doris D. Colucci
Date of Birth: [redacted]
Date of Death: April 14, 2017
Age at Date of Death: 74 years

PROBATE JUDGE DORCHESTER COUNTY 2017 MAY -3 PM 4:31

3. Venue for this proceeding is proper in this County because:

☒ Decedent was domiciled in this County at date of death:
Address: **400 Murray Boulevard, Summerville, S.C. 29483** County: **Dorchester** State: **South Carolina**.
☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:
Address: County: State: South Carolina
☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Ivo Francesco Colucci[1]	[redacted]	[redacted]	Husband of Decedent
John Martin Antonio		[redacted]	Child of Decedent
Michael Frederick Antonio Colucci		[redacted]	Child of Decedent

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

---

[1] Decedent's husband killed the Decedent with a handgun and is presently charged with her murder. S.C. Code Ann.§ 62-2-803 of the South Carolina Probate Code, and the common law, prohibits a person who feloniously and intentionally kills the Decedent from being a beneficiary or fiduciary of the Decedent's probate Estate and/or the Decedent's non-probate Estate, and prohibits such person from serving as a Fiduciary of the Decedent's Estate.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of $TO BE DETERMINED (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of $TO BE DETERMINED (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☒ NO ☐ YES If yes, then proceed to Section II.
If No, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

☐ The original is attached.
☐ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached.

2. The execution date of the Will was: _____
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property?

☐ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☐ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☐ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

The Decedent's originally executed Last Will dated June 18, 2013 cannot be located and it is believed to have been destroyed.

4c. Under information and belief, S.C. Code Ann. §62-2-803 of the South Carolina Probate Code, will be applicable to the Decedent's husband, Ivo Francesco Colucci, which would deem him have not survived the Decedent.

Regardless whether S.C. Code Ann. §62-2-803 of the South Carolina Probate Code applies, the circumstances of the Decedent's shooting death by the Decedent's husband, Ivo Francesco Colucci, creates a conflict of interest that disqualifies the Decedent's husband, Ivo Francesco Colucci, from serving in any fiduciary capacity of the Decedent's Estate or in appointing a Fiduciary for the Decedent's Estate.

In addition, the Decedent's husband, Ivo Francesco Colucci, is presently incarcerated and awaiting trial for the murder of the Decedent and is not qualified to serve in any fiduciary capacity for the Decedent's Estate.

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

   _____

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

   ☐ named as Primary Personal Representative in Will
   ☐ named as Alternate Personal Representative in Will
   ☐ nominee of Primary Personal Representative in Will
   ☐ nominee of Alternate Personal Representative in Will
   ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
   ☐ other devisee of Decedent (describe): _____or nominee of said devisee
   ☐ surviving spouse of Decedent or nominee of said spouse
   ☐ other heir of Decedent (describe): _____ or nominee of said heir
   ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
   ☒ other (describe): **Nominee of the Decedent's two (2) children, John Martin Antonio and Michael Frederick Antonio Colucci.**

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative: **The Decedent's two (2) children, John Martin Antonio and Michael Frederick Antonio Colucci. Each has signed a Renunciation and Nominee form.**

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

Signature of Applicant/Petitioner: _____

SWORN to before me this 2nd day Of May, 20 17

_____
Notary Public for South Carolina
My Commission Expires: 06/09/2024

Signature of Co-Applicant/Co-Petitioner: _____

SWORN to before me this _____ day of _____. 20 _____

_____
Notary Public for South Carolina
My Commission Expires: _____

SARAH G KERSEY NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 06-09-2024

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed _____ and
☐ Codicil executed _____ and
☐ Memorandum

be informally ☐ GRANTED ☐ DENIED.

Executed this day of , 2

_____
Honorable Mary Blunt, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond

- ☐ Fiduciary Bond in the amount of $_____
- ☐ Bond not required for Personal Representative nominated by Will
- ☐ Bond not required as Personal Representative is sole heir or sole devisee
- ☐ Bond not required as Personal Representative is state agency, bank, or trust company
- ☐ Bond waivers filed
- ☐ See order dated _____
- ☐ Other:_____

Notice to Creditors

- ☐ Required
- ☐ Not Required

Executed this _____ day of May, 2017.

_____

Honorable Mary Blunt, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: _____
Print Name: Lester S. Schwartz, Esquire
Address: 708 St. Andrews Boulevard; PO Box 30356
Charleston, SC 29417-0356
Telephone (Work): (843) 571-7919
(Fax): (843) 571-0881
(Cell): (843) 345-1233
Email: Lester.Schwartz@sctaxlawyer.com

Signature: _____
Print Name: _____
Address: _____
_____
Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

*Attorney: Lester S. Schwartz, Esquire
Address: 708 St. Andrews Boulevard; PO Box 30356
Charleston, S.C. 29417-0356
Telephone: (843) 571-7919; Fax: (843) 571-0881
Email: Lester.Schwartz@sctaxlawyer.com

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

EXHIBITS
TO
APPLICATION/PETITION FOR APPOINTMENT OF SPECIAL ADMINISTRATOR
FOR ESTATE OF DORIS DUANE COLUCCI

1. Exhibit A;

2. Original Death Certificate of Doris Duane Colucci;

3. Form 300ES;

4. Renunciation Of Right To Administration And/or Nomination And/Or Waiver Of Bond of John Martin Antonio;

5. Renunciation Of Right To Administration And/or Nomination And/Or Waiver Of Bond of Michael Frederick Antonio Colucci;

6. Waiver Of Petition for Formal Probate and/or Appointment and Hearing on Appointment Of Lester S. Schwartz as Special Administrator, executed by John Martin Antonio;

7. Waiver Of Petition for Formal Probate and/or Appointment and Hearing on Appointment Of Lester S. Schwartz as Special Administrator, executed by Michael Frederick Antonio Colucci;

PROBATE JUDGE
DORCHESTER COUNTY
2017 MAY -3 PM 4:31

8. Revocation Of General Durable Power Of Attorney, Prior Existing Wills and/or Trusts, by Ivo F. Colucci, dated April 22, 2017 and recorded in R.M.C. Office of Charleston County, S.C. on April 27, 2016, at Book: **0549**, Page **893**.

9. Title to Real Estate dated May 26, 2016, by Ivo Colucci as the Grantor, of the remainder interest in his undivided Fifty Percent (50%) interest in 400 Murray Boulevard, Summerville, S.C., bearing Dorchester County Tax Map Number: **152-00-00-026.00,** to his children, Stefan Colucci, Alice C. Norton, Kim Colucci Lizzi, William Colucci and Robert Colucci, with retained life Estate, recorded in Dorchester County R.M.C. Office at Book: **10249**, Page **207**. Doris Colucci owns other undivided Fifty Percent (50%) in said property.

10. Title to Real Estate Deed dated March 14, 2011 to Ivo F. Colucci and Doris D. Colucci as the Grantees, from Mark E. Benson and Sandra K. Benson, as the Grantors, of real property located at 7674 Legare Road, Edisto Island, S.C. 29438 and bearing Colleton County Tax Map Number: **361-00-00-003** and recorded in the Colleton County R.M.C. Office at Book: **1919**, Page **1**.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE PROBATE COURT

RENUNCIATION OF RIGHT TO ADMINISTRATION AND/OR NOMINATION AND/OR WAIVER OF BOND

IN THE MATTER OF: ESTATE OF DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017-ES18-_____

By renouncing my right to serve as Personal Representative, I am informing the Court that I do not want to be the Personal Representative to administer the estate. **I am not giving up any interest in the estate or inheritance rights by signing this document.**

The undersigned hereby (check all that apply):

☐ renounces his/her right to serve as Personal Representative of the above-captioned estate.

☒ renounces his/her right to serve as Personal Representative of the above-captioned estate so long as the following nominee serves as Personal Representative:

Name: Lester S. Schwartz, Esquire
Address: 708 St. Andrews Boulevard; P.O. Box 30356
Charleston, S.C. 29417-0356

☒ agrees to waive bond for the person(s) nominated above.

I understand this is effective only to the extent the law allows for nomination and waiver of bond.

PROBATE JUDGE
DORCHESTER COUNTY
2017 MAY -3 PM 4:32

Executed this First (1st) day of May, 2017.

SWORN to before me this 1st day of May, 2017

Notary Public for South Carolina
My commission expires: 06/09/2024

SARAH G KERSEY NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 06-09-2024

Signature: _____
Print Name: Michael Frederick Antonio Colucci
Address: [redacted]
Telephone (Work): _____
(Home): _____
(Cell): [redacted]
Email: _____
Relationship to Decedent/Estate: Child and Heir at Law of Decedent

FORM #302ES (1/2014)
62-3-203, 62-3-603

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)

PROBATE JUDGE
DORCHESTER COUNTY
2017 AUG -4 PM 12:05

INFORMATION TO HEIRS AND DEVISEES

IN THE MATTER OF:)
DORIS DUANE COLUCCI) CASE NUMBER: 2017 ES 18 00294
(Decedent))

On July 9, 2017, an Order from the Probate Court of Dorchester County at 5200 East Jim Bilton Blvd, St. George, SC 29477, appointed Andrew W. Chandler as court appointed Special Administrator in the above matter.

INFORMAL	FORMAL
☐ PROBATE OF WILL	☐ TESTACY
☐ APPOINTMENT	☒ APPOINTMENT

The Decedent's Will has not been located.

Bond will be filed upon filing of Inventory & Appraisement with the Probate Court.

This notice is being sent to persons who have or may have some interest in the estate.

Please note: This form is required to be sent to all potential devisees and heirs of the Decedent. Receipt of this form does not mean that you will inherit from the Decedent. You may review the file in the Probate Court or see an attorney if you desire further information.

My appointment was granted within the past thirty (30) days on **July 10, 2017.**

Special Administrator Name: **Andrew W. Chandler, Esq.**
Address: **Evans, Carter, Kunes & Bennett, P.A.**
115 Church Street, Charleston, SC 29401
Telephone (Work): **(843) 577-2300**
(Home):
(Cell):
Email: **chandler@eckb.com**

Co-Applicant/Co-Personal Representative Name:
Address:

Telephone (Work):
(Home):
(Cell):
Email:

Attorney:
Address:

Telephone:
Email:

FORM #305ES (1/2014)
62-3-306, 62-3-705

This

LAST WILL

prepared for

DORIS D. COLUCCI

PROBATE JUDGE
DORCHESTER COUNTY
2017 AUG 24 PM 1:46

Kuhn and Kuhn, LLC
39 Broad Street, Suite 301
Charleston, South Carolina 29401
(843) 577-3700
© John R. Kuhn
All Rights Reserved

Last Will

of

DORIS D. COLUCCI

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Last Will

of

DORIS D. COLUCCI

I, DORIS D. COLUCCI, the Testatrix also known as DORIS DUANE COLUCCI, a resident of Dorchester County, South Carolina, declare that this is my last will. I hereby revoke all my previous wills and codicils.

Article One

Introductory Provisions

Section 1. Marital Status

I am currently married to IVO F. COLUCCI, and all references to my Spouse in this will are to IVO F. COLUCCI.

Section 2. Children

All references to "my children", subject to the exclusion of any child under subsequent provisions of this Section 2, are to all of the children so identified in this Section 2, but only to those children and any children born to or adopted by me subsequent to the execution of this will.

a. The names and birth dates of my children are:

Name	Birth Date
STEFAN JOHN COLUCCI	[redacted]
ALICE COLUCCI NORTON	
KIM COLUCCI LIZZI	
WILLIAM COLUCCI	
ROBERT JOHN COLUCCI	
JOHN MARTIN ANTONIO	
MICHAEL F. COLUCCI	

Section 3. Exclusion of Children or Other Descendants

I hereby acknowledge the existence of ALICE COLUCCI NORTON and intentionally, with full knowledge, have chosen to exclude her and her descendants under the terms of my Last Will.

I hereby acknowledge the existence of KIM COLUCCI LIZZI and intentionally, with full knowledge, have chosen to exclude her (but not her descendants) under the terms of my Last Will.

I hereby acknowledge the existence of WILLIAM COLUCCI and intentionally, with full knowledge, have chosen to exclude him (but not his descendants) under the terms of my Last Will.

Article Two

Appointment of My Personal Representatives

Section 1. Appointment of My Personal Representatives

I appoint my Spouse, IVO F. COLUCCI, to be my Personal Representative. In the event my Spouse is unable or unwilling to serve as Personal Representative, I appoint the following to be my Personal Representative(s) in the order of priority in which their names appear:

(1) MICHAEL FOX, CPA
(2) HENRY BURKES
(3) RICHARD M. HYMAN, JR., Esquire

If, for any reason, the Personal Representative(s) named above are unable or unwilling to serve, the next successor Personal Representative(s) shall serve in the order of priority listed until the list has been exhausted. Unless otherwise specified, if Co-Personal Representatives are serving, the next named successor Personal Representative shall serve only after all of the Co-Personal Representatives cease to act as Personal Representatives.

Section 2. Waiver of Bond

No bond or undertaking shall be required of any Personal Representative nominated in this will.

Section 3. Fiduciary Powers

My Personal Representative shall have the full authority to administer my estate under the laws of the State of South Carolina relating to the powers of fiduciaries, including any laws regarding the independent administration of estates, such powers to be exercisable without the supervision or approval of any court.

Article Three

Disposition of My Property

Section 1. Estate Planning Letter or Memorandum

To the extent permitted by state law and not necessary to fully utilize my Unused Applicable Credit Equivalent, my Personal Representative shall distribute such of my personal or household items to such persons as I may direct by a written instrument signed by me and delivered to my Personal Representative.

Section 2. Distribution to My Revocable Living Trust

I give all the rest, residue and remainder of my property of whatever nature and kind and wherever located to the then acting Trustee(s) of my revocable living trust of which I am a Trustor known as the:

> COLUCCI LIVING TRUST, dated February 24, 2005 and any amendments or restatements thereto

I executed said trust prior to the execution of this will.

Section 3. Alternate Disposition

If my revocable living trust is not in effect for any reason, I give all of my property to my Personal Representative under this will as Trustee who shall hold, administer and distribute my property as a testamentary trust the provisions of which are identical to those of my revocable living trust on the date of execution of this will, or as thereafter amended.

Article Four

Death Taxes

Section 1. Definition of Death Taxes

The term "death taxes," as used in this will, shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person's interest in the estate of the decedent or by reason of the decedent's death, including penalties and interest, but excluding the following:

a. Any additional tax that may be assessed under Internal Revenue Code Section 2032A or 2057; and

b. Any federal or state tax imposed on a Generation Skipping Transfer, as that term is defined in the federal tax laws, unless the applicable tax statutes provide that the Generation Skipping Transfer Tax is payable directly out of the assets of my gross estate.

Section 2. Waiver of Right of Reimbursement Under Code Section 2207A

I do not waive my estate's right of reimbursement under Code Section 2207A.

Section 3. Payment of Taxes

All death taxes whether or not attributable to property inventoried in my probate estate shall be paid by the Trustee as provided under my revocable living trust. However, if my Trust does not exist at the time of my death or if the assets of my Trust are insufficient to pay the death taxes in full, I direct my Personal Representative to pay any death taxes that cannot be paid by my Trustee from the assets of my probate estate by equitably prorating and apportioning those taxes among the beneficiaries of this will.

Unless specifically provided otherwise in my Trust, all death taxes incurred by reason of assets being transferred outside of my Trust or probate estate shall be assessed against those persons receiving such property.

Article Five

General Provisions

Section 1. Captions

The captions of Articles, Sections and Paragraphs used in this will are for convenience of reference only and shall have no significance in the construction or interpretation of this will.

Section 2. Severability

Should any of the provisions of this will be for any reason declared invalid, such invalidity shall not affect any of the other provisions of this will and all invalid provisions shall be wholly disregarded in interpreting this will.

Section 3. Governing Law

This will shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

Section 4. No Contest Clause

If any devisee or legatee under my will or any codicil to it, no matter how remote or contingent such devisee or legatee's interest appears, or any of my legal heirs, or any person claiming under any of them, directly or indirectly, does any of the following, then in that event I specifically disinherit each such person, and all such legacies, bequests, devises and interests given to such person under my will or any codicil to it shall be forfeited and shall be distributed as provided elsewhere herein as though such person had predeceased me without issue:

a. unsuccessfully challenges the appointment of any person named as a Personal Representative in my will or any codicil to it, or unsuccessfully seeks the removal of any person acting as a Personal Representative;

b. objects in any manner to any action taken or proposed to be taken in good faith by my Personal Representative under my will or any codicil to it, whether my Personal Representative is acting under court order, notice of proposed action or otherwise, and said action or proposed action is later adjudicated by a court of competent jurisdiction to have been taken in good faith;

c. objects to any construction or interpretation of my will or any codicil to it, or the provisions of either, that is adopted or proposed in good faith by my Personal Representative, and said objection is later adjudicated by a court of competent jurisdiction to be an invalid objection;

d. claims entitlement to (or an interest in) any asset alleged by my Personal Representative to belong to my Probate Estate, whether such claim is based upon a community or separate property right, Marvin rights, a contract or other right or device, and said claim is later adjudicated by a court of competent jurisdiction to be invalid;

e. files a creditor's claim against the assets of my Probate Estate and such claim is later adjudicated by a court of competent jurisdiction to be invalid;

f. anyone, other than my spouse, if any, attacks or seeks to impair or invalidate (whether or not any such attack or attempt is successful) any designation of beneficiaries for any insurance policy on my life or any designation of beneficiaries for any pension plan, Keogh, SEP, or IRA account;

g. in any other manner contests my will or any codicil to it, or in any other manner, attacks or seeks to impair or invalidate any of my will or codicil provisions;

h. conspires with or voluntarily assists anyone attempting to do any of the above acts.

Expenses to resist any above contest or other attack of any nature upon any provision of my will or any codicil to it shall be paid from my Probate Estate as expenses of administration.

In the event that any provision of this Section is held to be invalid, void, or illegal, the same shall be deemed severable from the remainder of the provisions in this Section and shall in no way affect, impair, or invalidate any other provision in this Section. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

The provisions of this Section shall not apply to any disclaimer by any person of any benefit under my will or any codicil to it.

AFFIDAVIT

I, DORIS D. COLUCCI, the Testatrix, sign my name to this instrument on June 18, 2013, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Doris D. Colucci
DORIS D. COLUCCI, Testatrix

We, Sarah E. Miller and Aimee N. Beck, the witnesses, sign our names to this instrument, and at least one of us, being first duly sworn, does hereby declare, generally and to the undersigned authority, that the Testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testatrix, hereby signs this will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Sarah E. Miller
WITNESS

Aimee N. Beck
WITNESS

STATE OF SOUTH CAROLINA)
SS
COUNTY OF CHARLESTON)

Subscribed, sworn to and acknowledged before me by DORIS D. COLUCCI, the Testatrix, and subscribed and sworn to before me by the other witness whose name appears above, on this June 18, 2013.

Aimee N. Beck
Notary Public for South Carolina
My Commission Expires: 1/11/22

AIMEE N. BECK NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. January 11, 2022

Prepared by:
John R. Kuhn
Kuhn and Kuhn, LLC
39 Broad Street, Suite 301
Charleston, South Carolina 29401
(843) 577-3700

DORCHESTER COUNTY PROBATE COURT

5200 EAST JIM BILTON BLVD.
ST. GEORGE, SC 29477

www.dorchestercountysc.gov/probate

MARY BLUNT
Probate Judge

RUSSELL A. DEMOTT
Associate Judge

MOLLY D. EDWARDS
Associate Judge

September 13, 2017

Stefan John Colucci
[redacted]

Dan M. David, Esquire
147 Wappoo Creek Drive, Suite 101
Charleston, SC 29412

Christopher D. Lizzi, Esquire
2170 Ashley Phosphate Road, Suite 402
North Charleston, SC 29406

David K. Haller, Esquire
604 Savannah Highway
Charleston, SC 29407

Re: In the Estate of: DORIS DUANE COLUCCI
Case Number: 2017ES1800294

Dear All,

The original Last Will of Doris D. Colucci, dated 6-18-2013, was submitted to the Court on August 24, 2017. It has been added to the file, just as a matter of record, and I've enclosed a copy for your review. The Special Administrator will continue in his role, without restriction, as no action has been filed regarding the probate of the Will.

Sincerely,

Devan Kociuruba
Estate Clerk

Enclosures as states

cc: Andrew W. Chandler, Esquire; Michael Fox, CPA; Henry Burkes; Richard M. Hyman, Jr., Esquire

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR,	)	
Petitioner,	)	
IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI,	)	
Respondents.	)	

2017 OCT -4 PM 1:16

PETITION TO DETERMINE HEIRS
(Jury Trial Demanded)

Petitioner, by and through his undersigned attorneys, hereby alleges and states as follows:

1. This is an action seeking a determination as to the applicability of S.C. Code Ann. § 62-2-803, which provides, in part, that "[a]n individual who feloniously and intentionally kills the decedent is not entitled to any benefits" from the decedent's estate and that "the estate of the decedent passes as if the killer had predeceased the decedent."

2. By Order of this Court, filed July 10, 2017, Petitioner Andrew W. Chandler, Esquire, was appointed as Special Administrator of the Estate of Doris Duane Colucci a/k/a Doris D. Colucci.

3. The Decedent, Doris Duane Colucci, was killed by her husband, Respondent Ivo Francesco Colucci ("Mr. Colucci"), on April 14, 2017.

4. In addition to Mr. Colucci, the Decedent was survived by her two biological sons from a previous marriage, Respondents John Martin Antonio ("John") and Michael Frederick Antonio Colucci ("Michael"). Upon information and belief, Michael legally changed his last name to "Colucci" but was not legally adopted by Mr. Colucci.

5. Upon information and belief, Mr. Colucci, John, and Michael are the Decedent's only heirs at law. As of the date of this filing, no proceedings have been initiated to probate a will purporting to be that of the Decedent's.

FOR A FIRST CAUSE OF ACTION
DISQUALIFICATION OF BENEFICIARIES

6. On April 14, 2017, Mr. Colucci and the Decedent were both present at their business, Colucci's Jewelers, located at 7565 Rivers Ave., North Charleston, SC 29406. Also present were several employees, one or more customers, and Michael's minor daughter.

7. At approximately 4:20 p.m., Mr. Colucci approached the Decedent, drew a handgun from his pocket, and shot the Decedent in the head at close range. After shooting the Decedent, Mr. Colucci collected the spent casing and put it in his pocket.

8. The Decedent was pronounced dead at the scene by first responders. A copy of the Death Certificate is attached as Exhibit 1.

9. The Charleston County Coroner ruled the death a homicide. A copy of the Coroner's Report is attached as Exhibit 2.

10. An employee and witness to the homicide called 9-1-1. Upon his arrival to the scene at approximately 4:20 p.m., Officer Kevin Abbatiello observed Mr. Colucci standing in the doorway of the jewelry store. Officer Abbatiello notes the following in his incident report:

> I asked the suspect where the gun was and he stated "inside". I asked the suspect who was shot and he stated "my wife" (Doris Colucci)....During the initial detention the suspect was spontaneously uttering several of the reasons he had shot his wife. During a search incident to the arrest, I located a spent .380 casing in the suspect's right front pants pocket. I asked the suspect where the casing was from and he stated "I picked it up".

A copy of the Incident Report is attached as Exhibit 3.

11. Footage from the police car in which Mr. Colucci was placed at the scene of the crime following his arrest records Mr. Colucci stating: "It's not what you think, I killed a human, but I had a reason." When reminded that everything inside the police car was being recorded, Mr. Colucci responded that it "doesn't matter anymore, I suffered a whole [f-ing] life."

12. Mr. Colucci was charged with murder. A copy of the Arrest Warrant and Affidavit are attached as Exhibit 4. The Description of the Offense, set forth in the Affidavit, states in part:

> That on April 14, 2017 a search warrant was executed at 7565 Rivers Avenue, Suite A to collect evidence of the shooting. As a result of the search warrant video surveillance was located capturing the defendant come into the business and become involved in a verbal altercation with the victim. During the verbal altercation, the defendant was captured on video pulling a firearm out of his pocket, without the victim's knowledge, and shooting the victim in the head. The defendant then hid the firearm utilized on the counter of the business and then went and retrieved the shell casing that was ejected during the shooting and put it in his pocket.

13. Petitioner submits that Mr. Colucci did feloniously and intentionally kill the Decedent and therefore, pursuant to S.C. Code Ann. § 62-2-803, Mr. Colucci is barred from receiving any assets from the Decedent's estate or otherwise benefitting financially in any manner from the murder of his wife and that the Decedent's estate should be administered as if Mr. Colucci pre-deceased the Decedent.

FOR A SECOND CAUSE OF ACTION
CONSTRUCTIVE TRUST

14. The Petitioner realleges the allegations of the above paragraphs as if fully set forth herein.

15. The facts and circumstances outlined herein create a constructive trust with Respondents, and any person or entity acting in concert with them, as trustees of all property and assets in their possession that are determined to belong to the Decedent's Estate, of which the Estate is the beneficial owner.

16. This Court should find that there exists a constructive trust in favor of the Estate and order that such properties and assets be impressed with this constructive trust and transferred to the Estate or conveyed to the Estate by the proper officer of the Court.

WHEREAS, Petitioner prays that this Court enter an Order:

A) That Ivo Francesco Colucci did feloniously and intentionally kill his wife, Doris Duane Colucci, on April 14, 2017;

B) That, pursuant to S.C. Code Ann. § 62-2-803(a), Ivo Francesco Colucci is not entitled to any benefits under any will executed by the Decedent, any trust of which the Decedent is a grantor, or from the Decedent's Estate, including, but not limited to, an intestate share, an elective share, an omitted spouse's share or child's share, a homestead allowance, or exempt property;

C) That, pursuant to S.C. Code Ann. § 62-2-803(a), the Estate of the Decedent, and any property appointed by any will of the Decedent to or for the benefit of Ivo Francesco Colucci, shall pass as if Ivo Francesco Colucci predeceased the Decedent;

D) That, pursuant to S.C. Code Ann. § 62-2-803(b), for any property owned by the Decedent and Ivo Francesco Colucci as joint tenants, including real and personal property, joint and multiple-party accounts in banks, savings and loan associations,

credit unions, and other institutions, or any other form of co-ownership with survivorship incidents, the Decedent's interest was severed as a result of the felonious and intentional killing and such interest shall pass as the Decedent's property and Ivo Francesco Colucci has no rights to such interest by survivorship or otherwise;

E) That, pursuant to S.C. Code Ann. § 62-2-803(c), for any bond, life insurance policy, retirement plan, annuity, or other contractual arrangement in which Ivo Francesco Colucci is named as a beneficiary and on which the Decedent was the principal obligee or the individual upon whose life the policy was issued, the bond, policy, retirement plan, annuity, or other contractual arrangement shall be payable as though Ivo Francesco Colucci predeceased the Decedent and Ivo Francesco Colucci is not entitled to any benefit thereunder;

F) That, pursuant to S.C. Code Ann. § 62-2-803(d), any other acquisition of property or interest by Ivo Francesco Colucci shall be treated in accordance with the principles of S.C. Code Ann. § 62-2-803;

G) That, pursuant to S.C. Code Ann. § 62-2-803(e), any nomination of Ivo Francesco Colucci in any will or other document that purports to have been executed by the Decedent nominating or appointing Ivo Francesco Colucci to serve in any fiduciary capacity or representative capacity, including, but not limited to, as personal representative, trustee, agent or guardian, is revoked;

H) That, pursuant to S.C. Code Ann. § 62-2-803, Ivo Francesco Colucci is barred from benefitting financially in any manner from the felonious and intentional killing of his wife;

I) Imposing a constructive trust in favor of the Decedent's Estate over all properties and assets in possession or control of Ivo Francesco Colucci or those acting in concert with him that belong to the Decedent's Estate;

J) Requiring Ivo Francesco Colucci, and any other person acting in concert with Mr. Colucci, to return all properties and assets in his/her possession or control belonging to the Decedent's Estate to the Petitioner; and

K) Awarding Petitioner such other and further relief as the Court deems just and proper, including attorney's fees, costs for bringing this action, and any other remedies available.

ROSEN, ROSEN & HAGOOD, LLC

H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
ATTORNEYS FOR PETITIONER

Charleston, South Carolina
October 4, 2017

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
	)	
ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR,	)	
	)	
Petitioner,	)	**SUMMONS**
	)	
IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI,	)	
	)	
Respondents.	)	

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TO THE RESPONDENTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

ROSEN, ROSEN & HAGOOD, LLC



H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
ATTORNEYS FOR PETITIONER

Charleston, South Carolina
October 4, 2017

STATE OF SOUTH CAROLINA

CERTIFICATION OF VITAL RECORD

DEATH CERTIFICATION

STATE FILE NUMBER: 139-17-014849

DECEDENT'S NAME: *DORIS DUANE COLUCCI*
SEX: FEMALE
SOCIAL SECURITY NUMBER: [redacted]
AKA's: NA
ARMED FORCES: NO
DATE OF BIRTH: [redacted]
AGE: 74 YEARS
TYPE OF PLACE OF DEATH: OTHER (SPECIFY)
COUNTY OF DEATH: CHARLESTON
NAME AND ADDRESS OF PLACE OF DEATH: 7565 RIVERS AVENUE, NORTH CHARLESTON, SC 29406
PLACE OF DISPOSITION: DORCHESTER MEMORY GARDENS
DISPOSITION LOCATION: SUMMERVILLE, SOUTH CAROLINA
METHOD OF DISPOSITION: BURIAL
DECEDENT'S RESIDENCE: 400 MURRAY BOULEVARD, SUMMERVILLE, DORCHESTER COUNTY, SC, 29483
PLACE OF BIRTH: NEW JERSEY
MARITAL STATUS: MARRIED
SURVIVING SPOUSE'S NAME: IVO COLUCCI
FATHER'S NAME: MARTIN J DIMARIA
MOTHER'S NAME PRIOR TO FIRST MARRIAGE: PROVIDENCE MUSCARELLA
INFORMANT'S NAME: MICHAEL COLUCCI
RELATIONSHIP: SON
MAILING ADDRESS: [redacted]
FUNERAL HOME: JAMES A. DYAL FUNERAL HOME, INC., 303 SOUTH MAIN ST., SUMMERVILLE, SC, 29483
FUNERAL DIRECTOR: DONALD J. MILLER JR.
LICENSE NUMBER: 2588
EMBALMER'S NAME: DAWN BELL
LICENSE NUMBER: 3502
ACTUAL OR PRESUMED DATE OF DEATH: APRIL 14, 2017
MANNER OF DEATH: HOMICIDE
ACTUAL OR PRESUMED TIME OF DEATH: 1620
CAUSE OF DEATH - PART I
GUNSHOT WOUND TO HEAD

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OTHER SIGNIFICANT CONDITIONS - PART II:
NA

CORONER CONTACTED? YES
AUTOPSY PERFORMED? YES
AUTOPSY AVAILABLE? YES
DATE OF INJURY: APRIL 14, 2017
TIME OF INJURY: 1620
INJURY AT WORK? YES
PLACE OF INJURY: RETAIL STORE
LOCATION OF INJURY: 7565 RIVERS AVENUE, NORTH CHARLESTON, CHARLESTON COUNTY, SC, 29406
HOW THE INJURY OCCURRED?
SHOT BY SOMEONE

CERTIFIER NAME AND TITLE: DEPUTY CORONER KIMBERLY L. RHOTON
LICENSE NUMBER: NA
CERTIFIER'S ADDRESS: 4050 BRIDGE VIEW DR, NORTH CHARLESTON, SC, 29405
DATE FILED: APRIL 19, 2017
DATE OF ISSUANCE: APRIL 19, 2017
SPECIAL INSTRUCTIONS:
NA

EXHIBIT 1

SC05929686

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Catherine E. Heigel
Catherine E. Heigel
Director and State Registrar

Shae R. Sutton
Shae R. Sutton
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 07/31/2015

Case Report

Colucci, Doris (2017-1297 Homicide)

Charleston County Coroner's Office
843-746-4030

Charleston County Coroner
Colucci, Doris D. 00001

Case Administration

This case is currently assigned to the county of: Charleston

Information hold:	No	Toxicology sent:	
Restricted:	No	Toxicology received:	
Disposition:	Sent to Autopsy Facility	Turn around:	
Facility:	Charleston, SC	ME/C Approved for:	Other
Description:	Homicide	Permit issued:	Yes
Authorized by:	Kimberly Rhoton	Other approval:	
Family notified of pending autopsy?	Yes	Permit No.	BRT 204445
Autopsy authorization:	ME/C ordered	Issue Date:	
Notes:		Ready for Release:	
Signed by:	Office of ME/C		
Signer:	Kimberly Rhoton		

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Investigator

Name:	Kimberly Rhoton	911 Call Received:	2017-04-14 16:20
Agency:	Charleston County Coroner's Office	Investigator notified:	2017-04-14 16:25
Address 1:	4050 Bridge View Drive #500	Notified by:	Charleston County EMS
City:	North Charleston	Date Investigated:	2017-04-14 16:25
State:	South Carolina	Scene arrival:	2017-04-14 17:00
Zip Code:	29405	Scene departure:	2017-04-14 19:00
Phone:	843-746-4030	Office arrival:	
Fax:	843-746-4033	Office departure:	
Email:	Krhoton@charlestoncounty.org	Departure location:	
		Regular miles:	
		Trans miles:	
		Time hours:	
		Time minutes:	
		Other information:	
		Received at facility:	
		Autopsy results requested by:	

Pathologist

Name:	Angelina Phillips	Phone:	843-792-3500
Agency:	Medical University of South Carolina Department of Pathology and Lab Medicine	Fax:	843-792-3537
Address 1:	165 Ashley Avenue		
Address 2:	Suite 309 MSC 908		
City:	Charleston		
State:	South Carolina		
Zip Code:	29425		

EXHIBIT
tabbies
2

Body Tracking

ID tag:		Weight:	
Seal number:	0001046	Storage location:	
ME/C body bag provided:	Yes	Storage location:	

Event	Location	Date	Received by	Released by	Affiliation	Comment

Released to	Autopsy facility	04/14/2017 19:00		Kimberly Rhoton		Transported by CFS to MUSC
Released to	Funeral home	04/16/2017 15:00		Kimberly Rhoton		
	Funeral home:					

Identification

MDILog #:
Case number: 2017-1297 Homicide
UBC:
Status: Identified
Method a: Circumstances None
Method b: Government Issued ID
Last name: Colucci
First name: Doris
Middle name:
Suffix:
Alias:
Homeless:
Country: United States
Address 1: [redacted]
Address 2:
City: [redacted]
Township/Village:
State:
County:
Zip:
Inside city limits:
Phone:

Sex: Female
Race: White
Ethnicity:
Date of birth: [redacted]
Date of death: 2017-04-14
Time of death: Approx. 16:20
Pronounced:
Pronounced by: EMS
Found dead:
Found dead by:
Age: 74 years [redacted]
Drivers license:
Registered donor:
SSN:
Birth country: United States
Birth state:
Marital status:
Pregnant:
Student status:
Employment status:
Occupation:
Business/Industry:
Employer:
Education level:
Veteran status:

Circumstances of Death

Jurisdiction: Local
Scene investigated by law enforcement: Yes
Agency: North Charleston Police Department
Incident #: 2017-011187
Officer: Cpl Perry
Scene investigated by C/ME: Yes
Doctor present?
Date investigated: 2017-04-14 16:25:00
Reason for reporting: Homicide
Related to partner violence: Yes
Decedent in custody:
Police involved shooting:
Decedent has minor child?
Drugs involved:
Alcohol evidence:
Suspected suicide:
Hospice:
Indian Reservation:
Date LKA:
Time LKA:

Medical Treatment
Non Indicated

Clothing
Appropriate clothing: Yes
Description: Shirt, pants, socks, shoes

Alerts to Pathologist
Non Indicated

Suspected Behaviors
Non Indicated

Charleston County Coroner
Colucci, Doris D. 00002

Case Remarks

Investigator Narrative

Reportedly, the decedent was shot by her husband at their place of business following an argument. Witnesses at the scene called 9-1-1.

Postmortem Scene Observations

Date of exam by MDI: 2017-04-14 17:00
Approximate height:
Approximate weight:
Body location: Indoors
Body temperature: Warm
Outside temperature: Unknown
Thermostat setting: Unknown
Thermostat reading: Unknown
Room temperature: Unknown
Rigor: None
Lividity a:
Lividity b:
Lividity notes:
Decomposition: None
Position discovered: Supine

Non-therapeutic needle marks:
Injury to bowel:
Samples collected by investigator:
Suspected MOD: Homicide
Suspected COD
Gunfire

Describe injury(injuries):
GSW noted to right temple area

Secondary Party 1 of 3

Last name: Simmons
First name: EMS
Middle name:
Maiden name:
Date of birth:
Age:
Mobile phone:

Suspect:
Relationship: EMS/EMT
Date referred to PF:
Identified decedent:
Next of kin:
Legal guardian:
Witness:
First responder: Yes
Point of contact:
Last saw decedent alive:

Address 1
Category: Primary Residence
Agency: Charleston County EMS
Address 1:
Address 2:
City:
Township/Village:
State:
Zip:
Phone 1: [redacted]
Phone 2:
Time at address:

Charleston County Coroner
Colucci, Doris D. 00003

Secondary Party 2 of 3

Last name: Lizzi
First name: Kim, Stepdaughter
Middle name:
Maiden name:
Date of birth:
Age:
Mobile phone:

Suspect:
Relationship: Stepchild
Date referred to PF:
Identified decedent:
Next of kin: Yes
Legal guardian:
Witness:
First responder:
Point of contact:
Last saw decedent alive:

Address 1

Category:
Agency:
Address 1:
Address 2:
City:
Township/Village:
State:
Zip:
Phone 1: [redacted]
Phone 2:
Time at address:

Charleston County Coroner
Colucci, Doris D. 00004

Next of Kin Details

Notified: Yes, Kin at Scene
Notifying agency:
Notified on:
Notified by:
Claimed the body

Secondary Party 3 of 3

Last name: Colucci
First name: Michael, Son
Middle name:
Maiden name:
Date of birth:
Age:
Mobile phone: [redacted]

Suspect:
Relationship: Child
Date referred to PF:
Identified decedent:
Next of kin: Yes
Legal guardian:
Witness:
First responder:
Point of contact:
Last saw decedent alive:

Address 1

Category: Primary Residence
Agency:
Address 1: [redacted]
Address 2:
City:
Township/Village:
State:
Zip:
Phone 1:
Phone 2:
Time at address:

Next of Kin Details

Notified: Yes, by Agency
Notifying agency: Colleton County Coroner's Office
Notified on: 2017-04-14 21:00:00
Notified by:
Claimed the body

Location 1 of 2

Description:
Address 1: 7565 Rivers Ave
Address 2:
City: North Charleston
Township/Village:
State: South Carolina
County: Charleston
Zip: 29406

Body found:
Scene: Yes
Hospital:
Injury: Yes
Final disposition:
Death location: Yes
Location other:

Scene Location Details

Scene investigated: 04/14/2017 16:25
Police agency: North Charleston Police Department
Police incident #: 2017-011187
Officer: Cpt Perry

Photos by ME: Yes
Photos by police: Yes
Police on scene: Yes
EMS/EMT on scene: Yes

Injury Location Details

Place: Other
Description: Retail Store
Venue: City
Transportation injury: Not applicable

Date of injury: 04/14/2017 On
Time of injury: Approx. 15:20
Injury/Death interval:
At work: Yes

Location of Death Details

Location of death: Other
Description: Retail Store

Location 2 of 2

Description:
Address 1: 303 South Main Street
Address 2:
City: Summerville
Township/Village:
State: South Carolina
County:
Zip: 29483

Body found:
Scene:
Hospital:
Injury:
Final disposition: Yes
Death location:
Location other:

Final Disposition Details

Removed by:
Date of removal: 04/16/2017 15:00
Funeral name: James A. Dyal Funeral Home, Inc.
Funeral phone: 843-873-4040
FH license number:
Cemetery:
Cemetery city:
Cemetery state:

Valuables included:
Sent for autopsy:
Organ procurement:

Charleston County Coroner
Colucci, Doris D. 00005

Firearm 1 of 1

Type: Handgun
Specific Type:
Ammunition:
Make/Model:
Barrel length:
Overall length:
Trigger muzzle distance:
Firearm trace:
Nonfatally wounded people:
Caliber gauge: .380/9mm

Serial number:
Magazine cap:
Use of weapon: Domestic Violence
Other weapon use:
Party handling firearm: (Unspecified)
Primary hand:
Date firearm purchased:
City firearm purchased:
Purchaser state:
First firearm purchaser:
Imported firearm:

Medical History

Information Source(s)
Non Indicated

Diseases/Disorders
Non Indicated

Cancer(s)
Non Indicated

Cardiac/Cardiovascular
Non Indicated

GI/GU
Non Indicated

Hepatic
Non Indicated

Neurological
Non Indicated

Psychiatric Illness(s)
Non Indicated

Tobacco Use
Usage: Not Indicated
Type: Not Indicated
Description:

Alcohol Use
Usage: Not Indicated
Drinks per day:

Drug Use
Usage: Not Indicated
Description:

Drug and Alcohol Treatment
Not Indicated

Health Care Provider
Physician name:
Clinic name:
Address:
City:
State:
Phone:
Date last seen:

Dental Care Provider
Dentist name:
Clinic name:
Address:
City:
State:
Phone:
Date last seen:

Charleston County Coroner
Colucci, Doris D. 00006

Autopsy

Body Bag Information

Body bag sealed:		Seal number:	0001046
Body bag has ID:		Name/Number on ID Tag:	

Autopsy Information

Autopsy procedure:	Full	Autopsy case #:	FA17-302
Exam date:	04/16/2017 09:00	X-Rays:	
Autopsy assistant:		Photos:	
Findings availability:	Yes	Histology:	
Tobacco use contribute to death:	No	Toxicology:	Yes
		Specimens drawn:	
Autopsy report signed:		Remains:	Human
Persons in attendance:			

Cause/Manner of Death

Death certificate number: 17-014849

COD/Circumstances type: 26.1 - Gun-Handgun

Immediate cause:	Interval (Onset to Death)
a. Gunshot Wound to Head	
Due to (or as a consequence of)	
b.	
Due to (or as a consequence of)	
c.	
Due to (or as a consequence of)	
d.	
Other conditions:	

Injury description: Shot by someone

Manner of death: Homicide

Body Identification

Status	Type	Method A	Method B
Investigator	Identified	Circumstances	Government Issued ID
Pathologist			

Charleston County Coroner
Colucci, Doris D. 00007

Other Body Information

Body Weights/Length

Body length:
Body weight:
Body mass index:

Body Has

Gallbladder:
Appendix:
Uterus:

Head Description

Hair color:
Facial hair:
Right eye color:
Left eye color:

Stomach Contents

Description:
Volume:

Fractures

Measurements

Heart:
Right lung:
Left lung:
Liver:
Spleen:
Right kidney:
Left kidney:
Brain:
Thymus:
Pericardial:
Right pleural:
Left pleural:
Peritoneal:
Urine:

Autopsy notes:

Toxicology

No toxicology has been added to this case.

DNA

Status:

Transfer Logs

Released By	Received By	Date & Time	Purpose of Transfer

Toxicologist:

Charleston County Coroner
Colucci, Doris D. 00008

NORTH CHARLESTON POLICE
SC0100800

INCIDENT REPORT

INFORMATION ONLY ☐

CASE NUMBER
2017011187

NCIC
INQ. No | ENTD. No

INCIDENT

	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED
1	MURDER & NON-NEGLIGENT MANSLAUGHTER	☑ YES ☐ NO	☐ YES ☑ NO	SPECIALTY STORE	
2		☐ YES ☐ NO	☐ YES ☐ NO		
3		☐ YES ☐ NO	☐ YES ☐ NO		

TYPE VICTIM: ☑ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): 7565 Rivers AVENUE, NORTH CHARLESTON, SC

ZIP CODE: 29406

WEAPON TYPE: HANDGUN

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK: DSP. DATE	DSP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
04/14/2017	16:18		04/14/2017	16:20	04/14/2017	16:20	16:23	17:00	08

COMPLAINANT

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
									☐ H ☐ B	☐ H ☐ B

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO.

VICTIM

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
COLUCCI, DORIS, DUANE	SE			S	W	F	74	N	☐ H ☐ B	☐ H ☐ B

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
505	150	BLN	BRO	

ADDRESS [redacted] | CITY [redacted] | STATE: SC | ZIP CODE [redacted] | LOCATION NO.

VISIBLE INJURY (VICT.) ☐ YES NO ☐ EXPLAIN: | COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ YES NO ☐

VICTIM(S) USING ALCOHOL ☐ YES NO ☐ UNK ☐ DRUGS ☐ YES NO ☐ UNK ☐ TYPE:

TWO-MAN VEH ☐ ONE-MAN VEH ☐ DETECTIVE/PLAINCLOTHES ☐ OTHER ☐ | ALONE ☐ ASSISTED ☐ | *J-This Jurisdiction S-State O-Out of State U-Unknown

SUSPECT

☑ SUSPECT ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
COLUCCI, IVO, FRANCESCO	W	M	80	N	[redacted]	508	175	4	GRN

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. | RELATED OFFENSE(S): 09A | DAYTIME PHONE: 843-797-6772 ☑ H ☐ B | EVENING PHONE ☑ H ☐ B

ADDRESS: 400 MURRAY BLVD | CITY: SUMMERVILLE | STATE: SC | ZIP CODE: 29483- | LOCATION NO.

SUSPECT(S) USING ALCOHOL ☐ YES NO ☐ UNK ☐ DRUGS ☐ YES NO ☐ UNK ☐ TYPE: | ARRESTED NEAR OFFENSE SCENE ☐ YES NO ☐ TOTAL # ARRESTED | DATE/TIME OF OFFENSE: 4/14/2017 4:18:00 PM | DATE/TIME OF ARREST

DAY OF THE WEEK: S M T W T F S UNK | HOW REPORTED | A= OFFICER DISPATCHED ON CALL B= REPORT TAKEN BY PHONE C= COMPLAINANT WALKED IN D= COMPLAINT WRITTEN IN E= OFFICER INITIATED F= OTHER | DIFF. FACTOR | A= RESISTANCE/HOSTILITY B= WEAPONS C= UNFOUNDED CALLS D= MENTAL SUBJECT E= COMPLAINANT FREQUENTLY INTOXICATED F= DOMESTIC N= NORMAL

NARRATIVE

homicide 4/14/17

On 4/14/2017, I Pfc. Abbatiello responded to the incident location, Coluccis at 7565 Rivers Avenue, in reference to a shooting inside the business. When I arrived on scene, the suspect (Ivo Colucci was standing in the door way of the business. I asked the suspect where the gun was and he stated "inside". I asked the suspect who was shot and he stated "my wife"(Doris Colucci). I immediately detained the suspect, placing him in handcuffs that were double locked and checked for proper fit. During the initial detention the suspect was spontaneously uttering several of the reasons he had shot his wife. During a search incident to arrest, I located a spent .380 casing in the suspects right front pants pocket. I asked the suspect where the casing was from and he stated "I picked it up". After the suspect was placed in the back of my patrol vehicle, I read the suspect his Miranda rights and closed the door.

During the detaining of the suspect, several officers, Detectives, Sergeants, Lieutenants, Captains, and crime scene arrived on

PROPERTY

	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	TOTAL VALUE
TYPE (GROUP)			
STOLEN			
DAMAGED			
BURNED			
RECOVERED			
SEIZED			

SUBJECT IDENTIFIED ☑ YES NO ☐ | SUBJECT LOCATED ☑ YES NO ☐ | S.F. ☐ | ☑ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED | ☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER | ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION PROSECUTION 3. ☐ EXTRADITION DENIED DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
ABBATIELLO, KEVIN ANTHONY	4/14/2017 4:20:00 PM	249			44

FOLLOW-UP INVESTIGATION ☐ YES NO ☑ | OFFICER

EXHIBIT 3

ADDITIONAL NARRATIVE

Agency Name	ORI #	Report Date/Time		OCA #
NORTH CHARLESTON POLICE DEPARTMENT	SC0100800	04/14/2017	16:18	2017011187

scene. I then transported the suspect to the NCPD detective bay, where the detectives took over the investigation and subsequent arrest of the suspect. OCA 2017011187 was assigned to the case.

ADDITIONAL NARRATIVE

Agency Name:	ORI #:	Report Date/Time:		OCA #:
NORTH CHARLESTON POLICE DEPARTMENT	SC0100800	04/14/2017	16:18	2017011187

Transport Supplement

On the above date and time transport officer Jellico/Pair met with Officer Andrews at the Detectives in reference to a custody transfer. Handcuffs were placed on the subject, they were checked for tightness and double locked. The subject was thoroughly searched, placed in the back of the transport vehicle, and transported to SACDC. All interaction with the subject was recorded via BWC. All of this was done in accordance with North Charleston City Policy. The subject was not shackled due to his age and he appeared to have difficulty walking.

ADDITIONAL NARRATIVE

Agency Name	ORI #	Report Date/Time		OCA #
NORTH CHARLESTON POLICE DEPARTMENT	SC0100800	04/14/2017	15:18	2017011187

On the above date and time dispatch advised officers of a shooting that just occurred at 7565 Rivers Avenue. I arrived on scene with several people yelling that "he shot her, he shot her" outside of the store. Within seconds a older white male exited the store with his hands in the air stating "I shot her and the guns inside". Officers detained the suspect and began to conduct a protective sweep of the store in order to render aid to the victim. The scene was secure and turned over to the NCPD Detective Unit for further investigation

ADDITIONAL NARRATIVE

Agency Name	ORI #	Report Date/Time		OCA #:
NORTH CHARLESTON POLICE DEPARTMENT	SC0100800	04/14/2017	16:18	2017011187

homicide supplement

On April 14, 2017 I was dispatched to 7565 Rivers Ave in reference to a shooting.

Upon my arrival I was met by officers and witnesses in the parking lot. I was directed by Sergeant Ghi to take a witness to my patrol vehicle and make sure she was okay or needed anything. I complied and placed the witness in the back of my patrol vehicle. North Charleston Police Detectives arrived on scene and began asking the witness questions on the shooting who stated that the suspect shot the victim. I was then directed by detectives to take the witness to the detective bay at North Charleston City Hall which I complied.

This incident was captured on my body worn camera and in car camera.

ADDITIONAL NARRATIVE

Agency Name	ORI #	Report Date/Time		OCA #
NORTH CHARLESTON POLICE DEPARTMENT	SC0100800	04/14/2017	16:18	2017011187

Homicide supplemental

I, Sgt. H. M. Thomas responded to the incident location, in reference to a shooting. Upon my arrival, I observed Ptl. Abbatiello patting down a Grey haired Older male. I approached them and asked Officer Abbatiello what we had. He responded "Husband shot his wife." I asked him if this was the suspect and he confirmed that it was. I then asked where the gun was located and he stated that the suspect siad it was inside the business laying next to a grey jacket or sweater. I then observed Ptl. Besancon, who had just exited the business, and asked him if the victim was deceased, in which he stated yes. I then proceeded inside the Jewelry store, where Fire Medic, Captain Versetti, and two other officers were located. I then observed an elderly white female laying behind the counter on her back with a large amount of blood and brain matter present. It was obvious that the victim was deceased. I then exited the business and made sure that Ptl. Besancon and Ptl. Reid held their witnesses for the detectives. After several minutes, Detectives, Crime scene, and members of the command staff arrived. I cleared the scene.

ARREST WARRANT

2017A1010202245

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

2017 OCT -4 PM 1:17

THE STATE

against

Ivo Francesco Colucci

Address: 400 Murray Blvd

Summerville, SC 29483-9011

Phone: (000)000-0000 SSN: [redacted]

Sex: M Race: W Height: 5 10 Weight: 185

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Jerry Jellico - 0201

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the:

[ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Personally appeared before me the affiant Jerry Jellico who being duly sworn deposes and says that defendant Ivo Francesco Colucci did within this county and state on or about 4/14/2017 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

EXHIBIT 4

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Affiant's Address: 2500 City Hall Lane
North Charleston, SC 29406-

Affiant's Telephone:

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 4/14/2017 defendant Ivo Francesco Colucci did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 4/15/2017

(L.S.)

Signature of Issuing Judge

Richardine L. Singleton-Brown

Judge Code: 7320

Judge's Address: 2145 Melbourne Street, Suite 100
Charleston, SC 29405-

Judge's Telephone: (843)745-2216

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CITY OF NORTH CHARLESTON

AFFIDAVIT
OCA# 2017011187
INV S. Andrews

Personally appeared before me, a magistrate of this County, one R.E. SHARPE who first being duly sworn, deposes and says that:

Ivo Francesco Colucci

did within this County and State on April 14, 2017 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
Murder
Violation Section 16-3-10

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on April 14, 2017 while at 7565 Rivers Avenue, Suite A, Colucci's, which is located in the City of North Charleston, County and State aforesaid the above named defendant, **Ivo Francesco Colucci** did violate section **16-3-10** of the South Carolina State Code of Laws of 1976 as amended; **Murder** in that he did willfully, unlawfully and feloniously while armed with a firearm shoot and mortally wound his wife, Doris Duane Colucci.

That on April 14, 2017 Officers of the North Charleston Police Department responded to a shooting at the aforementioned business. Upon arrival the victim, Doris Duana Colucci, was discovered deceased from an apparent gunshot wound.

That on April 14, 2017 a search warrant was executed at 7565 Rivers Avenue, Suite A to collect evidence of the shooting. As a result of the search warrant video surveillance was located capturing the defendant come into the business and become involved in a verbal altercation with the victim. During the verbal altercation the defendant was captured on video pulling a firearm out of his pocket, without the victim's knowledge, and shooting the victim in the head. The defendant then hid the firearm utilized on the counter of the business and then went and retrieved the shell casing that was ejected during the shooting and put it in his pocket.

This information was gained through the investigation of Detective Jerry Jellico and Detective Simon Andrews of the North Charleston Police Department they are witnesses to prove the same in such case which is made and provided against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me
this 15th day of April
2017.

Signature of Judge

AFFIANT

Address: 2500 CITY HALL LANE
N.CHAS S.C. 29406
Phone: 843-554-5700

STATE OF SOUTH CAROLINA)
)
COUNTY OF: DORCHESTER)

IN THE PROBATE COURT

INVENTORY AND APPRAISEMENT

☒ ORIGINAL
☐ AMENDED #
(must restate the unchanged information from the original Inventory)

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017 ES 18 00294

File the original Inventory and Appraisement with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. An Amended Inventory should be utilized for correcting, adjusting or adding to an original inventory, and *must restate the unchanged information from the original Inventory*. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate		$231,650.50
Schedule B - Stocks and Bonds		$-0-
Schedule C - Notes Due Decedent and Cash		$122,220.16
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate		$TBD
Part 2 - Payable to Beneficiary	$ TBD	
Schedule E - Jointly Owned Property	$ 257.88	
Schedule F - Other Miscellaneous Assets Payable to Estate		$9,810.00
Schedule G - Transfers During Decedent's Life	$ -0-	$-0-
Schedule H - Powers of Appointment	$ -0-	$-0-
Schedule I - Annuities and Retirement Accounts	$ 54,772.61	$TBD
GROSS VALUE OF PROBATE ESTATE		$363,630.66

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 4th day of October 20 17

Notary Public for South Carolina
My Commission Expires: 07/13/2026

Personal Representative Signature:
Print Name: Andrew W. Chandler, Special Administrator
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street, Charleston, SC 29401
Telephone (Work): (843) 577-2300
(Home):
(Cell):
(Email): chandler@eckb.com

2017 OCT 10 PM 1:23

Attorney:
Address:
Telephone:
Email:

Co-Personal Representative Signature (if applicable)
Name:
Address:
Telephone (Work):
Telephone (Home):
(Cell):
(Email):

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A – REAL ESTATE. List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on the Encumbrance Schedule below. (For jointly owned property **with right of survivorship**, you may list in Schedule E.)

Item No. Description	% owned by Decedent	Fair Market Value	Value of Decedent's interest
1. House & Lot located at 400 Murray Boulevard Dorchester County, Summerville, SC Tax Map Number: 152-00-00-026.00 Book 10249 Page 207	50%	(Tax Assessment Value) 368,388.00	184,194.00
2. House and Lot located at 3590 Sr 145, Preston Holly, NY Albany County, Preston Holly, NY Tax Map Number: 779-158-1-5 Book 2864 Page 509	25%	(Tax Assessment Value) 190,186.00	47,546.50
3. House and Lot located at 7675 Legare Road Colleton County, Edisto Island, SC Tax Map Number: 360-00-00-003 Book 1919 Page 1	50%**††	TBD	TBD

TOTAL SCHEDULE A $ 231,650.50

(also enter under recapitulation, page 1)

SCHEDULE B – STOCKS AND BONDS. List below all stocks and bonds in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property **with right of survivorship**, you may list in Schedule E.

Item No.	Description	Face Value	Appraised Value
1.	None		

TOTAL SCHEDULE B $ -0-

(also enter under recapitulation, page 1)

SCHEDULE C – CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by Decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.), cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property **with right of survivorship**, you may list in Schedule E.)

Item No.	Description	Value
1.	Bank of America Savings Account #xx47	10,018.87
2.	Bank of America Checking Account #xx37	4,709.09
3.	50% of Promissory Note due from H.I.D., LLC to Ivo & Doris Colucci $202,929.17 due as of date of death	101,464.59
4.	Cash On Hand	813.94
5.	Refund – Chris Patton, Attorney at Law	1,744.68
6.	Refund – Blue Cross Blue Shield	117.91
7.	Refund – Roberts Oxygen Company, Inc.	178.17
8.	Refund – Tenant Health	41.53
9.	Refund - Staples	50.00
10.	50% of HD Vest Property Account #xx19 $3,582.42 Balance as of 4/30/17††	1,791.21
11.	50% of Bank of America Checking Account #xx67 – Joint Account held with Ivo Colucci††	1,290.17
12.	50% of Martant Realty Mortgage††	TBD

TOTAL SCHEDULE C $ 122,220.16

(also enter under recapitulation, page 1)

SCHEDULE D – LIFE INSURANCE (If none, so state.)
Part 1 – Life Insurance – List the insurance on the life of the Decedent which is payable to the Estate.

Item No.	Description	Value
1.		TBD

TOTAL PART 1 $ TBD
(also enter under recapitulation, page 1)

Part 2 (OPTIONAL) – You may list here the insurance on the life of the Decedent which is payable to beneficiaries.

Item No.	Description	Beneficiary	Value
1.			TBD

TOTAL PART 2 $ TBD

SCHEDULE E – JOINT WITH RIGHT OF SURVIVORSHIP– You may list below any non-probate property jointly owned by the Decedent with another **with right of survivorship.** List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest
1.	Wells Fargo Savings Account #xx81	John M. Antonio	TBD	Non-Probate

TOTAL SCHEDULE E $ -0-
(also enter under recapitulation, page 1)

SCHEDULE F – OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state. (For jointly owned tangible personal property **with right of survivorship**, you may list in Schedule E.)

Item No.	Description	Value
1.	Collection of Jewelry Pieces	9,810.00
2.	Diamond Ring	TBD
3.	Rolex Watch	TBD
4.	25% Interest in H.I.D., LLC	TBD
5.	50% Interest (at least) in Jewelry Factory II, Inc.**	TBD
6.	25% Interest (at least) in Terrivo Enterprises, LLC	TBD
7.	25% Interest (at least) in Terrivo Investments	TBD
8.	25.5% Interest (at least) in I&M Enterprises, LLC	TBD
9.	25.5% Interest (at least) in I&M Enterprises, LP	TBD
10.	50% Interest (at least) in I&D Enterprises, LLC	TBD
11.	50% Interest In Household Goods & Furnishings††	TBD
12.	50% Interest in 2004 Chevrolet Express VIN #xx14**††	TBD
13.	50% Interest in 1979 Chevrolet Corvette VIN #xx91**††	TBD
14.	50% Interest in 2015 Toyota Prius VIN #xx85**††	TBD
15.	50% Interest in 2011 Toyota Prius**††	TBD
16.	50% Interest in 2004 Nissan Frontier**	TBD
17.	50% Interest in 1988 Dodge Raider**	TBD
18.	50% Interest in 2016 Lowe Boat & Mercury Motor**	TBD
19.	50% Interest in Yamaha Jetski**	TBD
20	50% Interest in Case International 245 Tractor**	TBD
21	25.5 % Interest in I&M Colucci, A General Partnership	TBD

TOTAL SCHEDULE F $ 9,810.00

(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G – TRANSFERS DURING DECEDENT'S LIFE. List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

1.	None	-0-
2.		

(OPTIONAL) describe and list amounts not payable to estate:

1.	The Colucci Living Trust dated 02/24/2005 (if applicable, as determined by the Probate Court)	Non-Probate
2.		

TOTAL SCHEDULE G $ -0-
(also enter under recapitulation, page 1)

SCHEDULE H – POWERS OF APPOINTMENT. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

1.	None	

(OPTIONAL) describe and list amounts not payable to estate:

1.	None	

TOTAL SCHEDULE H $ -0-
(also enter under recapitulation, page 1)

SCHEDULE I – ANNUITIES AND RETIREMENT ACCOUNTS (IRA's, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

1.		

(OPTIONAL) describe and list amounts not payable to estate:

1.	Genworth Life Traditional IRA Contract #xx76	54,772.61††

TOTAL SCHEDULE I $ 54,772.61††
(also enter under recapitulation, page 1)

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate). List debts of the Decedent secured by assets on the above Schedules and describe the debt and the specific asset encumbered.

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
1.	None	

TOTAL ENCUMBRANCES $ -0-

***NOTE:**
Pursuant to Property Agreement dated February 24, 2005 (See Attached)

††NOTE:
As may be impacted by applicability of Slayer Act, SC Code Ann. 62-2-803.

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)

PROOF OF DELIVERY

IN THE MATTER OF:
DORIS DUANE COLUCCI)
(Decedent)) CASE NUMBER: 2017 ES 18 00294

On the 5th day of October, 2017, I mailed the Inventory & Appraisement

☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the Court.

2017 OCT 10 PM 1:23

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
David K. Haller, Esq., Attorney for Christa M. Yantis as Conservator	604 Savannah Highway Charleston, SC 29407
Stefan Colucci	[redacted]

(DEMAND FOR NOTICE)

SWORN to before me this 5th day of October, 20 17

Notary Public for South Carolina
Print Name: Brenda F. Nelson
My Commission Expires: 11/05/2025

Signature:
Print Name: Amy Neilson
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street, Charleston, SC 29401
Telephone (Work): (843) 577-2300
(Home):
(Cell):
E-mail: amy@eckb.com

Relationship to Decedent/Estate: Paralegal to Andrew W. Chandler, Esq.

FORM #120PC (1/2014)
62-1-401, 62-3-705, 62-3-1001, SCRCP 4(d)(9)

This

PROPERTY AGREEMENT

prepared for

IVO F. COLUCCI

and

DORIS D. COLUCCI

2017 OCT 10 PM 3:07

Kuhn and Kuhn, LLC
38 Broad Street, 2nd Floor
Charleston, South Carolina 29401
(843) 577-3700
© John R. Kuhn
All Rights Reserved

Property Agreement

This Property Agreement is entered into on February 24, 2005 in the County of Charleston, State of South Carolina, by and between:

IVO F. COLUCCI, Husband

and

DORIS D. COLUCCI, Wife

Factual Summary

The undersigned, Husband and Wife, have acquired title to property as joint tenants with right of survivorship (JTWROS) and as separate property.

Husband and Wife established an estate plan using a Revocable Living Trust and companion Pour-Over Wills, and they wish to convert all such joint tenancy property and separate property that will be or has been transferred to their Revocable Living Trust into tenancy in common property prior to such transfer.

Husband and Wife are aware that they may by agreement convert such joint tenancy property and separate property into tenancy in common property which will allow them to have more control over their respective interests in the property on each of their deaths.

Agreement to Change Joint Tenancy Property and Separate Property into Tenancy in Common Property

Husband and Wife agree that all such joint tenancy property interests and separate property that will be or has been transferred to the COLUCCI LIVING TRUST are hereby converted to, and characterized as, tenancy in common property rather than joint tenancy property or separate property, as the case may be, prior to such transfer.

Husband and Wife intend this Property Agreement to be binding on themselves and on all others as to such joint tenancy property interests and separate property transferred to their Revocable Living Trust.

The parties signed this Property Agreement on the date first written above.

Ivo F. Colucci

IVO F. COLUCCI

Doris D. Colucci

DORIS D. COLUCCI

STATE OF SOUTH CAROLINA)
SS
COUNTY OF CHARLESTON)

PERSONALLY appeared the undersigned witness and made oath that he/she saw the within named IVO F. COLUCCI and DORIS D. COLUCCI, , sign, seal and as act and deed deliver the within instrument and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.

WITNESS

Sworn to before me this February 24, 2005 by IVO F. COLUCCI and DORIS D. COLUCCI and the above named witness.

Notary Public for South Carolina
My Commission Expires: 5-6-2014

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR,	)	
Petitioner,	)	
v.	)	**MOTION TO ALTER OR AMEND**
IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI,	)	
Respondents.	)	

2017 OCT 20 PM 3:27

TO: PETITIONER AND HIS COUNSEL

YOU WILL PLEASE TAKE NOTICE that respondents Christa M. Yantis as Conservator and Alice M. Norton as Guardian for Ivo Francesco Colucci will move, in ten (10) days at the Dorchester County Courthouse, or at such other time and place as the court deems proper, for an order pursuant to SCRCP Rule 59(e) altering or amending the Court's order dated October 5, 2017 removing this matter to the circuit court. Respondents received written notice of entry of the order on October 10, 2017.

The grounds for the motion are:

1. The action does not involve the recovery of real property. The petition does not mention real property. Hence, removal to circuit court is not required.

2. This court has exclusive jurisdiction over the matter. The action is not one delineated in S.C. Code Ann. §62-1-302 in which this court and the circuit court have concurrent jurisdiction.

3. The action is not one on which the petitioner has a right to trial by jury as listed in S.C. Code Ann. §62-1-306.

WHEREFORE these respondents pray for the relief requested herein and for such other relief the court deems just, prudent, and proper.

David K. Haller, Esquire
Haller Law Firm
604 Savannah Highway
Charleston, SC 29407
(843) 224-7860
dhaller@hallerlawfirm.com

Attorney for Christa M. Yantis, Conservator of Ivo Francesco Colucci and Alice M. Norton, Guardian of Ivo

October 14th, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF: DORCHESTER)

IN THE PROBATE COURT

PROOF OF DELIVERY

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017-ES-18-00294

On the 19th day of October, 2017, I mailed or delivered the following document(s):

Motion to Alter or Amend

☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

2017 OCT 20 PM 3:27

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
ELIZABETH PALMER, ESQ.	151 METTING ST., STE. 400, CHARLESTON, SC 29401

SWORN to before me this 19th day of October 20 17

K. Lomaya
Notary Public for South Carolina
My Commission Expires: 12/07/2026

Signature: D. K. Haller
Print Name: DAVID K. HALLER, ESQ.
Address: 604 SAVANNAH HIGHWAY
CHARLESTON, SC 29407
Telephone (Work): 843-224-7860
(Home):
(Cell):
E-mail: DHALLER@HALLERLAWFIRM.COM
Relationship to Decedent/Estate: ATTORNEY FOR CONSERVATOR YANTIS AND GUARDIAN NORTON

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)

IN THE MATTER OF:)
DORIS DUANE COLUCCI) CASE NUMBER: 2017-ES-18-00294
(Decedent))

***COMPLETE THIS SECTION ONLY IF FILING PETITION FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

*
Petitioner(s)
vs.
*
Respondent(s)

APPLICATION FOR INFORMAL (check any that apply) ***PETITION FOR FORMAL**
☒ PROBATE OF WILL ☐ TESTACY
☒ APPOINTMENT ☐ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to *SC Rules of Civil Procedure*.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Michael Fox
Address: [redacted]
Telephone (Work): [redacted]
(Home):
(Cell):
Email:
Relationship to Decedent: Nominated Personal Representative in the Last Will and Testament

2. Decedent Information:

Full Legal Name (including all known names): Doris Duane Colucci
Date of Birth: [redacted]
Date of Death: April 14, 2017
Age at Date of Death: 74 years

2017 OCT 24 AM 9:18

3. Venue for this proceeding is proper in this County because:

☒ Decedent was domiciled in this County at date of death:
Address: [redacted] SUMMERVILLE County: DORCHESTER State: South Carolina.
☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:
Address: County: State: South Carolina
☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

4(a). Names and addresses of beneficiaries (devisees) named in the Will:

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Colucci Living Trust	Established 2005	[redacted]	

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Ivo Francesco Colucci	[redacted]	[redacted]	Husband
John Martin Antonio	[redacted]	[redacted]	Son
Michael Frederick Antonio Colucci	[redacted]	[redacted]	Son

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☐ NO ☒ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of $To be determined (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of $To be determined (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☐ NO ☒ YES If yes, then proceed to Section II.
If No, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

☐ The original is attached.
☒ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached.

2. The execution date of the Will was: June 18, 2013
Codicil(s): ____

3. Is there a memorandum that disposes of tangible personal property?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:
Applicant is proposed Personal Representative

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
- ☐ named as Alternate Personal Representative in Will
- ☐ nominee of Primary Personal Representative in Will
- ☐ nominee of Alternate Personal Representative in Will
- ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
- ☐ other devisee of Decedent (describe): _____ or nominee of said devisee
- ☐ surviving spouse of Decedent or nominee of said spouse
- ☐ other heir of Decedent (describe): _____ or nominee of said heir
- ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
- ☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:
None

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 23rd day of October, 20 17

Marilyn E. Hunt
Notary Public for South Carolina
My Commission Expires: 03/20/2025

MARILYN E. HUNT NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 03-20-2025

Signature of Applicant/Petitioner: Michael C. Fox

SWORN to before me this _____ day of _____, 20 ____

_____
Notary Public for South Carolina
My Commission Expires: _____

Signature of Co-Applicant/Co-Petitioner: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed June 18, 2013 and application for informal appointment are informally DENIED.

Executed this 24th day of October, 2017.

Mary Blunt
Mary Blunt, Probate Court Judge

2017 OCT 24 PM 4:45

☐ For formal probate of Will, see separate order executed _____

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

☐ Fiduciary Bond in the amount of $_____
☐ Bond waived by Will or Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other: _____

Notice to Creditors
☐ Required
☐ Not Required

Executed this _____ day of _____, 20___.

_____
Mary Blunt, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Michael C. Fox
Print Name: Michael Fox
Address: [redacted]
Telephone (Work):
(Home):
(Cell):
Email:

Signature:
Print Name:
Address:
Telephone (Work):
(Home):
(Cell):
Email:

*Attorney: Gordon H. Garrett, Esquire
Address: 1075 E. Montague Avenue
North Charleston, SC 29405
Telephone: (843) 554-5515
Email: office@garrettlawsc.com

***By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.**

I. ALL APPLICANTS/PEITIONERS MUST COMPLETE THIS SECTION.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere? YES

A. Demand for Notice in an Estate dated April 25, 2017 and filed in the Dorchester County Probate Court on May 3, 2017 by John Martin Antonio.
B. Demand for Notice in an Estate dated May 1, 2017 and filed in the Dorchester County Probate Court on May 3, 2017 by Michael Frederick Antonio Colucci.
C. Waiver or Demand for Notice in an Estate dated May 12, 2017 and filed in the Dorchester County Probate Court on May 18, 2017 by Christa M. Yantis, Conservator for Ivo F. Colucci.
D. Waiver or Demand for Notice in an Estate dated May 17, 2017 and filed in the Dorchester County Probate Court on May 18, 2017 by Dan M. David, Esquire as Agent for John Martin Antonio.
E. Demand for Notice in an Estate dated July 19, 2017 and filed in the Dorchester County Probate Court on July 20, 2017 by Christa M. Yantis, Conservator for Ivo F. Colucci.
F. Waiver or Demand for Notice in an Estate dated September 27, 2017 and filed in the Dorchester County Probate Court on September 26, 2017 by Stefan Colucci.

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER) CASE NUMBER: 2017ES1800294
)
IN RE:)
THE ESTATE OF DORIS DUANE COLUCCI,)
) SUMMONS
Michael C. Fox, Named Personal Representative)
in the Last Will of Doris Duane Colucci)
)
v.)
)
Andrew Chandler, in this capacity as Special)
Administrator of the Estate of Doris Duane)
Colucci, Michael C. Fox, Successor Trustee of the)
Colucci Living Trust, dated February 24, 2005,)
Ivo Francesco Colucci, Michael Frederick Antonio)
Colucci, John Martin Antonio, Henry Burkes, and)
Richard M. Hyman, Jr.)
)

2017 OCT 30 AM 9:33

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Petition upon the subscriber, at the address shown below, within (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

Gordon H. Garrett
Garrett Law Offices, LLC
1075 E. Montague Avenue
Charleston, SC 29405
(843) 554-5515
(843) 747-3198 (Fax)

October 27, 2017

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)

IN THE MATTER OF:)
DORIS DUANE COLUCCI) CASE NUMBER: 2017-ES-18-00294
(Decedent))

***COMPLETE THIS SECTION ONLY IF FILING PETITION FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

*MICHAEL C. FOX, NAMED PERSONAL REPRESENTIVE I THE LAST
WILL OF DORIS DUANE COLUCCI,
Petitioner(s)
vs.

*ANDREW CHANDLER, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHAD M. HYMAN, JR.,
Respondent(s)

2017 OCT 30 AM 9:33

APPLICATION FOR INFORMAL
☐ PROBATE OF WILL
☐ APPOINTMENT

(check any that apply)

***PETITION FOR FORMAL**
☒ TESTACY
☒ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to *SC Rules of Civil Procedure*.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Michael C. Fox
Address: [redacted]
Telephone (Work):
(Home):
(Cell):
Email:
Relationship to Decedent: Nominated Personal Representative in the Last Will and Testament

2. Decedent Information:

Full Legal Name
(including all known names): Doris Duane Colucci
Date of Birth: [redacted]
Date of Death: April 14, 2017
Age at Date of Death: 74 years

3. Venue for this proceeding is proper in this County because:

☒ Decedent was domiciled in this County at date of death.

Address: 400 MURRAY BLVD., SUMMERVILLE County: DORCHESTER State: South Carolina.

☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:
Address: County: State: South Carolina

☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Colucci Living Trust	Established 2005	[redacted]	

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Ivo Francesco Colucci		[redacted]	Husband
John Martin Antonio			Son
Michael Frederick Antonio Colucci			Son

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☐ NO ☒ YES If yes, please state details, including names and addresses on page 3.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of $To be determined (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of $To be determined (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☐ NO ☒ YES If yes, then proceed to Section II.
If No, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

☐ The original is attached.
☒ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached.

2. The execution date of the Will was: June 18, 2013
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:
Applicant is proposed Personal Representative

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
- ☐ named as Alternate Personal Representative in Will
- ☐ nominee of Primary Personal Representative in Will
- ☐ nominee of Alternate Personal Representative in Will
- ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
- ☐ other devisee of Decedent (describe): _____ or nominee of said devisee
- ☐ surviving spouse of Decedent or nominee of said spouse
- ☐ other heir of Decedent (describe): _____ or nominee of said heir
- ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
- ☐ other (describe):_____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:
None

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 27th day of October, 20 17

Marilyn E Hunt

Notary Public for South Carolina
My Commission Expires: 03/20/2025

Signature of Applicant/Petitioner: Michael C. Fox

SWORN to before me this _____ day of _____, 20 ____

_____

Notary Public for South Carolina
My Commission Expires: ____

Signature of Co-Applicant/Co-Petitioner: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed _____ and
☐ Codicil executed _____ and
☐ Memorandum

be informally ☐ GRANTED ☐ DENIED.

Executed this day of , 2017.

_____
, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond
☐ Fiduciary Bond in the amount of $_____
☐ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other:_____

Notice to Creditors
☐ Required
☐ Not Required

Executed this day of , 2017.

_____
, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Michael C. Fox
Print Name: Michael C. Fox
Address: [redacted]
Telephone (Work):
(Home):
(Cell):
Email:

Signature:
Print Name:
Address:
Telephone (Work):
(Home):
(Cell):
Email:

*Attorney: Gordon H. Garrett, Esquire
Address: 1075 E. Montague Avenue
North Charleston, SC 29405
Telephone: (843) 554-5515
Email: office@garrettlawsc.com

***By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.**

I. ALL APPLICANTS/PEITIONERS MUST COMPLETE THIS SECTION.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere? YES

A. Demand for Notice in an Estate dated April 25, 2017 and filed in the Dorchester County Probate Court on May 3, 2017 by John Martin Antonio.
B. Demand for Notice in an Estate dated May 1, 2017 and filed in the Dorchester County Probate Court on May 3, 2017 by Michael Frederick Antonio Colucci.
C. Waiver or Demand for Notice in an Estate dated May 12, 2017 and filed in the Dorchester County Probate Court on May 18, 2017 by Christa M. Yantis, Conservator for Ivo F. Colucci.
D. Waiver or Demand for Notice in an Estate dated May 17, 2017 and filed in the Dorchester County Probate Court on May 18, 2017 by Dan M. David, Esquire as Agent for John Martin Antonio.
E. Demand for Notice in an Estate dated July 19, 2017 and filed in the Dorchester County Probate Court on July 20, 2017 by Christa M. Yantis, Conservator for Ivo F. Colucci.
F. Waiver or Demand for Notice in an Estate dated September 27, 2017 and filed in the Dorchester County Probate Court on September 26, 2017 by Stefan Colucci.
G. Demand for Notice in an Estate dated October 19, 2017 and filed in the Dorchester County Probate Court on October 19, 2017 by Angus M. Lawton, Esquire for Michael Colucci.

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-ES-18-00294
The Estate of Doris Duane Colucci	)	
Michael C. Fox, Named Personal Representative in the Last Will of Doris Colucci	)	**SUPPLEMENT TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT OF PERSONAL REPRESENTATIVE**
v.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	)	

2017 OCT 30 AM 9:34

In addition to Petitioner's Petition for Formal Testacy and Appointment of Personal Representative Form #300ES, the Petitioner, Michael C. Fox, further makes the following allegations and requests the following relief:

1. That the Decedent, Doris Duane Colucci, died on Friday, April 14, 2017.

2. That the Decedent was a resident of Dorchester County, South Carolina at the time of her death.

3. That the Decedent was survived by her spouse, Ivo Francesco Colucci, and her two sons, Michael Frederick Antonio Colucci and John Martin Antonio.

4. That the Decedent executed a valid "Last Will prepared for Doris D. Colucci" on June 18, 2013.

5. That the Dorchester County Probate Court is now in possession of the original copy of the "Last Will prepared for Doris D. Colucci" (hereinafter the "Last Will").

6. That such Last Will named the "Colucci Living Trust, dated February 25, 2005, and any amendment or restatements thereto" as the remainder beneficiary.

7. That such Last Will created an alternative disposition clause if such trust should not exist at the time of her death that named as sole beneficiary the Personal Representative under the will to hold as a testamentary trust pursuant to the provisions of which are identical to those of the Colucci Living Trust as of June 18, 2013.

8. That such Last Will appointed Ivo F. Colucci as the Personal Representative of the Estate of Doris Duane Colucci.

9. That Ivo Frank Colucci was appointed a Conservator on or after April 14, 2017 in Dorchester County Therapeutic Court, *Case No.* 2017-GC18-0004 and is unable to fulfill his duty as Personal Representative.

10. That such Last Will nominated the Applicant, Michael C. Fox., as the first Successor Personal Representative of the Estate of Doris Duane Colucci.

11. That such Last Will waived the requirement of bond for the Personal Representative.

12. That such Last Will granted the Personal Representative the full authority to administer the decedent's estate and that such powers be exercised without the supervision or approval of any Court.

13. Prior to May 3, 2017, the original Last Will had not been discovered or filed with the Court.

14. On May 3, 2017, an application for Appointment of Special Administrator was filed with the Dorchester County Probate Court.

15. On June 9, 2017, the Court issued a Temporary Order for the Appointment of a Special Administrator on an Emergency Basis.

16. The June 9, 2017, Order stated that unless and until the originally executed Last Will of the Decedent is located and admitted to probate in this Court, the administration of the probate estate would proceed pursuant to the South Carolina law of intestate succession.

17. On July 10, 2017, the intestate heirs and the Special Administrator entered into a consent order signed by the Court that again stated that unless and until the originally executed Last Will of the Decedent is located and admitted to probate in this Court, the administration of the probate estate would proceed pursuant to the South Carolina law of intestate succession.

18. The original Last Will of Doris D. Colucci, dated June 18, 2013, was submitted to the Court on August 24, 2017.

19. On September 13, 2017, the Dorchester County Probate Court notified Michael C. Fox, Henry Burkes, and Richard M. Hyman, Jr. that the original Last Will had been located.

RELIEF REQUESTED

1. Michael C. Fox requests that this Court declare the Last Will of Doris C. Colucci to be valid by an Order of Formal Probate.

2. Michael C. Fox requests this Court appoint him as Personal Representative of the Estate of Doris Duane Colucci with the powers so annunciated in her Last Will.

3. Michael C. Fox requests that, upon his appointment, the Special Administrator be relieved of his duties and that the Special Administrator deliver all assets of the estate to the Personal Representative.

Gordon Hughes Garrett
Attorney for Michael C. Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405
Tel.:843-554-5515
Fax: 843-747-3198
Email: ggarrett@garrettlawsc.com

This 27th Day of October, 2017

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	**MOTION FOR REMOVAL**
	)	
IN THE MATTER OF:	)	
DORIS DUANE COLUCCI	)	CASE NUMBER: 2017-ES-18-00294
(Decedent)	)	

2017 OCT 30 AM 9:34

A formal proceeding concerning the above matter was commenced on OCTOBER 30, 2017. The undersigned hereby moves for removal of this action to the Circuit Court and asserts that this action is removable because it involves the following:

- ☒ Probate of Will
- ☒ Appointment of Personal Representative
- ☐ Construction of Will
- ☐ Title to property in which the Estate of a decedent asserts an interest
- ☐ Internal or external matter involving a trust (excluding "special needs trusts")
- ☐ Action in which there is a right to trial by jury and in which the amount in controversy is at least $5,000
- ☐ Action concerning gifts under the SC Uniform Gifts to Minors Act

This Motion is made no later than ten (10) days from N/A, 20_____, the date on which all responsive pleadings were filed. By copy of this Motion, the undersigned is giving notice to interested persons as required by law.

Executed this 27 day of OCTOBER, 2017.

Signature: _____

Print Name: GORDON H. GARRETT

Address: 1075 E. MONTAGUE AVENUE
NORTH CHARLESTON, SC 29405

Telephone (Work): 843-554-5515

(Home): 843-554-5515

(Cell): _____

Email: GGARETT@GARRETTLAWSC.COM

Relationship to Decedent/Estate: ATTORNEY FOR MICHAEL C. FOX

ORDER FOR REMOVAL

☐ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ The Motion for Removal is hereby GRANTED. This action shall be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ It is hereby ORDERED that the Motion for Removal is DENIED because_____.

Executed this _____ day of _____, 20_____.

_____

, Probate Court Judge

FORM #109ES (1/2016)
62-1-302

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER) **MOTION FOR REMOVAL**
)
IN THE MATTER OF:)
DORIS DUANE COLUCCI)
(Decedent)) CASE NUMBER: 2017-ES-18-00294
)

2017 OCT 30 AM 9:34 PROBATE JUDGE DORCHESTER COUNTY

A formal proceeding concerning the above matter was commenced on OCTOBER 30, 2017. The undersigned hereby moves for removal of this action to the Circuit Court and asserts that this action is removable because it involves the following:

- ☒ Probate of Will
- ☒ Appointment of Personal Representative
- ☐ Construction of Will
- ☐ Title to property in which the Estate of a decedent asserts an interest
- ☐ Internal or external matter involving a trust (excluding "special needs trusts")
- ☐ Action in which there is a right to trial by jury and in which the amount in controversy is at least $5,000
- ☐ Action concerning gifts under the SC Uniform Gifts to Minors Act

This Motion is made no later than ten (10) days from N/A, 20____, the date on which all responsive pleadings were filed. By copy of this Motion, the undersigned is giving notice to interested persons as required by law.

Executed this 27 day of OCTOBER, 2017.

Signature: _____
Print Name: GORDON H. GARRETT
Address: 1075 E. MONTAGUE AVENUE
NORTH CHARLESTON, SC 29405
Telephone (Work): 843-554-5515
(Home): 843-554-5515
(Cell): _____
Email: GGARETT@GARRETTLAWSC.COM
Relationship to Decedent/Estate: ATTORNEY FOR MICHAEL C. FOX

ORDER FOR REMOVAL

☐ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☑ The Motion for Removal is hereby GRANTED. This action shall be removed to the Circuit Court.
- ☑ Jurisdiction is retained as to all other matters involving this case except for issues previously or subsequently removed.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ It is hereby ORDERED that the Motion for Removal is DENIED because_____.

Executed this 20th day of Nov, 2017.

Mary Blair
Probate Court Judge

2017 NOV 20 PM 12:56 PROBATE JUDGE DORCHESTER COUNTY

FORM #109ES (1/2016)
62-1-302

HALLER
LAW FIRM

David K. Haller
Certified Civil Court Mediator

November 15, 2017

PROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 20 PM 1:44

VIA EMAIL AND U.S. MAIL
The Honorable Mary Blunt
Dorchester County Probate Court
5200 Jim Bilton Blvd.
St. George, SC 29477

In Re: Matter of Ivo Francesco Colucci
Case No. 2017-ES-18-00294

Dear Judge Blunt:

I received in the mail today a copy of Elizabeth Palmer's request to receive a full copy of Mr. Colucci's file with the probate court. Ms. Yantis and Ms. Norton object to the request as the Special Administrator is not an interested person in Mr. Colucci's care, although he does owe Mr. Colucci's fiduciary duties.

Prior to the file being released, we would ask the court to hold a hearing on the request.

Thank you for your time and attention to this matter.

Very truly yours,

David K. Haller

cc: Christa Yantis, Conservator
Alice Norton, Guardian
Evan Smith, Esq.
Elizabeth Palmer, Esq.
Brandt Shelborne, Esq.

604 Savannah Highway · Charleston, South Carolina 29407 · (843) 224-7860
dhaller@hallerlawfirm.com

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER)
CASE NO: 2017-CP-18-1816

IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,

MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,

Petitioner,

ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR.,

Respondents.

CERTIFIED COPY
2017 NOV 30 PM 12:50
CLERK OF COURT
DORCHESTER COUNTY

PROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 30 PM 12:50

FILED-RECORDED
2018 NOV 26 PM 3:09
CHERYL GRAY
CLERK OF COURT
DORCHESTER COUNTY

PROBATE JUDGE
DORCHESTER COUNTY
2019 JUL -4 PM 3:31

ANSWER AND OBJECTION OF ANDREW CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT AS PERSONAL REPRESENTATIVE AND SUPPLEMENT THERETO

Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris Duane Colucci, by and through his undersigned counsel, hereby answers the Summons, Petition for Formal Testacy and Appointment (the "Petition"), and Supplement to Petition for Formal Testacy and Appointment (the "Supplement") filed by Petitioner, and objects to the appointment of Petitioner as Personal Representative.

EXHIBIT J

AS TO THE PETITION FOR FORMAL TESTACY AND APPOINTMENT FOR A FIRST DEFENSE

1. The allegations of Petitioner's Petition, unless specifically admitted or qualified herein, are denied and strict proof thereof by clear and convincing evidence is demanded.

2. Answering paragraph I(1) of the Petition, Respondent admits that Petitioner is one of the individuals nominated as an alternative Personal Representative in the purported Last Will of Doris D. Colucci, dated June 18, 2013 (the "Will"), which has been filed with the Probate Court and which Petitioner seeks to have admitted to probate. Respondent takes no position on the validity of the Will.

3. Paragraphs I(2), I(3), and I(4)(a) are admitted.

4. Answering paragraph I(4)(b), Respondent admits that Ivo Francesco Colucci is an "intestate heir" of the Decedent's Estate but submits that the determination of whether or not he would inherit if the Decedent was found to have left no will, or if the Will is found to be invalid, will be made in the action filed by Respondent pursuant to the "Slayer Act," S.C. Code Ann. § 62-2-803 (the Petition to Determine Heirs was filed on October 4, 2017, in Dorchester County Probate Court and removed to this Court). The remainder of paragraph I(4)(b) is admitted upon information and belief.

5. Paragraphs I(4)(c), I(5), I(6), I(7), I(8), I(9), I(10), I(11)(a), I(11)(b) are admitted upon information and belief.

6. Answering paragraphs II(1) and II(2), Respondent admits that the purported Will referenced therein was filed with the Probate Court and appears to have been executed on June 18, 2013. Respondent is without information or belief as to whether the Will is the "original."

7. Paragraph II(3) is admitted.

8. Answering paragraph II(4), Respondent is without information or belief as to whether the Will is "Decedent's validly executed last Will" and declines to take a position at this time as to the same.

9. Paragraph II(5) is admitted.

10. Answering paragraph III(1), Respondent admits that Petitioner is one of the alternative Personal Representatives named in the Will.

11. Paragraphs III(2) and III(3) are denied.

12. Respondent denies that Petitioner is qualified or entitled to be appointed as Personal Representative as requested in his Petition.

AS TO THE SUPPLEMENT TO PETITION FOR FORMAL TESTACY AND APPOINTMENT FOR A FIRST DEFENSE

13. The allegations of Petitioner's Supplement to Petition for Formal Testacy and Appointment (the "Supplement"), unless specifically admitted or qualified herein, are denied and strict proof thereof by clear and convincing evidence is demanded.

14. Paragraphs 1, 2, and 3 are admitted.

15. Answering paragraph 4, Respondent is without information or belief as to whether the purported Will is valid. The remaining allegations of paragraph 4 are admitted upon information and belief.

16. Answering paragraph 5, Respondent is without information or belief as to whether the purported Will, which appears to have been executed on June 18, 2013, by the Decedent is the "original copy."

17. Answering paragraphs 6, 7, and 8, Respondent craves references to the Will and denies any allegations inconsistent therewith.

18. Paragraph 9 is admitted upon information and belief.

19. Answering paragraphs 10, 11, and 12, Respondent makes reference to the Will and denies any allegations inconsistent therewith.

20. Answering paragraph 13, Respondent is without information or belief as to when the Will was discovered, but admits upon information and belief that it was not filed with the Court prior to May 3, 2017.

21. Paragraphs 14 and 15 are admitted.

22. Answering paragraphs 16 and 17, Respondent craves reference to the orders and documents referenced therein and denies any allegations inconsistent therewith.

23. Answering paragraph 18, Respondent is without information or belief as to whether the Will referenced therein is the "original." The remainder of the allegations of paragraph 18, as well as those of paragraph 19, are admitted upon information and belief.

24. Respondent denies that Petitioner is entitled to the relief prayed for in the Supplement.

OBJECTION AS TO PETITIONER'S CLAIM FOR APPOINTMENT AS PERSONAL REPRESENTATIVE

25. The Decedent, Doris Duane Colucci, was killed on April 14, 2017, by her husband, Ivo Francesco Colucci.

26. Respondent was appointed as Special Administrator of the Estate of Doris Duane Colucci by the Dorchester County Probate Court on June 9, 2017, on a temporary basis and then, by Order dated July 10, 2017, on a permanent basis. See July 10, 2017, Order, attached as Exhibit 1.

27. As noted by the Order appointing Respondent, he "has extensive experience in probate matters [and] is recognized state-wide for his knowledge in this area." Respondent has

over 15 years of experience in probate, estate, and trust administration and litigation and has been certified by the South Carolina Supreme Court as a specialist in probate, estate and trust law.

28. Respondent sought, and received, approval from the Dorchester County Probate Court to hire the undersigned attorneys to represent him in this matter and the numerous related matters and issues that have arisen and will likely continue to arise. See Special Administrator's Motion to Approve Employment of Rosen, Rosen & Hagood, LLC (dated July 17, 2017), and Order Approving Special Administrator's Employment of Rosen, Rosen & Hagood, LLC, and Association of Lester S. Schwartz, Esquire (dated July 24, 2017), attached as Exhibits 2 and 3.

29. As explained in more detail below, the administration of Decedent's Estate has been complicated and is anticipated to remain complicated, whether or not the Will is admitted to probate.

30. Decedent and her husband accumulated a substantial amount of real and personal property that was held individually, jointly, and by virtue of their ownership interests in various businesses. A copy of the Inventory and Appraisement filed by Respondent on October 10, 2017, is attached as Exhibit 4 and illustrates the uncertainty that remains as well as the potential extent of the probate estate.

31. The percentage and amount of the Estate's ownership of the various business interests has been contested by the Conservator for Ivo Francesco Colucci. Respondent and his attorneys have spent a substantial amount of time reviewing financial, business, and property records and documents in order to sort out the structures and ownership of the various business and property interests. Discussions with Mr. Colucci's Conservator and her attorney are ongoing and, although progress towards a resolution of these issues short of litigation is being made, it

may be that one or more actions must be filed to obtain a judgment as to the respective ownership interests between the Estate and Mr. Colucci.

32. There are multiple, ongoing lawsuits that involve one or more of the businesses in which both Mr. Colucci and the Estate claim an ownership interest. Respondent and his attorneys have spent numerous hours reviewing and researching the allegations and defenses in those lawsuits.

33. Prior to the filing of Petitioner's Petition, two lawsuits were initiated by Respondent in his capacity as Special Administrator:

a. The first, a "Petition to Determine Heirs," was filed on October 4, 2017, in the Dorchester County Probate Court. This action seeks a determination as to the applicability of the Slayer Act, S.C. Code Ann. § 62-2-803, which prohibits a person who "feloniously and intentionally" kills a decedent from inheriting from the decedent's estate or otherwise financially benefitting from the killing. Respondent sought, and was granted, an Order removing the Petition to Determine Heirs to this Court.

b. The second action, filed on October 19, 2017, in the Charleston County Court of Common Pleas, is a wrongful death action naming Ivo Francesco Colucci as a defendant as well as the company owning the business where the killing occurred (Colucci's Jewelry Factory, Inc.) and the company owning the real property where the killing occurred (Terrivo Enterprises, LLC).

34. Prior to and since filing these lawsuits, Respondent and his attorneys have spent a substantial amount of time researching and reviewing the relevant issues and documents and meeting with witnesses and Decedent's former attorneys. For example, thousands of documents

and videos were received and reviewed just in response to FOIA requests served on entities such as the Ninth Circuit Solicitor's Office, the North Charleston Police Department, and the Charleston County Coroner.

35. Respondent objects to Petitioner's Petition for Appointment as Personal Representative for several reasons.

c. First, pursuant to Court Order dated June 9, 2017, Respondent has already been appointed as Special Administrator of the Estate and has served in this capacity for nearly six months while he has competently and efficiently administered the Estate.

d. Second, replacing Respondent with Petitioner or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, Respondent would frustrate judicial economy and prejudice the Estate and others with additional unnecessary cost, delay, and duplication of efforts. There is no requirement that a Personal Representative even be appointed. As described above, substantial time has been spent by Respondent and his attorneys: collecting, reviewing, and analyzing the relevant documents and records; working towards resolution of issues concerning the Estate's ownership of various properties and business interests; and, researching and initiating lawsuits to pursue the causes of action belonging to the Estate and/or its beneficiaries. It is in the best interests of the Estate that Respondent continue to serve as Special Administrator.

e. Third, although Petitioner is named as an alternative personal representative in the purported Will, the undersigned submits that he is unsuitable and therefore not

qualified to serve in that capacity.[1] S.C. Code Ann. § 62-3-203(e)(2). Petitioner was the bookkeeper/tax preparer/accountant[2] for Decedent, her husband, and their numerous businesses for many years. Numerous issues with the work done by Petitioner have come to light that may negatively impact the Estate. A letter sent to Petitioner by the undersigned outlines some of these issues and is attached hereto as Exhibit 5. It is apparent that a conflict of interest exists with regard to Petitioner serving as Personal Representative of the Estate and that he will be called on to make an accounting for his acts and doings with reference to the work he performed for the Coluccis and their businesses.[3]

36. The fact that the Will may be admitted to probate, and thus the Estate administered pursuant to the Will, does not create any corresponding requirement that any individual be appointed as the Personal Representative. Rather, as Special Administrator, Respondent is fully capable and empowered to continue administration of the Estate, be it as an intestate estate or pursuant to the Will. See S.C. Code Ann. § 62-3-617 ("A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties prescribed in the order. The appointment may be for a specified time, to perform particular acts, or on other terms as the court may direct.").

---

[1] See S.C. Code Ann. § 62-3-103 ("to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court, qualify, and be issued letters."); see also S.C. Code Ann. § 62-3-203(e)(2) ("No person is qualified to serve as a personal representative who is... a person whom the court finds unsuitable in formal proceedings.").

[2] A search of S.C. Department of Labor, Licensing and Regulation's website indicates that Mr. Fox is not licensed as a certified public accountant. (https://verify.llronline.com/LicLookup/LookupMain.aspx)

[3] See In re McClam's Estate, 245 S.C. 315, 140 S.E.2d 478 (1965); Ex parte Tolbert, 206 S.C. 300, 34 S.E.2d 49 (1945) (holding that qualification of a personal representative is not automatic and that disqualification is appropriate where conflicts of interest may arise as a result of the relationship between the proposed personal representative and the business and affairs of the decedent).

Garrett Law Offices
Ltd. Co.

Gordon H. Garrett (Ret.)
Gordon H. Garrett
Jason Scott Luck

1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (O) 843.747.3158 (F)
office@garrettlawsc.com

PROBATE COURT
DORCHESTER COUNTY
2018 JAN -2 PM 2:57

December 28, 2017

VIA US POSTAL SERVICE
Dorchester County Probate Court
5200 E. Jim Bilton Blvd.
St. George, SC 29477

RE: Estate of Doris Duane Colucci
Case No.: 2017-ES-18-00294

Madame Clerk:

Enclosed please find the following items of service: (original and one copy)

Name	Date of Service	Relationship to Decedent	Type of Service
Ivo Colucci	11/21/17	Husband	Personal
Michael F. Colucci	11/01/17	Son	Acceptance of Service
Glenn P. Churchill	11/01/17	GAL for John Antonio	Acceptance of Service
Andrew Chandler	11/20/17	Special Administrator	Personal
Michael C. Fox	11/02/17	Successor Trustee	Acceptance of Service
M. Richardson Hyman, Jr.	11/01/17	Named as Third PR	Acceptance of Service
Adam Mlynarczyk	11/01/17	Attorney for Henry Burkes	Acceptance of Service
David Haller	11/09/17	Attorney for Conservator, Christa M. Yantis	Acceptance of Service
John Martin Antonio	12/15/17	Son	Acceptance of Service

Also enclosed for filing is the Proof of Delivery and Certificate of Mailing. Please return a clocked copy in the enclosed postage paid envelope.

Sincerely, -
Marilyn Hunt
Legal Assistant

Enclosures

cc to atty
DWR
1-8-18

STATE OF SOUTH CAROLINA)
)
COUNTY OF: DORCHESTER)

IN THE PROBATE COURT

PROOF OF DELIVERY

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017-ES-18-00294

On the 31ST day of OCTOBER, 2017, I mailed or delivered the following document(s):

SUMMONS, PETITION FOR FORMAL TESTACY AND APPOINTMENT, MOTION FOR REMOVAL, ACCEPTANCE OF SUCCESSOR TRUSTEE DATED OCTOBER 27, 2017 AND FIRST AMENDMENT OF COLUCCI LIVING TRUST DATED JUNE 18, 2013 AND CERTIFICATE OF MAILING

2017 NOV -2 PM 2:58

☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
ANDREW W. CHANDLER, ESQUIRE	EVAN, CARTER, KUNES & BENNETT, P.A., 115 CHURCH STREET, CHARLESTON, SC 29402 (SPECIAL ADMINISTRATOR)
ANGUS LAWTON, ESQUIRE	LAWTON LAW FIRM, LLC, 496 BRAMSON COURT, SUITE 100, MT. PLEASANT, SC 29464 (ATTORNEY FOR MICHAEL COLUCCI)
GLENN P. CHURCHILL, ESQUIRE	GLENN P. CHURCHILL, LLC, 115 RIVER LANDING DRIVE, SUITE 102, CHARLESTON, SC 29492 (GAL FOR JOHN MARTIN ANTONIO)
DAVID K. HALLER, ESQUIRE	HALLER LAW FIRM, 115 RIVER LANDING DRIVE, SUTIE 102, CHARLESTON, SC 29492 (ATTORNEY FOR CHRISTA YANTIS, CONSERVATOR FOR IVO F. COLUCCI
MICHAEL C. FOX	[redacted]
M. RICHARDSON HYMAN, JR., ESQUIRE	LAW FIRM OF M. RICHARDSON HYMAN, JR. PO BOX 127, CHARLESTON, SC 29402
ADAM MLYNARCYZK, ESQUIRE	KOONTZ MLYNARCYZK, LLC, 1058 E. MONTAGUE AVENUE, NORTH CHARLESTON, SC 29405

SWORN to before me this 31st day of October, 20 17

Notary Public for South Carolina
My Commission Expires: 12/7/26

Signature: Marilyn E Hunt
Print Name: MARILYN E. HUNT, LEGAL ASSISTANT
GARRETT LAW OFFICES
Address: 1075 E. MONTAGUE AVENUE
NORTH CHARLESTON, SC 29405
Telephone (Work): (843) 554-5515
(Home):
(Cell):

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

E-mail:

Relationship to Decedent/Estate: Legal Assistant to Gordon H. Garrett, Esquire

Elizabeth J. Palmer, Esquire
Rosen, Rosen & Hagood, LLC
151 Meeting Street, Suite 400
Charleston, SC 29401

Stefan Colucci
[redacted]

Christa M. Yantis, CPA, CFE CEBS
272 W. Coleman Blvd., Suite 100,
Mt. Pleasant, SC 29464
(Conservator for Ivo F. Colucci)

P. Brandt Shelbourne, Esquire
Shelbourne Law Firm
131 E. Richardson Avenue
Summerville, SC 29483
(Attorney for Robert Colucci)

Dan M. David, Esquire
Dan M. David Attorney at Law, LLC
147 Wappoo Creek, Suite 101
Charleston, SC 29412
(Agent for John Martin Antonio)

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci v. Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	IN THE PROBATE COURT CASE NUMBER: 2017ES1800294 **CERTIFICATE OF MAILING**

PROBATE JUDGE DORCHESTER COUNTY
2018 JAN -2 PM 2:58

I, Marilyn E. Hunt, hereby certify that I have this 31st day of October, 2017 served a copy of the (1) Summons, (2) Petition for Formal Testacy and Appointment, (3) Motion for Removal, (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 and Certificate of Mailing on counsel by mailing a copy in the United States Post Office, postage prepaid, to:

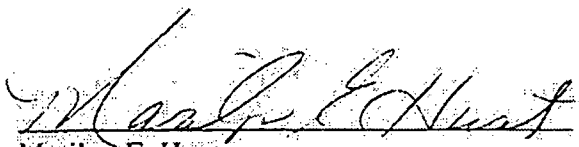
Dan M. David, Esquire
Dan M. David Attorney at Law, LLC
147 Wappoo Creek Drive, Suite 101
Charleston, SC 29412
Agent for John M. Antonio

Stefan Colucci
[redacted]

Christa M. Yantis
Moss & Yantis CPA's
272 W. Coleman Blvd., Suite 100
Mt. Pleasant, SC 29464
Conservator for Ivo Francesco Colucci

Peter Brandt Shelbourne, Esquire
Shelbourne Law Firm
131 E. Richardson Avenue
Summerville, SC 29483
Attorney for Robert Colucci

Elizabeth J. Palmer, Esquire
Rosen, Rosen & Hagood, LLC
151 Meeting Street, Suite 400
Charleston, SC 29401



Marilyn E. Hunt
Legal Assistant
Garrett Law Offices
1075 E. Montague Avenue
North Charleston, SC 29405
(843) 554-5515

AFFIDAVIT OF SERVICE

State of South Carolina | County of Dorchester | Probate Court

Case Number: 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OOF DORIS DUANNE COLUCCI

vs.

Defendant:

For:
Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

PROBATE COURT DORCHESTER CO. 2018 JAN -2 PM 2:57

Received by PROCESS SERVICE, INC. to be served on IVO COLUCCI, [redacted]

I, John R. Gamble, being duly sworn, depose and say that on the 21st day of November, 2017 at 8:43 am, I:

PERSONALLY served by delivering a true copy of the APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR; SUMMONS; PETITION FOR FORMAL TESTACY APPOINTMENT; SUPPLEMENT TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT OF PERSONAL REPRESENTATIVE;MOTION FOR REMOVAL(10/30/17) ; COPY OF LAST WILL FOR DORIS D. COLUCCI; AMENDMENT; MOTION FOR REMOVAL (10/20/17) to: IVO COLUCCI at the address of: [redacted]

I am over eighteen and have no interest in the above action.

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2017003047

Subscribed and Sworn to before me on the 22nd day of November, 2017 by the affiant who is personally known to me.

Rudy Williamson
NOTARY PUBLIC
Commission Expires: 5-6-19

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci v. Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	IN THE PROBATE COURT CASE NUMBER: 2017ES1800294 **ACCEPTANCE OF SERVICE**

PROBATE COURT
DORCHESTER COUNTY
2018 JAN -2 PM 2:57

The undersigned accepts service for Respondent, Michael Frederick Antonio Colucci, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: 11/1/2017

Michael Frederick Antonio Colucci

[redacted]

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci v. Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	IN THE PROBATE COURT CASE NUMBER: 2017ES1800294 **ACCEPTANCE OF SERVICE**

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -2 PM 2:57

The undersigned accepts service for Respondent John Martin Antonio of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: 1/1/17

DLF Chill as GaL
John Martin Antonio
[redacted]

AFFIDAVIT OF SERVICE

State of South Carolina | County of Dorchester | Probate Court

Case Number: 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OOF DORIS DUANNE COLUCCI

vs.

Defendant:

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -2 PM 2:57

For:
Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

Received by PROCESS SERVICE, INC. to be served on **ANDREW CHANDLER ESQ;, 115 CHURCH ST, CHARLESTON, SC 29401.**

I, John R. Gamble, being duly sworn, depose and say that on the **20th day of November, 2017** at 4:19 pm, I:

PERSONALLY served by delivering a true copy of the **APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR; SUMMONS; PETITION FOR FORMAL TESTACY APPOINTMENT; SUPPLEMENT TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT OF PERSONAL REPRESENTATIVE;MOTION FOR REMOVAL(10/30/17) ; COPY OF LAST WILL FOR DORIS D. COLUCCI; AMENDMENT; MOTION FOR REMOVAL (10/20/17)** to: **ANDREW CHANDLER ESQ;** at the address of: **115 CHURCH ST, CHARLESTON, SC 29401.**

I am over eighteen and have no interest in the above action.

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2017003044

Subscribed and Sworn to before me on the 21st day of November, 2017 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci v. Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	IN THE PROBATE COURT CASE NUMBER: 2017ES1800294 **ACCEPTANCE OF SERVICE**

DORCHESTER COUNTY, S.C.
2018 JAN -2 PM 2:58

The undersigned accepts service for Respondent, Michael C. Fox, as Successor Trustee of the Colucci Living Trust, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: Nov. 2, 2017

Michael C. Fox

Michael C. Fox, as Successor Trustee of the Colucci Living Trust

[redacted]

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN RE:
THE ESTATE OF DORIS DUANE COLUCCI,

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci

v.

Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.

IN THE PROBATE COURT
CASE NUMBER: 2017ES1800294

ACCEPTANCE OF SERVICE

PROBATE COURT
DORCHESTER COUNTY
2018 JAN -2 PM 2:58

The undersigned accepts service for Respondent, M. Richardson Hyman, Jr. Esquire, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: 1 Nov 2017

M. Richardson Hyman, Jr., Esquire
Law Firm of M. Richardson Hyman, Jr.
PO Box 127
Charleston, SC 29402

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN RE:
THE ESTATE OF DORIS DUANE COLUCCI,

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci

v.

Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.

IN THE PROBATE COURT
CASE NUMBER: 2017ES1800294

ACCEPTANCE OF SERVICE

PROBATE COURT
DORCHESTER COUNTY
2018 JAN -2 PM 2:58

The undersigned accepts service for Respondent, Henry Burkes, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: 11-1-17

Adam Mlynarczyk, Esquire
Koontz Mlynarczyk, LLC
1058 E. Montague Avenue
North Charleston, SC 29405
Attorney for Henry Burkes

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER) CASE NUMBER: 2017ES1800294
)
IN RE:)
THE ESTATE OF DORIS DUANE COLUCCI.)
)
Michael C. Fox, Named Personal Representative) **ACCEPTANCE OF SERVICE**
in the Last Will of Doris Duane Colucci)
)
v.)
)
Andrew Chandler, in this capacity as Special)
Administrator of the Estate of Doris Duane)
Colucci, Michael C. Fox, Successor Trustee of the)
Colucci Living Trust, dated February 24, 2005,)
Ivo Francesco Colucci, Michael Frederick Antonio)
Colucci, John Martin Antonio, Henry Burkes, and)
Richard M. Hyman, Jr.)

LOCK IN ARCHIVE. CANCELLED
DORCHESTER COUNTY
2018 JAN -2 PM 2:58

The undersigned accepts service for Respondent, Ivo Francesco Colucci, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: 11/9/17

David K. Haller, Esq.
Haller Law Firm, PC
604 Savannah Highway
Charleston, SC 29407
COUNSEL FOR CHRISTA M. YANTIS,
CONSERVATOR FOR IVO
FRANCESCO COLUCCI

DORCHESTER COUNTY PROBATE COURT

5200 EAST JIM BILTON BLVD.
ST. GEORGE, SC 29477

www.dorchestercountysc.gov/probate

MARY BLUNT
Probate Judge

MOLLY D. EDWARDS
Associate Judge

January 8, 2018

Gordon H. Garrett, Esquire
1075 East Montague Avenue
North Charleston, SC 29405

Re: In the Estate of: DORIS DUANE COLUCCI
Case Number: 2017ES1800294

Dear Mr. Garrett:

In review of your recent filing in the above-referenced matter, we discovered one or more issues that require the enclosed documents be returned to you for the reason listed below:

☒ An original signature must be provided on the enclosed document.

☐ The signature on the enclosed document must be properly notarized.

☐ The Deed of Distribution must be recorded at the Register of Deeds Office.

☐ A certified copy of the decedent's death certificate must be filed.

☐ Decedent's original Last Will and Testament and all original Codicils and Memorandums must be filed with the Court, as applicable.

Explanation: The original document must be filed with the Court. Your copy is being returned to you. Please submit the document with the original signature.

Sincerely,

Devan N. Kociuruba
Estate Clerk

State of South Carolina)
County of Dorchester)
In RE: The Estate of Doris Duane Colucci, Michael C. Fox, Named Personal Representative in the ~~Last will of Doris Duane Colucci~~)
Plaintiff(s),)
VS.)
Andrew Chandler, in the Capacity as Special Administrator of the Estate of Doris Duane Colucci, Et al)
Defendant(s),)

IN THE COURT OF Probate
FOR THE 1st JUDICIAL CIRCUIT
CASE No. 2017ES1800294

CLOCK IN TIME CANCELLED
2018 JAN -2 PM 2:58

I accept service of a copy of the Application To Restrain Special Administrator, Summons, Petition for Formal Testacy Appointment, Supplement, Motion for Removal, Copy of Last Will, Amendment in the above entitled action at 496 Reamson Ct. Suite 100 Mt. Pleasant, SC 29464, South Carolina, this 15th day of December, 2017.

NOTY 12-15-17

John Martin Antonio

NOTY

Garrett Law Offices

PROBATE JUDGE Ct. Co.
DORCHESTER COUNTY
2018 JAN -8 PM 3:08

Gordon H. Garrett (Ret.)
Gordon H. Garrett
Jason Scott Luck

1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (O) 843.747.3198 (F)
office@garrettlawsc.com

January 2, 2018

Dorchester County Probate Court
5200 E. Jim Bilton Blvd.
St. George, SC 29477

RE: Estate of Doris Duane Colucci
Case No.: 2017-ES-18-00294

Madame Clerk:

Enclosed please find the following original and one (1) copy of the Affidavit of Service for John Martin Antonio. Please return a clocked copy in the enclosed postage paid envelope.

Should you need additional information, please do not hesitate to contact our office.

Sincerely,

Marilyn Hunt
Legal Assistant

Enclosures

/meh

PROBATE JUDGE
DORCHESTER COUNTY

AFFIDAVIT OF SERVICE

2018 JAN -8 PM 3:08

State of South Carolina | County of Dorchester | Probate Court

Case Number: 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OOF DORIS DUANNE COLUCCI

vs.

Defendant:

For:
Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

Received by PROCESS SERVICE, INC. to be served on **JOHN MARTIN ANTONIO, C/O ANGUS LAWTON, 496 BRAMSON CT. STE 100, MT PLEASANT, SC 29464.**

I, John R. Gamble, being duly sworn, depose and say that on the **15th day of December, 2017** at 5:00 pm, I:

PERSONALLY served by delivering a true copy of the **APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR; SUMMONS; PETITION FOR FORMAL TESTACY AND APPOINTMENT; SUPPLEMENT; MOTION FOR REMOVAL; COPY OF LAST WILL AND TESTAMENT OF DORIS D COLUCCI; AMENDMENT** to: **JOHN MARTIN ANTONIO** at the address of: **C/O ANGUS LAWTON, 496 BRAMSON CT. STE 100, MT PLEASANT, SC 29464.**

Additional Information pertaining to this Service:
PROVIDED AN ACCEPTANCE OF SERVICE DOCUMENT FOR ATTORNEY TO GET MR. ANTONIO TO SIGN. THERE WAS NO TIME ON THE DOCUMENT BUT IT WAS SIGNED BY DEFENDANT AND NOTARIZED BY ATTORNEY.

I am over eighteen and have no interest in the above action.

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2017003156

Subscribed and Sworn to before me on the 21st day of December, 2017 by the affiant who is personally known to me.

Linda Williamson
NOTARY PUBLIC
Commission Expires: 5-6-19

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State of South Carolina)
County of Dorchester)
In RE: The Estate of Doris Duane Colucci, Michael C Fox, named Personal Representative in the ~~Last will of Doris Duane Colucci~~)
Plaintiff(s),)
VS.)
Andrew Chandler, in his Capacity as Special Administrator of the Estate of Doris Duane Colucci - Et al)
Defendant(s),)

IN THE COURT OF Probate
FOR THE 1st JUDICIAL CIRCUIT
CASE No. 2017ES1800294

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -8 PM 3:08

I accept service of a copy of the Application To Restrain Special Administrator, Summons, Petition for Formal Testacy Appointment, Supplement, Motion for Removal, Copy of Last Will, Amendment in the above entitled action at 496 Beamon Ct. Suite 100 Mt. Pleasant, SC 29464, South Carolina, this 15th day of December, 2017.

N.T.V. 12-15-17

John Martin Antonio

N.T.V.

Garrett Law Offices

PROBATE JUDGE Ad. Co.
DORCHESTER COUNTY
2018 JAN -8 PM 3:08

Gordon H. Garrett (Ret.)
Gordon H. Garrett
Jason Scott Luck

1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (O) 843.747.3198 (F)
office@garrettlawsc.com

January 2, 2018

Dorchester County Probate Court
5200 E. Jim Bilton Blvd.
St. George, SC 29477

RE: Estate of Doris Duane Colucci
Case No.: 2017-ES-18-00294

Madame Clerk:

Enclosed please find the following original and one (1) copy of the Affidavit of Service for John Martin Antonio. Please return a clocked copy in the enclosed postage paid envelope.

Should you need additional information, please do not hesitate to contact our office.

Sincerely,

Marilyn Hunt
Legal Assistant

Enclosures

/meh

PROBATE JUDGE
DORCHESTER COUNTY

AFFIDAVIT OF SERVICE

2018 JAN -8 PM 3:08

State of South Carolina | County of Dorchester | Probate Court

Case Number: 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OOF DORIS DUANNE COLUCCI

vs.

Defendant:

For:
Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

Received by PROCESS SERVICE, INC. to be served on **JOHN MARTIN ANTONIO, C/O ANGUS LAWTON, 496 BRAMSON CT. STE 100, MT PLEASANT, SC 29464.**

I, John R. Gamble, being duly sworn, depose and say that on the **15th day of December, 2017** at 5:00 pm, I:

PERSONALLY served by delivering a true copy of the **APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR; SUMMONS; PETITION FOR FORMAL TESTACY AND APPOINTMENT; SUPPLEMENT; MOTION FOR REMOVAL; COPY OF LAST WILL AND TESTAMENT OF DORIS D COLUCCI; AMENDMENT** to: **JOHN MARTIN ANTONIO** at the address of: **C/O ANGUS LAWTON, 496 BRAMSON CT. STE 100, MT PLEASANT, SC 29464.**

Additional Information pertaining to this Service:
PROVIDED AN ACCEPTANCE OF SERVICE DOCUMENT FOR ATTORNEY TO GET MR. ANTONIO TO SIGN. THERE WAS NO TIME ON THE DOCUMENT BUT IT WAS SIGNED BY DEFENDANT AND NOTARIZED BY ATTORNEY.

I am over eighteen and have no interest in the above action.

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2017003156

Subscribed and Sworn to before me on the 21st day of December, 2017 by the affiant who is personally known to me.

Linda Williamson
NOTARY PUBLIC
Commission Expires: 5-6-19

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State of South Carolina)
County of Dorchester)
In RE: The Estate of Doris Duane Colucci, Michael C Fox, Named Personal Representative in the Last will of Doris Duane Colucci)
Plaintiff(s),)
VS.)
Andrew Chandler, in his Capacity as Special Administrator of the Estate of Doris Duane Colucci - Etal)
Defendant(s),)

IN THE COURT OF Probate
FOR THE 1st JUDICIAL CIRCUIT
CASE No. 2017 ES 1800294

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -8 PM 3:09

I accept service of a copy of the Application To Restrain Special Administrator, Summons, Petition for Formal Testacy Appointment Supplement, Motion for Removal, Copy of Last Will, Amendment
496 Bramson Ct. Suite 100
in the above entitled action at Mt. Pleasant, SC 29464, South Carolina,
this 15th day of December, 2017.

N.T.V. 12-15-17

John Martin Antonio

NoTV

Garrett Law Offices
Ltd. Co.

Gordon H. Garrett (Ret.)
Gordon H. Garrett
Jason Scott Luck

1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (O) 843.747.3198 (F)
office@garrettlawsc.com

PROBATE JUDGE
DORCHESTER COUNTY
2018 FEB -1 PM 12:51

January 29, 2018

Dorchester County Probate Court
5200 E. Jim Bilton Blvd.
St. George, SC 29477

RE: Estate of Doris Duane Colucci
Case No.: 2017-ES-18-00294

Madame Clerk:

Enclosed please find the following original and one (1) copy of the Acceptance of Service from David K. Haller, Esquire. Please return a clocked copy in the enclosed postage paid envelope.

Should you need additional information, please do not hesitate to contact our office.

Sincerely,

Marilyn Hunt
Legal Assistant

Enclosures

/meh

PROBATE JUDGE
DORCHESTER COUNTY
2017 NOV 20 PM 1:38

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-ES-18-00294
The Estate of Doris Duane Colucci	)	**APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR**
	)	**(Regarding Application for Sale of Personal Property and disposition of other personal property)**

That Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, hereby requests a Temporary Order of Restraint of Andrew Chandler, Special Administrator in this Estate because:

1) On February 24, 2005, the Decedent, Doris Duane Colucci, executed documents creating the Colucci Living Trust. (See *Colucci Living Trust, on file at the Dorchester County Probate Court*)
2) To effect the creation of the Living Trust, the Decedent assigned her Personal Effects, Furniture, Furnishings, Appliances, and Jewelry to the Colucci Family Trust to serve as the initial trust corpus pursuant to South Carolina Code §62-7-401. The last two pages of the trust documents contained an assignment indicating such transfer of personal property, including Personal Effects, Furniture, Furnishings, Appliances, and Jewelry. (See Exhibit A, *Assignment of Personal Property*)
3) On June 18, 2013, the Decedent executed a First Amendment of the Colucci Living Trust that read in part:

   Section 2. "*Trustors and Trustees entered into a Trust Agreement dated February 24, 2005.*" and

   Section 3. (A) (6) "*We hereby ratify and reaffirm all other provisions of our Trust Agreement.*"

   (See *First Amendment of the Colucci Living Trust, on file at the Dorchester County Probate Court*)
4) The Decedent passed away on April 14, 2017.

5) On May 3, 2017, multiple applications for administration were filed, including a Petition for Appointment of a Personal Representative and Appointment of a Special Administrator.

6) On or about May 3, 2017, an unexecuted copy of Decedent's Last Will ("Last Will") was filed with the Court that nominated Michael C. Fox as Personal Administrator and the Colucci Living Trust as the sole beneficiary of the Decedent.

7) Michael C. Fox was not notified at this time of his status as the potential Personal Administrator in the Decedent's Last Will.

8) On August 18, 2017, the Dorchester County Probate Court issued an Order appointing Andrew Chandler, Esquire to serve as Emergency Special Administrator.

9) To the Petitioner's best belief, the Emergency Special Administrator proceeded to take possession of all of Decedent's personal property.

10) Prior to September 13, 2017, an executed copy of the Last Will of Doris Colucci was filed with this Court.

11) On September 13, 2017, the Dorchester County Probate Court sent a letter via US Postal Service notifying Michael C. Fox that the Last Will of Doris Colucci had been discovered and filed with this Court.

12) After September 13, 2017, the Special Administrator was on notice that the Colucci Living Trust was the sole beneficiary and that the estate was likely testate.

13) At no time before September 13, 2017, did Michael C. Fox receive notice that he was the nominated Personal Representative in a valid testamentary instrument.

14) On October 6, 2017, Michael C. Fox retained counsel and received a copy of the estate file of Doris Colucci.

15) The Estate File contained copies of an unsigned version of the Colucci Living Trust and a fully executed copy of the First Amendment to the Colucci Living Trust, both of which are of record with this Court.

16) Both the original trust document and the First Amendment appointed Michael C. Fox as the Successor Trustee of the Colucci Living Trust.

17) Prior to October 6, 2017, Michael C. Fox did not have notice that he was appointed the Successor Trustee of the Colucci Living Trust.

18) Further, the original trust document and assignment was of record with Probate Court prior to the Special Administrator's filing of the Petition for Sale of Personal Property.

19) On October 16, 2017, the Special Administrator filed an Application for Sale of Personal Property that includes two items of jewelry.

20) This Application for Sale of Personal Property required 10 day notice to interested parties.

21) On October 24, 2017, Michael C. Fox appeared, along with his attorney, pursuant to South Carolina Code §62-1-401 by filing for appointment via informal probate.

22) Such application was forwarded by the Dorchester County Probate Court to the Special Administrator that same day on October 24, 2017.

23) Michael C. Fox was not notified by the Court or the Personal Representative that the Application for Sale of Personal Property had been filed with the Court.

24) On October 26, 2017, the Court granted the Application for Sale of Personal Property without a hearing.

25) Michael C. Fox was not notified by the Court or the Personal Representative that the Application for Sale of Personal Property had been granted.

26) On October 27, 2017, Michael C. Fox accepted appointment as Successor Trustee of the Colucci Living Trust.

27) On October 30, 2017, Michael C. Fox, Successor Trustee of the Colucci Living Trust, and the named personal representative in the Last Will of Doris Duane Colucci filed a formal petition for testacy and appointment.

28) Any personal property, including the jewelry and watch in question, that belonged to the Decedent prior to June 18, 2013 (including any jewelry at issue in the Application for Sale of Personal Property) was assigned to the Colucci Living Trust.

29) The Special Administrator and the Estate of Doris Colucci do not have title to the ring or watch in question and must be restrained from liquidating the asset as such sale is unauthorized by the Trust and would cause irreparable harm and jeopardize unreasonably the interests of the Colucci Living Trust.

30) The Special Administrator and the Estate of Doris Colucci do not have title to the Personal Effects, Furniture, Furnishings, Appliances, or Jewelry (listed as "collection of jewelry pieces" on Inventory and Appraisement of October 4, 2017) and must be

restrained from liquidating or otherwise interfering in the trust's assets. Any further sales are unauthorized by the Trust and would cause irreparable harm and jeopardize unreasonably the interests of the Colucci Living Trust.

WHEREFORE,

Michael C. Fox, as Trustee of the Colucci Living Trust, hereby moves and requests this Court set this matter for a hearing within 10 days from the date of this petition pursuant to §62-3-607(b) and to restrain the Special Administrator Andrew Chandler, Esquire from selling the jewelry described in the Application for Sale of Personal Property filed October 16, 2017, and to restrain the Special Administrator from disposing of any Personal Effects, Furniture, Furnishings, Appliances, or Jewelry described in the Colucci Family Trust, and for such other and further relief as the Court may deem proper.

Respectfully Submitted,

Gordon Hughes Garrett
Attorney for Michael C. Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405
Tel.:843-554-5515
Fax: 843-747-3198
Email: ggarrett@garrettlawsc.com

This 16th Day of November, 2017

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci v. Andrew Chandler, in this capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	IN THE PROBATE COURT CASE NUMBER: 2017ES1800294 **ACCEPTANCE OF SERVICE**

PROBATE JUDGE
DORCHESTER COUNTY
2018 FEB -1 PM 12:51

The undersigned accepts service for Respondent, Ivo Francesco Colucci, of the (1) Summons (2) Petition for Formal Testacy and Appointment (3) Motion for Removal (4) Acceptance by Successor Trustee dated October 27, 2017, and (5) First Amendment of Colucci Living Trust dated June 18, 2013 on the date set forth below.

Date: November 9, 2017

David K. Haller, Esq.
Haller Law Firm, PC
604 Savannah Hwy.
Charleston, SC 2940
COUNSEL FOR CHRISTA M. YANTIS
CONSERVATOR FOR IVO
FRANCESCO COLUCCI

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-ES-18-00294
	)	
The Estate of Doris Duane Colucci	)	**MOTION TO WITHDRAWAL APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR**
	)	
	)	**(Regarding Application for Sale of Personal Property and disposition of other personal property)**

The Petitioner Michael Fox moves this Court to withdraw, without prejudice, his Application to Restrain the Special Administrator.

Respectfully Submitted,

Gordon Hughes Garrett
Attorney for Michael C. Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405
Tel.:843-554-5515
Fax: 843-747-3198
Email: ggarrett@garrettlawsc.com

This 14th Day of February, 2018

2018 FEB 20 PM 1 [illegible]
PROBATE JUDGE
[illegible] COUNTY

Subject: Colucci--Petition for Sale of Real Property
Date: Tuesday, March 20, 2018 at 3:55:48 PM Eastern Daylight Time
From: Taylor Davis
To: gpclawfirm@gmail.com, dan@charlestonlegal.com, Gordon Garrett, David K. Haller, angus@lawtonlawfirm.net, brandt@shelbournelaw.com, currylawfirm@bellsouth.net
CC: chandler@eckb.com, amy@eckb.com, Brew Hagood, Andrew D. Gowdown, Elizabeth Palmer, Ensley Mahoney
Attachments: image001.gif, 354216.pdf

Good Afternoon,

Please see attached the Petition for Sale of Real Property in connection to the above referenced matter. A hard copy has also been placed in today's mail.

Thank you.

Taylor Davis
|*Legal Assistant to Andrew Gowdown*|
151 Meeting St., Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8125
|direct fax|
tdavis@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

ROSEN | HAGOOD

CONFIDENTIALITY NOTICE
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CIRCULAR 230 DISCLOSURE
To comply with U.S. Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any entity, investment, plan, transaction, arrangement, or other tax related matter.

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
	)	
ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR,	)	
	)	
Petitioner,	)	**SUMMONS**
	)	
IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI,	)	
	)	
Respondents.	)	
	)	

TO THE RESPONDENTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

ROSEN, ROSEN & HAGOOD, LLC



H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
ATTORNEYS FOR PETITIONER

Charleston, South Carolina
March 19, 2018

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)
)
IN THE MATTER OF:)
THE ESTATE OF DORIS DUANE COLUCCI, AKA) CASE NUMBER: 2017-ES-18-00294
DORIS D. COLUCCI
(Decedent))

Andrew W. Chandler, as Special Administrator of the Estate of Doris Duane Colucci, AKA Doris D. Colucci,

Petitioner

vs. ***PETITION FOR SALE OF REAL PROPERTY**

Ivo Francesco Colucci, AKA Ivo Colucci, AKA Ivo F. Colucci, Christa M. Yantis, as Conservator for Ivo Francesco Colucci, Alice M. Norton, as Guardian for Ivo Francesco Colucci, John Martin Antonio, and Michael Frederick Antonio Colucci,

Respondents.

Petitioner alleges the following:

1. Interested parties to the estate that would be affected by the sale of the real property are as follows:

   A. The name and address of the devisee in the purported Will of Doris D. Colucci dated June 18, 2013, filed for probate by Michael Fox, but as yet unprobated:

Name	Year of Birth	Address	Relationship to Decedent
Colucci Living Trust, dated February 24, 2005, and any amendments or restatements thereto	N/A	c/o Gordon Garrett, Esquire, 1075 East Montague Ave., N. Charleston, SC 29405, attorney for Michael Fox, purported Trustee	Purported devisee

(use additional sheet if necessary)

   B. If the Decedent died intestate (without a Will) or if the time to challenge the Decedent's Will admitted to probate has not expired, then the names and addresses of intestate heirs who are not devisees, if any, and the dates of birth of any minors:

Name	Year of Birth	Address	Relationship to Decedent
Ivo Francesco Colucci	Adult	c/o David K. Haller, Esquire, as attorney for Christa M. Yantis, as Conservator for Ivo Colucci, and for Alice Norton, as Guardian for Ivo Colucci, 604 Savannah Highway, Charleston, SC 29407	spouse
John Martin Antonio	Adult	c/o Angus Lawton, Esquire, as attorney for John M. Antonio, 496 Bramson Court, Suite 100, Mt. Pleasant, SC 29464	son
Michael Frederick Antonio Colucci	Adult	c/o Angus Lawton, Esquire, as attorney for Michael F. Colucci, 496 Bramson Court, Suite 100, Mt. Pleasant, SC 29464	son

(use additional sheet if necessary)

C. The names and addresses of all Creditors who have properly presented a claim against the estate which remains unresolved:

Name	Address
Air Harbor Veterinary Clinic	1925 Savannah Highway Summerville, SC 29483
AscensionPoint Recovery Services, on behalf of Citibank, N.A.	200 Coon Ranch Coon Rapids, MN 55433
AscensionPoint Recovery Services, on behalf of Synchrony Bank	200 Coon Ranch Coon Rapids, MN 55433
Verizon Wireless c/o DCM Services	7601 Penn Avenue S Suite A600 Minneapolis, MN 55423

(use additional sheet if necessary)

***NOTE: THIS IS A FORMAL PROCEEDING. IN ADDITION TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), PAY THE STATUTORY FILING FEE OF $150.00, AND FILE A CLOCKED COPY OF THE LIS PENDENS. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

D. The names and addresses of any other interested persons affected by this proceeding (including co-owners of real estate):

Name	Year of Birth	Address	Relationship to Decedent
Ivo Francesco Colucci	Adult	c/o David K. Haller, Esquire, as attorney for Christa M. Yantis, as Conservator for Ivo Colucci, 604 Savannah Highway, Charleston, SC 29407	spouse

(use additional sheet if necessary)

E. The name(s) and address(es) of the Personal Representative(s) of the estate (if not the Petitioner):

Name	Address

2. The real property needs to be sold because: The cost to maintain the asset is unsustainable. Further, the Estate of Doris Duane Colucci needs its share of the proceeds, once determined, for the proper administration of the Estate.

3. The real property of the Decedent's estate, which the Petitioner desires to sell, is described as follows:

   a. Address: 7674 Legare Road, Colleton County, Edisto Island, SC

   b. Legal Description: Please see attached deed; Lot 3-A Tract AREA 3A COWPENS

   c. Tax Map Sheet Number (TMS#) / Deed Book and Page: TMS# 361-00-00-003 Book 1919 Page 1

4. The tax assessed value of the real property is: $952,000. This value is based upon the most recent assessor's statement. The assessor's statement may be required by the Court.

5. The fair market value of the real property is: $580,000. This value is based upon the opinion of real estate agents based upon a comparative market analysis. The comparative market analysis or the appraisal may be required by the Court.

Executed this 19th day of March, 2018.

Signature:	
Print Name:	Andrew W. Chandler, as Special Administrator for the Estate of Doris Duane Colucci
Address:	115 Church Street
	Charleston, SC 20401
Telephone (Work):	(843) 577-2300
Relationship to Decedent/Estate	Special Administrator
Attorney:	Elizabeth Palmer
Address:	151 Meeting Street, Suite 400
	Charleston, SC 29401
Telephone:	(843) 577-6726
Email:	epalmer@rrhlawfirm.com

ELECTRONICALLY FILED - 2018 Mar 15 3:58 PM - COLLETON - COMMON PLEAS - CASE#2018LP1500021

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE COURT OF COMMON PLEAS FOR THE FIRST JUDICIAL CIRCUIT CASE NO: 2017-CP-18-1816
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, ANDREW W. CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR, Petitioner, IVO FRANCESCO COLUCCI, AKA IVO COLUCCI, AKA IVO F. COLUCCI, CHRISTA M. YANTIS, as Conservator for IVO FRANCESCO COLUCCI, ALICE M. NORTON, as Guardian for IVO FRANCESCO COLUCCI, JOHN MARTIN ANTONIO, AND MICHAEL FREDERICK ANTONIO COLUCCI, Respondents.	)	**LIS PENDENS**

NOTICE IS HEREBY GIVEN pursuant to S.C. Code Ann. §§ 62-3-101 *et seq.* that Petitioner Andrew W. Chandler, Esquire, as Special Administrator, is filing a Petition for Sale of Real Property concerning the following described real property:

> ALL that piece, parcel or lot of land situate, lying and being on Cowpens Point, Island of Edisto, County of Colleton, State of South Carolina, and being known and designated as Lot 3 on a plat by Robert L. Frank, R.L.S. dated 10 October 1982 and recorded in the R.M.C. Office for Charleston County in Plat Book AW at Page 126 and said lot being bounded, now or formerly, as follows: On the North by Frampton Inlet Creek; on the East by Lot 4 as shown on the above-referred to plat; on the South by a lot of Associated Investments of Edisto Island, Inc; and on the West by Lot 2 as shown on the above-referred to plat.
>
> ALSO, All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Colleton, State of South Carolina, being shown and designated as Area 3A containing 598 sq. ft. on a plat prepared by Kennerty Surveying, Inc. entitled "PLAT OF LEGARE ROAD AND ADJACENT PARCELS, COWPENS ISLAND, EDISTO ISLAND, COLLETON COUNTY,

SOUTH CAROLINA" dated October 10, 2002, and recorded in the Office of the Register of Deeds for Colleton County in Plat Slide 706 at Page 8, said lot having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear. Area 3A is made a part and parcel of the adjacent Lot 3 as shown on the referred-to plat and may not be subdivided from said Lot 3.

Said Lot 3 and the addition of Area 3A are also shown as Lot 3 on a plat prepared by Kennerty Surveying Inc. entitled "BOUNDARY SURVEY OF TMS 361-00-00-003 LOT 3 COWPENS ROAD LOCATED IN EDISTO ISLAND, COLLETON COUNTY, SOUTH CAROLINA," said plat being dated June 5, 2008, and recorded in the Office of Register of Deeds for Colleton County in Plat Slide 793 at Page 7.

Being the same property conveyed to Ivo F. Colucci and Doris D. Colucci, as joint tenants with rights of survivorship, and not as tenants in common by deed of Mark E. Benson and Sandra K. Benson dated March 14, 2011 and recorded in Office of Register of Deeds for Colleton County in Deed Book 1919 at Page 1 and recorded on April 4, 2011.

TMS No. 361-00-00-003

ROSEN, ROSEN & HAGOOD, LLC

s/ Elizabeth J. Palmer
H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
epalmer@rrhlawfirm.com

ATTORNEYS FOR PETITIONER

Charleston, South Carolina
March 15, 2018

ELECTRONICALLY FILED - 2018 Mar 15 3:58 PM - COLLETON - COMMON PLEAS - CASE#2018LP1500021

Instrument 201100025037 OR Volume 1919 Page 1

TMS 361-00-00-003
DATE 4-4-2011
THOMAS W. HILL BLC
ASSESSOR COLLETON COUNTY

ORIGINAL

2011-3042

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF COLLETON) (GENERAL WARRANTY DEED)

KNOW ALL MEN BY THESE PRESENTS, That we, **MARK E. BENSON AND SANDRA K. BENSON**, in the State aforesaid, for and in consideration of the sum of **THREE HUNDRED TWENTY FIVE THOUSAND AND 00/100 ($325,000.00) DOLLARS** to us in hand paid by **IVO F. COLUCCI AND DORIS D. COLUCCI**, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions ("Exceptions") set forth below, unto the said **IVO F. COLUCCI AND DORIS D. COLUCCI, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON**, subject to the below-stated Exceptions, their Heirs and Assigns forever, the following described real property:

THIS CONVEYANCE IS MADE SUBJECT TO: All covenants, restrictions, easements and rights-of-ways affecting the property and to all governmental statutes, ordinances, rules and regulations.

All that piece, parcel or lot of land situate, lying and being on Cowpens Point, Island of Edisto, County of Colleton, State of South Carolina, and being known and designated as Lot 3 on a plat by Robert L. Frank, R.L.S. dated 10 October 1982 and recorded in the R.M.C. Office for Charleston County in Plat Book AW at Page 126 and said lot being bounded, now or formerly, as follows: On the North by Frampton Inlet Creek; on the East by Lot 4 as shown on the above-referred to plat; on the South by a lot of Associated Investments of Edisto Island, Inc.; and on the West by Lot 2 as shown on the above-referred to plat.

ALSO, All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Colleton, State of South Carolina, being shown and designated as Area 3A containing 598 sq. ft. on a plat prepared by Kennerty Surveying, Inc. entitled "PLAT OF LEGARE ROAD AND ADJACENT PARCELS, COWPENS ISLAND, EDISTO ISLAND, COLLETON COUNTY, SOUTH

CAROLINA" dated October 10, 2002, and recorded in the Office of the Register of Deeds for Colleton County in Plat Slide 706 at Page 8, said lot having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear. Area 3A is made a part and parcel of the adjacent Lot 3 as shown on the referred-to plat and may not be subdivided from said Lot 3.

Said Lot 3 and the addition of Area 3A are also shown as Lot 3 on a plat prepared by Kennerty Surveying Inc. entitled "BOUNDARY SURVEY OF TMS 361-00-00-003 LOT 3 COWPENS ROAD LOCATED IN EDISTO ISLAND, COLLETON COUNTY, SOUTH CAROLINA," said plat being dated June 5, 2008, and recorded in the Office of the Register of Deeds for Colleton County in Plat Slide 793 at Page 7.

Being the same property conveyed to Mark E. Benson and Sandra K. Benson by deed of Associated Investments of Edisto Island, Inc. dated April 14, 2000 and recorded in the Office of the Register of Deeds for Colleton County in Deed Book 1008 at Page 213 and by Quit-Claim Deed from Fraternal Properties, Inc. and Cowpens Subdivision Property Owners Association, Inc. date February 14, 2003, and recorded in said ROD Office in Deed Book 1008 at Page 213.

TMS No. 361-00-00-003

GRANTEE'S ADDRESS: 400 Murray Blvd.
Summerville, SC 29483

TOGETHER with, subject to the above Exceptions, all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to the above Exceptions, all and singular the premises before mentioned unto the said **IVO F. COLUCCI AND DORIS D. COLUCCI, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON**, their Heirs and Assigns forever.

And we do hereby bind ourselves and our Heirs, Personal Representatives and Assigns, to warrant and forever defend all and singular the

said premises, subject to the above Exceptions, unto the said **IVO F. COLUCCI AND DORIS D. COLUCCI, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON**, their Heirs and Assigns, against ourselves and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our Hands and Seals this 14th day of March in the year of our Lord 2011 and in the two hundredth and thirty-fifth year of the Sovereignty and Independence of the United States of America.

Mark E. Benson

Sandra K. Benson

Signed, Sealed and Delivered
in the Presence of:

(Witness # 1)

(Witness # 2)

201100025037
Filed for Record in
COLLETON COUNTY SC
KARLA DADDIECO, REGISTER OF DEEDS
03-18-2011 At 02:32 pm.
DEED 1212.50
OR Volume 1919 Page 1 - 4

201100025037
BARR UNGER & MCINTOSH, L L C
ATTORNEYS AT LAW
806 OYSTER PARK STE B
EDISTO ISLAND SC 29438

STATE OF GEORGIA)
)
COUNTY OF DeKalb)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 14th day of March, 2011, by Mark E. Benson and Sandra K. Benson.

Notary Public for Georgia

My Commission Expires: May 23, 2012

Return recorded document to:
Barr, Unger and McIntosh, L.L.C.
806 Oyster Park, Suite B
Edisto Island, SC 29438

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)

AFFIDAVIT

Date of Transfer of Title: March 16, 2011

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.

2. The property is being transferred by **MARK E. BENSON AND SANDRA K. BENSON to IVO F. COLUCCI AND DORIS D. COLUCCI on March 16, 2011.**

3. Check one of the following: ***The DEED Is***
   (a) __X__ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
   (c) _____ EXEMPT from the deed recording fee because (Exemption #__) _____. (If exempt, please skip items 4-6, and go to item 7 of this affidavit.)

4. Check one of the following if either 3(a) or 3(b) above has been checked.
   (a) __X__ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of **$325,000.00**.
   (b) _____ The fee is computed on the fair market value of the realty which is $_____.
   (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is $_____.

5. Check YES___ or NO __X__ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is **$N/A**.

6. The DEED Recording Fee is computed as follows:
   (a) **$325,000.00** the amount listed in item 4 above
   (b) **$ 0.00** the amount listed in item 5 above (no amount place zero)
   (c) **$325,000.00** Subtract Line 6(b) from Line 6(a) and place the result.

7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: **the closing attorney.**

8. Check if Property other than Real Property is being transferred on this Deed.
   (a) _____ Mobile Home (b) _____ Other

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Sworn to before me this 16th day of March, 2011.

Celeste McCollum (SEAL)
Notary Public for South Carolina

My Commission Expires: 4/25/2015

BARR, UNGER AND McINTOSH, L.L.C.

By: H. Wayne Unger
H. Wayne Unger, Jr.

Colleton County, South Carolina

generated on 3/5/2018 2:29:19 PM EST

Property ID (PIN)	Alternate ID (APN)	Parcel Address	Data collected as of	Assess Year	Tax Year
361-00-00-003.000	34885	7674 LEGARE RD, EDISTO ISLAND	3/4/2018	2016	2017

Current Parcel Information

Owner	COLUCCI IVO F COLUCCI DORIS D	Property Class Code	SINGLE FAMILY DWELLING
Owner Address	400 MURRAY BLVD SUMMERVILLE SC 29483		
Legal Description	Lot 3-A Tract AREA 3A SubdivisionName COWPENS MapPlatB 706 MapPlatP 8		

Value Information

Tax Year	Land	Building	Market	Total	Payment
2017	$285,000	$667,000	$952,000	$20,654.54	$0.00
2016	$325,000	$600,000	$925,000	$18,246.16	$18,246.16
2015	$325,000	$600,000		$18,143.30	$20,936.79
2014	$325,000			$5,897.70	$5,897.70
2013	$325,000			$5,897.70	$5,897.70
2012				$6,029.09	$6,029.09
2011				$5,185.00	$5,185.00
2010				$5,184.72	$5,703.19

Sale Disclosure

Grantor	Book & Page	Date	Sale Price
BENSON MARK E & SANDRA K	1919 1	3/14/2011	$325,000
FRATERNAL PROPERTIES ETA	1008 213	2/14/2003	$5
ASSOC INVESTMENTS OF EDI	898 88	4/14/2000	$260,000
CREEL PAUL E	529 209	5/14/1991	$5
ASSOCIATED INVESTMENTS	519 316	4/3/1991	$57,000
HILLER JOE W ETAL	409 160	3/21/1988	$5
		7/4/1776	$0

Improvements

Building	Type	Use Code Description	Constructed Year	Stories	Rooms	Square Footage	Improvement Size (Sq. Ft.)
R01	DWELL	Dwelling	2013	2.0	00	5,526	
C01	PIER	Waterfront Pier	2011	0	0		288
C01	BOATD	Waterfront Boat Dock	2011	0	0		97
C01	PIER	Waterfront Pier	2011	0	0		80
C01	BOATD	Waterfront Boat Dock	2011	0	0		80

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)
) PROOF OF DELIVERY
IN THE MATTER OF:)
Doris Duane Colucci) CASE NUMBER: 2017-ES-18-00294
(Decedent))

On the 20 day of March, 2018, I mailed or delivered the following document(s):

Petition for Sale of Real Property.

☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
Gordon H. Garrett, Esquire	1075 East Montague Avenue, North Charleston, SC 29405
David K. Haller, Esquire	604 Savannah Highway, Charleston, SC 29407
Angus M. Lawton, Esquire	496 Bramson Court, Suite 100, Mt. Pleasant, SC 29464
Eduardo K. Curry, Esquire	6518-D Dorchester Road, North Charleston, SC 29418
Glenn P. Churchill, Esquire	115 River Landing Drive, Suite 102, Charleston, SC 29492
Dan M. David, Esquire	147 Wappoo Creek Drive, Suite 101, Charleston, SC 29412
P. Brandt Shelbourne, Esquire	131 E. Richardson Avenue, Summerville, SC 29483

SWORN to before me this 20 day of March, 20 18

Notary Public for South Carolina
My Commission Expires: 5/5/25

Signature: Taylor Davis
Print Name: Taylor Davis
Address: 151 Meeting Street, Suite 400
Charleston, SC 29401
Telephone (Work): 843-577-6726
(Home):
(Cell):
E-mail: tdavis@rrhlawfirm.com
Relationship to Decedent/Estate: Legal Assistant to Andrew Gowdown, Esquire, Attorney for Andrew Chandler, Esquire, as Special Administrator of the Estate of Doris Duane Colucci

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	CASE NO. 2017-CP-18-1816

IN RE:
THE ESTATE OF DORIS DUANE COLUCCI

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,

Petitioner,

v.

Andrew Chandler. in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.,

Respondents.

IVO FRANCESCO COLUCCI'S MOTION FOR SUMMARY JUDGMENT ON PETITION FOR FORMAL TESTACY

FILED-RECORDED
2018 MAY 23 PM 12:36
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

TO: THE PARTIES TO THIS ACTION AND THEIR COUNSEL

YOU WILL PLEASE TAKE NOTICE that Respondent Ivo Francesco Colucci will move, in ten (10) days at the Dorchester County Courthouse, or such other time and place as the Court deems proper, for an order pursuant to SCRCP Rule 56 granting him judgment as a matter of law on the Petition for Formal Testacy and Appointment of a Personal Representative. The grounds for the motion are that there is no genuine issue of material fact that the Will on file with the Court is the original and true Last Will and Testament, the terms of which, including the individual named as Personal Representative, speak for themselves.

Prayer and Signature Block Continues Next Page

WHEREFORE this Respondent prays for the relief requested herein and for such other relief as the Court deems just, prudent, and proper.

HALLER LAW FIRM, P.C.

David K. Haller
604 Savannah Highway
Charleston, SC 29407
(843) 224-7860
dhaller@hallerlawfirm.com
ATTORNEY FOR THE RESPONDENT
IVO FRANCESCO COLUCCI

21st day of May, 2018

Charleston, South Carolina

CERTIFICATE OF SERVICE

I served the forgoing Motion for Summary Judgment by email and U.S. Mail **May 21, 2018**, by first class U.S. Mail, postage prepaid to:

Gordon Garrett, Esq.
1075 E Montague Ave.
North Charleston, SC 29405

Elizabeth Palmer, Esq.
Rosen Hagood, LLC
151 Meeting Street, Suite 400
Charleston SC 29401

Angus Lawton, Esq.
Lawton Law Firm, PC
496 Bramson Court, Suite 100
Mt. Pleasant, SC 29464

Eduardo Curry, Esq.
6518 Dorchester Road
North Charleston, SC 29418

P. Brandt Shelbourne
Shelbourne Law Firm
131 E. Richardson Ave.
Summerville, SC 29483

Glenn Churchill, Esq.
115 River Landing Drive, Suite 102
Charleston, SC 29407

FILED-RECORDED
2018 MAY 23 PM 12:36
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

David K. Haller
604 Savannah Highway
Charleston, South Carolina 29407
843-224-7860
dhaller@hallerlawfirm.com

1/25 RIB

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

FILED-RECORDED
2018 MAY 23 PM 12:36
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-08-1816

Chandler, Plaintiff,

vs.

Colucci, et al. Defendant.

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney:	Defendant's Attorney:
Elizabeth Palmer, Bar No. _____	David K. Haller, Bar No. 13411
Address:	Address:
151 Meeting Street, Suite 400, Charleston, SC 29401	604 Savannah Highway, Charleston, SC 29407
Phone: 843-577-6726 Fax _____	Phone: 8432247860 Fax _____
E-mail: epalmer@rrhlawfirm.com Other: _____	E-mail: dhaller@hallerlawfirm.com Other: _____

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: For Summaruy Judgment
Estimated Time Needed: 20 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby ~~move~~ for relief or action by the court as set forth in the attached proposed order.

D. K. Haller
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

May 21, 2018
Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $ _____
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-CP-18-1816
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
	)	
MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,	)	
	)	
Petitioner,	)	
	)	
ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR.,	)	
	)	
Respondents.	)	

2018 AUG 15 PM 3:36

PROBATE JUDGE
DORCHESTER COUNTY

ANDREW CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, PARTIAL OPPOSITION TO IVO COLUCCI'S MOTION FOR SUMMARY JUDGMENT ON PETITION FOR FORMAL TESTACY AND APPOINTMENT

Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris Duane Colucci, by and through his undersigned counsel, hereby submits his partial opposition to the Motion for Summary Judgment on Petition for Formal Testacy and Appointment filed by Petitioner Michael C. Fox. The basis of this opposition is that there is a genuine issue of material

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fact as to whether Petitioner Fox is qualified to be appointed as Personal Representative and whether such appointment would be in the best interests of the Estate.[1]

Respondent Chandler does not object to an Order granting summary judgment as to the admission of the Will, described below, to probate. Rather, Respondent Chandler opposes the granting of summary judgment as to that part of the Petition seeking Petitioner Fox's appointment as Personal Representative of the Estate.

PROCEDURAL HISTORY

The Decedent, Doris Duane Colucci, was shot and killed by her husband, Respondent Ivo Colucci, on April 14, 2017.

On June 9, 2017, the Dorchester County Probate Court appointed Respondent Andrew W. Chandler, Esquire, as the Temporary Special Administrator of the Estate on an emergency basis. On July 10, 2017, a Consent Order for the Appointment of a Special Administrator was entered by the Probate Court, appointing Respondent Chandler as the Special Administrator and replacing the temporary appointment. A copy of that Order is attached as Exhibit 1.

On or about August 24, 2017, the purported original "Last Will and Testament" (the "Will") dated June 18, 2013, and signed by the Decedent, was submitted to the Probate Court. A copy of the Will is attached as Exhibit 2.

The sole devisee of the Will is the Colucci Living Trust ("Trust"). Petitioner Fox is named as a Successor Trustee in the Trust and has formally accepted the position of Trustee by filing documents with the Probate Court.

On October 30, 2017, Petitioner Michael C. Fox filed his Petition for Formal Testacy and Appointment ("Petition"), seeking: 1) to have the Will admitted to probate; and 2) to have

[1] Respondent Chandler's opposition to the Motion for Summary Judgment as to the appointment of Petitioner Fox should not in any way be construed as calling into question his competency or character.

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himself appointed as the Personal Representative of the Estate. A copy of the Petition is attached as Exhibit 3. The Petition was removed from Probate Court to this Court.

On November 30, 2017, Respondent Chandler filed an Answer and Objection to the Petition, specifically objecting to the appointment of Petitioner Fox as the Personal Representative of the Estate. A copy of that Answer and Objection is attached as Exhibit 4 and its argument incorporated herein.[2]

On or about May 21, 2018, Respondent Ivo Colucci filed the Motion for Summary Judgment that is before this Court, requesting that the Court grant judgment for Petitioner Fox on his Petition.

ARGUMENT

Summary judgment is proper only when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001). "In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party." *Id.* at 7, 550 S.E.2d at 321.

1. Summary Judgment is appropriate as to the Petition for Formal Testacy.

Respondent Chandler is not aware of any genuine issue of material fact as to the validity of the Will. To the extent that no evidence is presented calling into question the validity of the Will, Respondent Chandler believes summary judgment as to the Petition for Formal Testacy, which seeks the admission of the Will to probate, is appropriate.

[2] Due to size, the Answer and Objection is being filed without exhibits. The exhibits can be accessed at: https://rosenhagood.sharefile.com/d-s37d8f586b7946acb

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II. Summary Judgment as to the Petition for Appointment must be denied.

Petitioner Fox was named as an alternative Personal Representative in the Decedent's Will. However, that, standing alone, does not compel a determination that Petitioner Fox be appointed as the Personal Representative nor does it end the Court's inquiry. Stated simply, the appointment of Petitioner Fox is not in the best interests of the Estate as it would result in a substantial delay in the administration of the Estate and in the Estate incurring unnecessary and duplicative costs and expenses.

Even if named in the Will, "a person must be appointed by order of the court, qualify, and be issued letters" in order "to acquire the powers and undertake the duties and liabilities of a personal representative." S.C. Code Ann. § 62-3-103. "No person is qualified to serve as a personal representative who is...a person whom the court finds unsuitable in formal proceedings." S.C. Code Ann. § 62-3-203(e)(2). The authority of the Court to deny appointment to a person otherwise entitled to priority on the basis that the Court finds the person to be unsuitable will not be disturbed absent clear abuse of discretion. *Parkman v. Hanna*, 311 S.C. 20, 426 S.E.2d 743 (1992).

Respondent Chandler respectfully submits that the negative effects the appointment of Petitioner Fox would have on the Estate and those interested in it, specifically, the delay and waste of Estate assets, render Petitioner Fox unsuitable to serve as Personal Representative.

Respondent Chandler has been serving as Special Administrator of the Estate for over a year, competently and efficiently fulfilling his duties with the oversight of the Probate Court. *See* Affidavit of Andrew W. Chandler, Esquire, attached as Exhibit 5. A significant amount of progress has been made in identifying and collecting the Estate's assets, resolving various legal matters and creditor disputes, and managing the day-to-day items that inevitably arise in an

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estate of this size and complicated nature. Once the Will is admitted to probate, Respondent Chandler will be able to begin conveying Estate assets to the Trust, which Petitioner Fox, as Trustee, will then, presumably, manage and administer pursuant to the Trust instrument. To the extent that the Decedent's testamentary intent was for Petitioner Fox to ultimately distribute her assets to beneficiaries, that intent will be fulfilled.

While significant progress has been made in the administration of the Estate, there remains to be accomplished a number of items, some of which are technical and/or require the depth of knowledge that Respondent Chandler has accrued by virtue of serving in his capacity as Special Administrator for over a year. Transitioning the administration of the Estate from Respondent Chandler and his attorney to Petitioner Fox and his attorney would be a time-consuming, and costly, process.

Replacing Respondent Chandler with Petitioner Fox or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, Respondent Chandler would frustrate judicial economy and prejudice the Estate and those interested in it with additional unnecessary costs, delay, and duplication of efforts.

The Probate Code is to be "liberally construed and applied" in order to "promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to its successors." S.C. Code Ann. § 62-1-102(a), (b)(3). Moreover, just as the Court may remove a Personal Representative when in the best interests of an estate, the Court may deny a Petition for Appointment when in the best interests of an estate. *See* S.C. Code Ann. § 62-3-611(b); *Ex parte Small*, 69 S.C. 43, 48 S.E. 40, 40 (1904) ("It has never been doubted that, under his general jurisdiction of matters of administration, the probate judge has power to revoke letters of administration for waste...and this without regard to the administrator having been appointed

from the preferred class. ***It would be a curious legal rule which would allow the revocation of administration for cause, and would not allow its denial for like cause.***") (emphasis added).

CONCLUSION

Respondent Chandler submits that, at a minimum, a question of fact exists as to the suitability of Petitioner Fox given that his appointment as Personal Representative would not be in the best interests of the Estate and would result in delay, inefficiency, and waste of Estate assets.

ROSEN, ROSEN & HAGOOD, LLC

/s/ Elizabeth J. Palmer
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
epalmer@rrhlawfirm.com

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
August 8, 2018

ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
		CERTIFIED 2017 NOV 30 PM 12:50
COUNTY OF DORCHESTER	)	CASE NO: 2017-CP-18-1816
		CLERK OF COURT DORCHESTER COUNTY
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,	)	
Petitioner,	)	
ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR.,	)	
Respondents.	)	

PROBATE JUDGE DORCHESTER COUNTY 2017 NOV 30 PM 12:44 FILED

ANSWER AND OBJECTION OF ANDREW CHANDLER, ESQUIRE, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT AS PERSONAL REPRESENTATIVE AND SUPPLEMENT THERETO

Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris Duane Colucci, by and through his undersigned counsel, hereby answers the Summons, Petition for Formal Testacy and Appointment (the "Petition"), and Supplement to Petition for Formal Testacy and Appointment (the "Supplement") filed by Petitioner, and objects to the appointment of Petitioner as Personal Representative.

EXHIBIT 4

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AS TO THE PETITION FOR FORMAL TESTACY AND APPOINTMENT FOR A FIRST DEFENSE

1. The allegations of Petitioner's Petition, unless specifically admitted or qualified herein, are denied and strict proof thereof by clear and convincing evidence is demanded.

2. Answering paragraph I(1) of the Petition, Respondent admits that Petitioner is one of the individuals nominated as an alternative Personal Representative in the purported Last Will of Doris D. Colucci, dated June 18, 2013 (the "Will"), which has been filed with the Probate Court and which Petitioner seeks to have admitted to probate. Respondent takes no position on the validity of the Will.

3. Paragraphs I(2), I(3), and I(4)(a) are admitted.

4. Answering paragraph I(4)(b), Respondent admits that Ivo Francesco Colucci is an "intestate heir" of the Decedent's Estate but submits that the determination of whether or not he would inherit if the Decedent was found to have left no will, or if the Will is found to be invalid, will be made in the action filed by Respondent pursuant to the "Slayer Act," S.C. Code Ann. § 62-2-803 (the Petition to Determine Heirs was filed on October 4, 2017, in Dorchester County Probate Court and removed to this Court). The remainder of paragraph I(4)(b) is admitted upon information and belief.

5. Paragraphs I(4)(c), I(5), I(6), I(7), I(8), I(9), I(10), I(11)(a), I(11)(b) are admitted upon information and belief.

6. Answering paragraphs II(1) and II(2), Respondent admits that the purported Will referenced therein was filed with the Probate Court and appears to have been executed on June 18, 2013. Respondent is without information or belief as to whether the Will is the "original."

7. Paragraph II(3) is admitted.

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8. Answering paragraph II(4), Respondent is without information or belief as to whether the Will is "Decedent's validly executed last Will" and declines to take a position at this time as to the same.

9. Paragraph II(5) is admitted.

10. Answering paragraph III(1), Respondent admits that Petitioner is one of the alternative Personal Representatives named in the Will.

11. Paragraphs III(2) and III(3) are denied.

12. Respondent denies that Petitioner is qualified or entitled to be appointed as Personal Representative as requested in his Petition.

AS TO THE SUPPLEMENT TO PETITION FOR FORMAL TESTACY AND APPOINTMENT FOR A FIRST DEFENSE

13. The allegations of Petitioner's Supplement to Petition for Formal Testacy and Appointment (the "Supplement"), unless specifically admitted or qualified herein, are denied and strict proof thereof by clear and convincing evidence is demanded.

14. Paragraphs 1, 2, and 3 are admitted.

15. Answering paragraph 4, Respondent is without information or belief as to whether the purported Will is valid. The remaining allegations of paragraph 4 are admitted upon information and belief.

16. Answering paragraph 5, Respondent is without information or belief as to whether the purported Will, which appears to have been executed on June 18, 2013, by the Decedent is the "original copy."

17. Answering paragraphs 6, 7, and 8, Respondent craves references to the Will and denies any allegations inconsistent therewith.

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18. Paragraph 9 is admitted upon information and belief.

19. Answering paragraphs 10, 11, and 12, Respondent makes reference to the Will and denies any allegations inconsistent therewith.

20. Answering paragraph 13, Respondent is without information or belief as to when the Will was discovered, but admits upon information and belief that it was not filed with the Court prior to May 3, 2017.

21. Paragraphs 14 and 15 are admitted.

22. Answering paragraphs 16 and 17, Respondent craves reference to the orders and documents referenced therein and denies any allegations inconsistent therewith.

23. Answering paragraph 18, Respondent is without information or belief as to whether the Will referenced therein is the "original." The remainder of the allegations of paragraph 18, as well as those of paragraph 19, are admitted upon information and belief.

24. Respondent denies that Petitioner is entitled to the relief prayed for in the Supplement.

OBJECTION AS TO PETITIONER'S CLAIM FOR APPOINTMENT AS PERSONAL REPRESENTATIVE

25. The Decedent, Doris Duane Colucci, was killed on April 14, 2017, by her husband, Ivo Francesco Colucci.

26. Respondent was appointed as Special Administrator of the Estate of Doris Duane Colucci by the Dorchester County Probate Court on June 9, 2017, on a temporary basis and then, by Order dated July 10, 2017, on a permanent basis. See July 10, 2017, Order, attached as Exhibit 1.

27. As noted by the Order appointing Respondent, he "has extensive experience in probate matters [and] is recognized state-wide for his knowledge in this area." Respondent has

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over 15 years of experience in probate, estate, and trust administration and litigation and has been certified by the South Carolina Supreme Court as a specialist in probate, estate and trust law.

28. Respondent sought, and received, approval from the Dorchester County Probate Court to hire the undersigned attorneys to represent him in this matter and the numerous related matters and issues that have arisen and will likely continue to arise. See Special Administrator's Motion to Approve Employment of Rosen, Rosen & Hagood, LLC (dated July 17, 2017), and Order Approving Special Administrator's Employment of Rosen, Rosen & Hagood, LLC, and Association of Lester S. Schwartz, Esquire (dated July 24, 2017), attached as Exhibits 2 and 3.

29. As explained in more detail below, the administration of Decedent's Estate has been complicated and is anticipated to remain complicated, whether or not the Will is admitted to probate.

30. Decedent and her husband accumulated a substantial amount of real and personal property that was held individually, jointly, and by virtue of their ownership interests in various businesses. A copy of the Inventory and Appraisement filed by Respondent on October 10, 2017, is attached as Exhibit 4 and illustrates the uncertainty that remains as well as the potential extent of the probate estate.

31. The percentage and amount of the Estate's ownership of the various business interests has been contested by the Conservator for Ivo Francesco Colucci. Respondent and his attorneys have spent a substantial amount of time reviewing financial, business, and property records and documents in order to sort out the structures and ownership of the various business and property interests. Discussions with Mr. Colucci's Conservator and her attorney are ongoing and, although progress towards a resolution of these issues short of litigation is being made, it

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may be that one or more actions must be filed to obtain a judgment as to the respective ownership interests between the Estate and Mr. Colucci.

32. There are multiple, ongoing lawsuits that involve one or more of the businesses in which both Mr. Colucci and the Estate claim an ownership interest. Respondent and his attorneys have spent numerous hours reviewing and researching the allegations and defenses in those lawsuits.

33. Prior to the filing of Petitioner's Petition, two lawsuits were initiated by Respondent in his capacity as Special Administrator:

a. The first, a "Petition to Determine Heirs," was filed on October 4, 2017, in the Dorchester County Probate Court. This action seeks a determination as to the applicability of the Slayer Act, S.C. Code Ann. § 62-2-803, which prohibits a person who "feloniously and intentionally" kills a decedent from inheriting from the decedent's estate or otherwise financially benefitting from the killing. Respondent sought, and was granted, an Order removing the Petition to Determine Heirs to this Court.

b. The second action, filed on October 19, 2017, in the Charleston County Court of Common Pleas, is a wrongful death action naming Ivo Francesco Colucci as a defendant as well as the company owning the business where the killing occurred (Colucci's Jewelry Factory, Inc.) and the company owning the real property where the killing occurred (Terrivo Enterprises, LLC).

34. Prior to and since filing these lawsuits, Respondent and his attorneys have spent a substantial amount of time researching and reviewing the relevant issues and documents and meeting with witnesses and Decedent's former attorneys. For example, thousands of documents

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and videos were received and reviewed just in response to FOIA requests served on entities such as the Ninth Circuit Solicitor's Office, the North Charleston Police Department, and the Charleston County Coroner.

35. Respondent objects to Petitioner's Petition for Appointment as Personal Representative for several reasons.

c. First, pursuant to Court Order dated June 9, 2017, Respondent has already been appointed as Special Administrator of the Estate and has served in this capacity for nearly six months while he has competently and efficiently administered the Estate.

d. Second, replacing Respondent with Petitioner or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, Respondent would frustrate judicial economy and prejudice the Estate and others with additional unnecessary cost, delay, and duplication of efforts. There is no requirement that a Personal Representative even be appointed. As described above, substantial time has been spent by Respondent and his attorneys: collecting, reviewing, and analyzing the relevant documents and records; working towards resolution of issues concerning the Estate's ownership of various properties and business interests; and, researching and initiating lawsuits to pursue the causes of action belonging to the Estate and/or its beneficiaries. It is in the best interests of the Estate that Respondent continue to serve as Special Administrator.

e. Third, although Petitioner is named as an alternative personal representative in the purported Will, the undersigned submits that he is unsuitable and therefore not

ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

qualified to serve in that capacity.[1] S.C. Code Ann. § 62-3-203(e)(2). Petitioner was the bookkeeper/tax preparer/accountant[2] for Decedent, her husband, and their numerous businesses for many years. Numerous issues with the work done by Petitioner have come to light that may negatively impact the Estate. A letter sent to Petitioner by the undersigned outlines some of these issues and is attached hereto as Exhibit 5. It is apparent that a conflict of interest exists with regard to Petitioner serving as Personal Representative of the Estate and that he will be called on to make an accounting for his acts and doings with reference to the work he performed for the Coluccis and their businesses.[3]

36. The fact that the Will may be admitted to probate, and thus the Estate administered pursuant to the Will, does not create any corresponding requirement that any individual be appointed as the Personal Representative. Rather, as Special Administrator, Respondent is fully capable and empowered to continue administration of the Estate, be it as an intestate estate or pursuant to the Will. See S.C. Code Ann. § 62-3-617 ("A special administrator appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited in the appointment and duties prescribed in the order. The appointment may be for a specified time, to perform particular acts, or on other terms as the court may direct.").

---

[1] See S.C. Code Ann. § 62-3-103 ("to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court, qualify, and be issued letters."); see also S.C. Code Ann. § 62-3-203(e)(2) ("No person is qualified to serve as a personal representative who is... a person whom the court finds unsuitable in formal proceedings.").

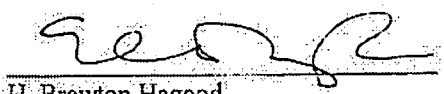
[2] A search of S.C. Department of Labor, Licensing and Regulation's website indicates that Mr. Fox is not licensed as a certified public accountant. (https://verify.llronline.com/LicLookup/LookupMain.aspx)

[3] See In re McClain's Estate, 245 S.C. 315, 140 S.E.2d 478 (1965); Ex parte Tolbert, 206 S.C. 300, 34 S.E.2d 49 (1945) (holding that qualification of a personal representative is not automatic and that disqualification is appropriate where conflicts of interest may arise as a result of the relationship between the proposed personal representative and the business and affairs of the decedent).

37. Given that replacing Respondent with Petitioner as Personal Representative will result in unnecessary costs, delay, and inefficiency, and further given that Petitioner is unsuitable to serve as Personal Representative, Respondent respectfully requests that Petitioner's Petition for Appointment be denied.

WHEREFORE, for the reasons set forth above, Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris D. Colucci, respectfully objects to the Petition for Appointment and requests that the Court deny the Petition.

ROSEN, ROSEN & HAGOOD, LLC



H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
November 30, 2017

ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

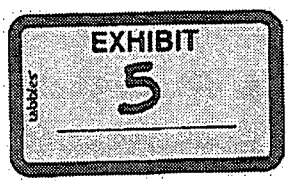
ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, Petitioner, ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	IN THE COURT OF COMMON PLEAS CASE NO: 2017-CP-18-1816

AFFIDAVIT OF ANDREW W. CHANDLER, ESQUIRE

PERSONALLY APPEARED before me, Andrew W. Chandler, Esquire, who being duly sworn does state as follows:

1. My name is Andrew W. Chandler and I am a partner with Evans, Carter, Kunes & Bennett, P.A., in Charleston, SC. I have over 15 years of experience in probate, estate, and trust administration and litigation and have been certified by the South Carolina Supreme Court as a specialist in probate, estate and trust law.



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2. I was appointed to serve as the Special Administrator of the Estate of Doris Duane Colucci by the Dorchester County Probate Court on June 9, 2017, on a temporary basis and then, by Order dated July 10, 2017, on a permanent basis.

3. Having served as Special Administrator for over a year, I have made substantial progress in the administration of this complicated Estate. While substantial progress has been made in, amongst other things, the identification and collection of the Estate's assets, dealing with creditors, fulfilling the administrative duties imposed by the Court and the Probate Code, and working with Christa Yantis, CPA, Ivo Colucci's Conservator, to gather the information necessary to prepare the tax returns for the Decedent and Mr. Colucci, individually, and their numerous businesses, a number of issues remain.

4. A number of those remaining issues are technical and transitioning the administration of the Estate from myself and my attorney to Petitioner Fox and his attorney would necessarily cause substantial delays and result in the Estate incurring unnecessary, duplicative costs.

5. Petitioner Fox served as the bookkeeper for the Coluccis and for their businesses for over 20 years.

6. I have concerns that, if appointed as Personal Representative of the Estate, Petitioner Fox, due to his long-standing relationship with the Coluccis, may not be willing or able to carry out some of the duties, including the prosecution of the pending wrongful death lawsuit, filed against Ivo Colucci and two of his businesses, and the pending "Petition to Determine Heirs." The latter action seeks a determination as to the applicability of the Slayer Act, S.C. Code Ann. § 62-2-803, which prohibits a person who "feloniously and intentionally" kills a decedent from inheriting from the decedent's estate or otherwise financially benefitting from the killing.

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7. Mr. Fox is likely to be a witness in both of these actions. While the substance of his testimony is unknown, it could potentially be adverse to the interests of the Estate.

8. Additionally, the Estate is a party to an action pending in state court involving an alleged debt owed by Michael Colucci (the Decedent's son) to Ivo Colucci.[1] Trial has been set for August 30-31, 2018. Petitioner Fox has been identified as an expert witness in this lawsuit and was deposed on July 30, 2018.

9. Should it be determined that Petitioner Fox is unable to prosecute any of these actions, be it because of a conflict of interest or otherwise, the Probate Court will need to appoint a Special Administrator to do so. This, too, will cause the Estate to incur additional, unnecessary costs.

10. Another remaining issue we must deal with in this Estate is the review and potential audit by the IRS and S.C. Department of Revenue of prior filed tax returns, and any penalties and interest related thereto. Petitioner Fox would be a witness in those matters as he prepared the tax returns for many years. He would also have a conflict of interest related to his preparation of the tax returns in prior years.

11. Again, the Probate Court would need to appoint a Special Administrator to deal with these matters given Petitioner Fox's conflict of interest.

12. As Special Administrator, I am duty-bound to manage and preserve the Estate's assets. It is my belief that the appointment of Petitioner Fox as Personal Representative of the Estate is not in the best interests of the Estate or its beneficiaries, and would result in considerable delays and substantial unnecessary expense.

[1] *Ivo Colucci v. Michael Colucci, et. al.*, 2018-CP-10-1248 (Charleston Court of Common Pleas).

13. I am over the age of 18 and have personal knowledge of and am competent to testify about the matters addressed in this Affidavit.

FURTHER AFFIANT SAYETH NOT.

Andrew W. Chandler, Esquire

SWORN to before me this
8th day of August, 2018

Notary Public for South Carolina
My commission expires: 6.18.2025

ELECTRONICALLY FILED - 2018 Aug 08 3:45 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

ELECTRONICALLY FILED - 2018 Aug 10 4:54 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, Petitioner, Versus ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, HENRY BURKES, AND RICHARD HYMAN, JR., Respondents.	IN THE COURT OF COMMON PLEAS CASE NO.: 2017-CP-18-1816 **MEMORANDUM IN SUPPORT OF SUMMARY JUDGMENT**

Christa M. Yantis is the court-appointed conservator for Ivo Francesco Colucci, the husband of the decedent and she submits this memorandum on his behalf. Because there is no genuine issue of material fact, the Will of Doris Duane Colucci dated June 18, 2013 and filed with the probate court on August 24, 2017, should be probated as her Will. Further, because there is no genuine issue of material fact that Andrew Chandler lacks standing to seek removal of Mr. Fox as personal representative, and no other interested party has contested his appointment, summary judgment is appropriate appointed Michael Fox as personal representative.

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1. The Will dated June 18, 2013 should be probated.

The Will at issue is attached to Respondent Chandler's Memorandum as Exhibit B. The Will is facially valid and a self-proving affidavit is attached to it. No party has contested the Will nor opposes probate. Accordingly, pursuant to S.C. Code Ann. § 62-3-405, the Court may probate the Will on the pleadings before it with no testimony:

> If a petition in a testacy proceeding is unopposed, the court may order probate or intestacy on the strength of the pleadings if satisfied that the conditions of Section 62-3-409 have been met or conduct a hearing in open court and require proof of the matters necessary to support the order sought. If evidence concerning execution of the will is necessary, the affidavit (including an affidavit of self-proof executed in compliance with Section 62-2-503) or testimony of one of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

S.C. Code Ann. §62-3-405. See also *S.C. Code Ann. §62-3-409*("Any will found to be valid and unrevoked must be formally probated."). For these reasons the portions of the petition seeking probate of the Will should be granted.

2. Michael C. Fox should be appointed as personal representative.

Article Two of the Will names Mr. Colucci as primary personal representative and then Michael Fox, Henry Burkes, and Richard Hyman as personal representative if he is unable to serve.[1] Inasmuch as Mr. Colucci is unavailable, Mr. Fox is successor representative. No one other Respondent Chandler's contest of Mr. Fox's appointment. For the reasons stated below, Mr. Chandler's petition should be dismissed and Mr. Fox appointed as personal representative.

Mr. Chandler's is not an "interested person" in the Estate and lacks standing to seek Mr. Fox's disqualification. S.C. Code Ann. § 62-3-611(a) provides that, "***A person interested in the***

[1] Mr. Colucci is incapacitated. As Mrs. Colucci informed the probate court in 2016 and 2016, he has suffered from severe dementia and paranoia for several years. He is currently hospitalized in a specialty care facility. Ms. Yantis acknowledges that he is unable to serve as personal representative.

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estate may petition for removal of a personal representative for cause at any time." *S.C. Code Ann. § 62-3-611(a)*(emphasis added). The probate code defines "interested person" as follows:

> "Interested person" includes ***heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate*** or the estate of a decedent, ward, or protected person which may be affected by the proceeding. ***It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons.*** The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

S.C. Code Ann. § 62-1-201(23)(emphasis added). Except for his appointment as special administrator, Mr. Chandler is a stranger to the estate. He is not related to the Coluccis, is not named as a beneficiary in Mrs. Colucci's Will, nor is he a fiduciary for other interested people. Rather, he was appointed as special administrator because the Will had not been located and those individuals with statutory priority were unable or unwilling to serve. See *Consent Order for the Appointment of a Special Administrator* dated July 10, 2017, ¶3("Unless and until the originally executed Last Will of the Decedent is located and admitted to probate in this Court, the administration of the probate Estate shall proceed pursuant to the South Carolina laws of intestate succession.").

Like almost all special administrators, Mr. Chandler's appointment was always intended to be limited in time to when a personal representative was appointed. See *S.C. Code Ann. §62-3-614(2)*("A special administrator may be appointed.... To preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act.") and *S.C. Code Ann. §62-3-616*("A special administrator... has the duty to collect and manage the assets of the estate, to preserve them, to account therefore, ***and to deliver them to the general personal representative upon his qualification.***")(emphasis added).

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Respondent Yantis is unaware of any law allowing a special administrator to fight for his job and attack the decedent's choice of a personal representative; Mr. Chandler has cited none. Rather, the code is clear that a special administrator is a caretaker until the personal representative intended by the decedent is appointed. Further, to allow a stranger to the Will and Estate to challenge the Will in the manner suggested by Mr. Chandler would frustrate Mrs. Colucci's intentions and violate the cardinal rule of probate law, that is to carry that intention out. S.C. Code Ann. §62-2-601. Article Five, Section Four is a No Contest Clause which penalizes any beneficiary of the estate who challenges her selection of personal representative. Clearly, Mrs. Colucci intended her selection of personal representative to be taken seriously.

As Mr. Chandler acknowledges, Michael Fox was the longtime tax preparer and accounting professional for Mr. and Mrs. Colucci. In that role, he is intimately familiar with their holdings and family situation. Almost all personal representatives have the potential of being a witness to some issue in an estate and almost all personal representatives may have some seeming conflict because of their interactions with the decedent or others. Those minor issues and that potential conflict, however, does not rise to the level of "cause" to second-guess Mrs. Colucci's desires.[2] Last, even if Mr. Fox is not qualified, two other gentlemen—Henry Burke and Richard Hyman—are in line before those designated by statute and ahead of Mr. Chandler.

For these reasons, summary judgment is appropriate on both the claim to probate the will and appoint Mr. Fox as personal representative.

[2] It is highly likely Mr. Chandler, as petitioner at the time the actions were brought, will also be a witness in the lawsuits pending.

WHEREFORE Respondent Yantis prays for the relief requested herein and for such other relief as the Court deems just, prudent, and proper.

HALLER LAW FIRM, PC

s/David K. Haller

David K. Haller
604 Savannah Highway
Charleston, SC 29407
843-224-7860
dhaller@hallerlawfirm.com

August 10, 2018

Charleston, South Carolina

ELECTRONICALLY FILED - 2018 Aug 10 4:54 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	**APPLICATION FOR HEARING TO APPROVE DISTRIBUTION BY SPECIAL ADMINISTRATOR**
	)	
IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI AKA DORIS D. COLUCCI	)	
	)	CASE NUMBER: 2017-ES-18-00294
(Decedent)	)	

The undersigned states as follows:

I request a Hearing be held to approve the distribution of $10,000 dollars from the Estate of Doris Duane Colucci AKA Doris D. Colucci to Michael C. Fox, Trustee of The Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto as determined by the Court (as devisee under the Will of Doris D. Colucci).

Executed this 19th day of November, 2018.

Special Administrator Signature: _____

Name: Andrew W. Chandler

Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, SC 29401

Telephone (Work): (843) 577-2300

Email: chandler@eckb.com

SWORN to before me this 19th day of November, 2018.

_____
Notary Public for South Carolina
My commission expires: 6-10-2025

ORDER FOR HEARING

IT IS ORDERED that a hearing on this matter be set for:

DATE: _____

TIME: _____

PLACE: _____

Executed this ____ day of _____, 2018.

_____

Mary Q. Blunt, Dorchester County Probate Judge

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -4 PM 3:27

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN RE:
THE ESTATE OF DORIS DUANE COLUCCI,

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci

v.

Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.

COURT OF COMMON PLEAS
CASE NUMBER: 2017-CP-18-1816

MOTION TO RESTRAIN SPECIAL ADMINISTRATOR

FILED-RECORDED
2018 NOV 26 PM 3:07
CHERYL GRAY
CLERK OF COURT
DORCHESTER COUNTY

1) Michael Fox, Trustee of the Colucci Living Trust, and the named Successor Personal Representative of the Estate of Doris Colucci hereby moves pursuant to S.C. Code §62-3-607, Rule 65, SCRCP, and other applicable law to restrain the Special Administrator of the Estate of Doris Colucci pending the appointment of a Personal Representative.

2) This proceeding involves the appointment of the Personal Representative and has been previously removed to the Court of Common Pleas by Order of the Dorchester County Probate Court filed November 20, 2017. (Motion and Order for Removal, Exhibit A)

3) The Special Administrator has acted and, unless this Court intervenes, will continue to act against the intent and the interests of the decedent as expressed in the Last Will prepared for Doris Colucci ("Last Will"), as set forth herein. (Last Will, Exhibit B)

4) The Special Administrator has acted unreasonably and against the interest of the Estate by using estate assets to prevent the appointment of a Successor Personal Representative as specified in the Last Will of Doris Colucci.

Exhibit A

5) The Special Administrator has further damaged the Estate by charging fees in excess of $165,000.00 (as of July, 2018) and contingency fees that could exceed millions of dollars while neglecting basic duties to the beneficiary.

6) The Special Administrator has further breached his duty by failing to inform and cooperate with the sole heir (The Colucci Living Trust, dated February 24, 2005), and he has unreasonably failed to disburse the Estate's assets according to the wishes of Doris Colucci.

7) The Special Administrator will continue to cause irreparable harm to the Estate unless he is restrained as set forth below.

Relevant Facts

8) On June 18, 2013, Doris Colucci executed her Last Will. (Exhibit B)

9) Doris Colucci passed away on April 14, 2017. Her death likely occurred as result of conduct giving rise to a claim for wrongful death against her husband, Ivo Colucci.

10) The decedent's Last Will was not immediately discovered.

11) In the absence of the decedent's Last Will, Lester Schwartz, Esq. initially applied to serve as the Special Administrator of Doris Colucci's estate. Subsequently, Andrew Chandler, Esq., was appointed Special Administrator by the Probate Court (*Temporary Order for the Appointment of a Special Administrator on an Emergency*), (hereinafter, the "Temporary Order") pursuant to S.C. Code § 62-3-614. (Order, Exhibit C dated June 9, 2017) Thereafter, several of the parties entered into a Consent Order further establishing Mr. Chandler as the Special Administrator. (Consent Order, Exhibit D, dated July 10, 2017)

12) At all times, the Special Administrator was by bound S.C. Code §62-1-102(a)(2) stating that one of the primary purposes of the South Carolina Probate Code shall be "to discover and make effective the intent of a decedent in the distribution of [their] property."

13) In Paragraph 15 of the Temporary Order, the Special Administrator was given the following duty pursuant to S.C. Code §62-3-616:

> *A special administrator appointed by the court in informal proceedings pursuant to Section 62-3-614(1) has the duty to collect and manage the assets of the estate, to preserve them, to account therefor, and to deliver them to the general personal representative upon his qualification...*

14) On, July 24, 2017, the Dorchester County Probate Court signed an additional consent order to permit the Special Administrator to hire Rosen, Rosen, and Hagood and Lester Schwartz, Esquire, to pursue the wrongful death suit for a 40% contingency fee.[1]

(Order Approving Employment, Exhibit E)

Discovery of the Last Will

15) On or around August 24, 2017, Doris Colucci's original Last Will was delivered to the Dorchester County Probate Court. (Exhibit B) Not at this time or any other time, did any party, including the Special Administrator, contest the validity of the Last Will.

16) Article Two of the Last Will states in part:

> *I appoint my Spouse, Ivo F. Colucci, to be my personal representative. In the event my Spouse is unable or unwilling to serve as Personal Representative, I appoint the following to be my Personal Representatives in the order of priority in which their names appear:*
>
> *Michael Fox, CPA*
> *Henry Burkes*
> *Richard M. Hyman, Jr. Esquire*

17) Article Three, with the exception of a personal property memorandum, gave:

> *...all the rest residue and remainder of my property of whatever nature and kind and wherever located to the then acting Trustee(s) of my revocable living trust.*

[1] The fee agreement was set out that Rosen, Rosen, and Hagood would receive 33% of Doris Colucci's settlement from her husband's estate if the matter was settled before filing suit and 40% after the filing of suit. The Estate of Doris Colucci filed suit on October 4, 2017 without any indication that the parties attempted to settle or mediate the case. Mr. Schwartz was the original attorney that filed for the emergency appointment of a Special Administrator.

18) On October 27, 2017, Michael Fox elected to serve and is the named and current Trustee of such living trust, known as the "Colucci Living Trust, dated February 24, 2005" (hereinafter "The Trust").[2] (Acceptance by Successor Trustee of the Trusteeship of the Colucci Living Trust dated February 24, 2005, and Amended June 18, 2013. Exhibit F)

19) Article Five of the Last Will contained a no contest clause that would exclude the interest of any devisee or legatee who unsuccessfully challenges the appointment of any person named as a Personal Representative.

Filing of Probate Proceedings

20) From August 24, 2017 through October 24, 2017, the Special Administrator did not act to probate the Last Will.

21) Michael Fox filed an informal probate application on October 24, 2017. This informal probate application was denied.

22) On October 30, 2017, at his own cost, Michael Fox filed for Formal Probate proceedings and removal of this action to the Dorchester County Court of Common Pleas.

23) On November 3, 2017, the Special Administrator sent correspondence to Michael Fox, through his attorney, stating:

> *"Until there is an order admitting the will to probate, the estate will continue to be administered as if it were intestate per the code."*
> (Email from Special Administrator's Counsel, Exhibit G)

24) In the same November 3, 2017 email, in reference to a request regarding personal property (jewelry) that had been potentially assigned during Doris Colucci's lifetime directly to the trust, (Assignment, Exhibit H) counsel for the Special Administrator wrote:

[2] No objection was made to the qualification of Mr. Fox to serve as the trustee of the Colucci Living Trust.

*"We are doing our best to keep our costs down and, frankly, I would carefully consider filing your petition, **especially given the court's ability to personally assess costs/fees against you and Mr. Fox** should it determine that it was frivolous."* [3]
(Exhibit G) *(emphasis added)*

25) After filing the Formal Application for Probate, Mr. Fox attempted service of the necessary parties to the estate, including the Special Administrator. Of the six parties requiring service, the Special Administrator was the only party that would not voluntarily accept service of the Summons and Petition for Formal Testacy. Mr. Fox was required at his own cost to hire a process server to serve the Special Administrator, despite every other represented party voluntarily accepting service. (Affidavit and Invoice, Exhibit I)

26) The Special Administrator thereafter filed an Answer and Objection to Movant's Petition for Formal Testacy and Appointment as Personal Representative ("Objection"). The Special Administrator denied that Mr. Fox was qualified and stated that replacing the Special Administrator with Mr. Fox or any other Personal Representative "*would frustrate judicial economy and prejudice the Estate and others with unnecessary cost, delay, and duplication of efforts.*" (Objection, Exhibit J, Page 7, Paragraph 35(d))

27) The Special Administrator further stated in the objection: "*The fact that the Will may be admitted to probate, and thus the Estate administered pursuant to the Will, does not create any corresponding requirement that any individual be appointed as the Personal Representative.*" (Exhibit J, Page 8, Paragraph 36)

[3] According to the Trust instruments, the assignment of the decedent's jewelry was to create the initial corpus of the living trust. This was the only available property that the Trust would have been able to use to carry out the decedent's wishes or to reimburse himself for the costs of setting up the Trust. (See Exhibit H)

28) In Paragraph 35(e), the Special Administrator stated that Michael Fox is unsuitable and therefore not qualified to serve and that "*he will be called on to make an accounting for his acts and doings with reference to the work he performed for the Coluccis and their businesses.*" (Exhibit J, Page 8, Paragraph 35) The Special Administrator has never produced any evidence to corroborate these accusations and has in fact contradicted this position. (August 13, 2018 Hearing Transcript, Page 14, Lines 1-5)[4]

29) There is nothing in the probate record to indicate that the Special Administrator contacted the remaining Successor Personal Representatives to express their concerns about Mr. Fox's qualification or to arrange for the next Successor Personal Representative to assume the role of Personal Representative as Doris Colucci expressly directed.

Hearing for Formal Testacy

30) Nearly a year after the discovery of the Last Will and with only the Special Administrator objecting to Mr. Fox's appointment, a hearing for Formal Testacy was held on August 13, 2018 before the Dorchester County Court of Common Pleas. No member of the Colucci family objected to the appointment of Mr. Fox or the other named individuals as Personal Representative. To the contrary, only the Special Administrator objected to the appointment of a Personal Representative. Counsel for the Special Administrator stated:

> *"The fact of the matter is a Personal Representative never has to be appointed. The Will can be admitted to Probate without a Personal Representative being appointed."* (August 13, 2018 Hearing Transcript, Page 14, Lines 13-16)

[4] This transcript has been contemporaneously filed with this Court alongside this motion.

31) However, in reference to the Successor Personal Representative's disqualification, counsel stated:

> *"And I want to make it clear to the Court and to Mr. Fox that our objection has nothing to do with his character, calling into question his character; it is nothing to that extent at all...*
>
> *...Our objection is because first of all this estate has been administered by Mr. Chandler and to some extent myself as his attorney for over 14 months at this point."* (August 13, 2018 Hearing Transcript, Page 14, Lines 1-5)

32) When the Court inquired as to legal basis for the Special Administrator to remain in place of a Personal Representative, Counsel for the Special Administrator stated:

> *MS. PALMER: "...But we believe good cause exists to deny that petition as to Mr. Fox being appointed and to allow Mr. Chandler to continue and wrap up this estate.*
>
> *THE COURT: To your knowledge Ms. Palmer is there any South Carolina cases on this?*
>
> *MS. PALMER: On the issue of added expense not specifically. But as to the ability of the Court to look at the best interest of the estate yes Your Honor, it is cited in our memo."* (August 13, 2018 Hearing Transcript, Page 16-17, Lines 23-25, 1-7)

33) Counsel cites two cases, In re McClam's Estate 245 S.C. 315, 140 S.E.2d 478 (1965) and Ex Parte Tolbert 206 S.C. 300, 34 S.E.2d 49 (1945). (Exhibit J, Footnote 3, Page 8) While these cases may provide authority that a disqualified individual may not to be appointed, Movant believes there is no authority under the common law that a Special Administrator may bypass a qualified Successor Personal Representative.

34) The Special Administrator directly addressed the court in regards to Mr. Fox and stated:

"But the things that remain are complicated and frankly ones that -- and I'm not saying that Mr. Fox wouldn't otherwise be capable of doing them but he is also a witness to many of them. And in those cases typically the Probate Court is going to appoint a Special Administrator anyway and then you have two fiduciaries serving, which definitely seems inefficient and unnecessary." (August 13, 2018 Hearing Transcript, Page 19, Lines 7-14)

35) The hearing concluded with the Special Administrator consenting to probate the Last Will of Doris Colucci, but continuing to object to the appointment of a Personal Representative. The Court therefore took under advisement the appointment of the Personal Representative and such action is still pending before this Court. (August 13, 2018 Hearing Transcript, Page 28, Lines 10-13)

Events following Probate of the Last Will

36) On September 24, 2018, the Special Administrator sent a "Proposal for Distribution" that proposed the distribution of two fractional interests in real property, Doris Colucci's interest in her household goods, furnishings, and animals, and all remaining collection of jewelry pieces. (Exhibit K, Proposal for Distribution) It is presumed to be the same property referenced in the Trust Assignment (Exhibit H), and the Trust's prior claim to this property had been characterized as "frivolous" by the Special Administrator. (Exhibit G)

37) On or around October 4, 2018, Mr. Fox, through his attorney, was contacted and concern was expressed by several heirs that no distributions had been made by the Trust or the Estate. In addition, complaints have been raised to Mr. Fox's counsel that the house is in poor condition and the Special Administrator has failed to conduct maintenance.

38) The Trust, at Mr. Fox's own expense, sent an agent to the Dorchester Probate Court and discovered over seven hundred pages of various paperwork had been filed by the Special Administrator. Outside of the Proposed Distribution, Mr. Fox had not been forwarded a single document, including basic estate documents such as the Inventory and Appraisement and the estate accounting. (See Exhibit L, Inventory and Appraisement)

39) Among the hundreds of pages of documents, there is an accounting from July 20, 2018 showing that the Special Administrator has paid himself $90,825.40 and paid his attorney an additional $76,654.51. (Accounting, Exhibit M) These fees do not include the contingency agreement allowing the Special Administrator's attorneys to additionally collect 40% of the pending wrongful death lawsuit.

40) Among the documents copied from the Court, there is an inventory indicating the estate is worth over $2,800,000.00, excluding the wrongful death suit. The Special Administrator has not shared any of these documents with the Trust, has failed to make any distributions, or even reimburse Mr. Fox for his costs to probate the Last Will. Further, instead of preserving these estate assets, the Special Administrator has acted to sell and liquidate certain high value business assets, presumably to pay his fees and expenses but to the detriment of the Estate's heir. (Inventory and Appraisement, Exhibit L)

41) The Movant requires the Special Administrator's billing statements to determine which actions and how much time was spent by the Special Administrator and his experts to prevent the appointment of a Personal Representative. To date, the Movant has been prohibited from inspecting these records.

42) On November 19, 2018, without any warning, the Special Administrator attempted to have hand delivered an envelope containing the jewelry to Mr. Fox, via his attorney, without any explanation, itemization, or receipt.

43) After these events, the Trustee no longer believes that the best interest of the Trust is being served by the Special Administrator.

Argument

44) Doris Colucci never intended for a Special Administrator to administer her estate, which was anyways designed to be a simple "pour over" into a Trust for her family. Rather, she named four trusted successive personal representatives to carry out this task.

45) The Probate Code is designed to mandate that a decedent's wishes are fulfilled. The appointment of a personal representative is one of the fundamental concepts of probate law and well recognized to be within the decedent's discretion. The Special Administrator broke the Court's limited mandate of securing the assets of the Estate when he began spending estate resources to prevent the appointment of any Personal Representative. The Special Administrator lacks any legal basis to delay the appointment of a Personal Representative under the SC Probate Code, the common law, or the three separate orders issued by the Probate Court that mandated that the Special Administrator preserve the assets of the Estate pending the appointment of a Personal Representative.

46) The Special Administrator has used his position as an appointee of the Court to coerce Mr. Fox by threatening to seek sanctions against him if he interfered in the Estate's administration. (Exhibit H) The ability of the Special Administrator to

aggressively use the Estate's own funds and his position bestowed by the Court stifled Mr. Fox's efforts to pursue further action before the Probate Court.

47) Had the Special Administrator truly believed that Mr. Fox was not qualified for any reason, he should have immediately notified any of the next two Successor Personal Representatives of his concerns, one of whom is an active member of the South Carolina Bar. Rather, at the August 13, 2018 hearing, the Special Administrator argued merely for his own permanent appointment.

48) It is clear that the Special Administrator intends to fight against any appointment of a Personal Representative. It is also clear that the excessive fees and extraordinary contingency agreement he has charged and shall continue to charge are the true motivation for how he has failed to communicate with Mr. Fox and otherwise delayed the intended administration of this estate.

49) The Trustee has a duty to the beneficiaries of the Trust and he is not satisfied with the Special Administrator's ongoing conduct as herein described. After this amount of time, the Special Administrator owes more than submitting partial disbursements of property already assigned to the trust and unannounced deliveries of unsold jewelry, while requiring Mr. Fox to pay to obtain his own copies of the most basic estate documents to determine what the Special Administrator is actually doing.

Request for Relief

50) Mr. Fox, as the trustee of the sole heir, requests this Court:

A) Find that Special Administrator breached his duty when he sought to prevent the appointment of a Personal Representative under §62-1-102 and §62-3-616.

B) Find that the Special Administrator breached his fiduciary duty to the Estate by, over the course of 14 months, paying his own excessive fees, paying exorbitant expert fees, and signing off on lavish contingency agreements while not establishing even the most basic funds to establish the Trust and passing off basic probate expenses onto Mr. Fox whom he claimed, without basis, was disqualified to serve.

C) Find that the 40% contingency fee in addition to the hourly charges are excessive and not in the best interests of the administration of the estate.

D) Stop the Special Administrator from further acting to administer the Estate.

E) Proceed to appoint either Michael Fox or the next named successor Personal Representatives, Henry Burkes or Richard Hyman, Esq., as the Personal Representative, thereby terminating the appointment of the Special Administrator.

F) Upon Mr. Fox's appointment or the appointment of any Personal Representative, direct the Special Administrator to immediately turn over all property of the estate including all billing statements and those of the estate's experts.

G) Set this matter for a damage hearing to determine what assets of the estate were wasted or otherwise used to prevent the appointment of a Personal Representative and order that the Estate be reimbursed for such damages.

H) Terminate the consent order granting Rosen, Rosen, and Hagood and Lester Schwartz, Esq. a 40% contingency fee in the wrongful death settlement against Ivo Colucci.

I) If the Court is still unprepared to appoint a Personal Representative, Mr. Fox requests that the Special Administrator be replaced with a different individual that will cooperate and facilitate the disbursement of the Estate's assets to the Trust.

J) For such further relief as the Court may order.

Respectfully Submitted,

S/Gordon H. Garrett
S.C. Bar No. 73998
Attorney for Michael Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405
office@garrettlawsc.com

This 26th day of November, 2018

Subject: Re: Colucci Personal Property
Date: Friday, November 3, 2017 at 4:45:58 PM Eastern Daylight Time
From: Elizabeth Palmer
To: Gordon Garrett
Attachments: image001.gif

PROBATE JUDGE
CHARLESTON COUNTY
2019 JAN -4 PM 3:31

Gordon,

Until there is an order admitting the will to probate, the estate will continue to be administered as if it were intestate per the code.

However, that really is irrelevant for purposes of your petition. From a practical standpoint, no matter how you look at it, the ring will be sold one way or the other (unless Mr. Fox - assuming he serves as trustee - has figured out a way to divide the ring itself into pieces to be distributed to beneficiaries). In other words, the ring, unlike something like real property which can, theoretically, be partitioned into 24+ parcels and distributed to trust beneficiaries pursuant to the dispositive provisions of the 2013 trust amendment, cannot be partitioned and will eventually need to be sold.

Not only that, "title" to the ring is almost irrelevant as well – even if it is trust property, it is still subject to the claims of estate creditors, costs of administering the estate, etc. That is all that the proceeds of the ring, if it is sold, would be used for. Any "surplus" would be held in trust by the fiduciary, whomever that may be at the time.

We are doing our best to keep costs down in this estate and, frankly, I would carefully consider filing your petition, especially given the Court's ability to personally assess costs/fees against you and Mr. Fox should it determine that it was frivolous. It (the Court) has already issued an order approving the sale of the ring with, as you point out, full knowledge of the fact that the will may be admitted to probate at some point.

Of course, reasonable minds can differ, and I'm certainly open to discussing this with you further.

FILED-RECORDED
2018 NOV 26 PM 3:09
CHERYL GRAHAM
CLERK OF COURT
PROBATE COURT
CHARLESTON COUNTY

Best,
Beth

Get Outlook for iOS<https://aka.ms/o0ukef>

From: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Sent: Friday, November 3, 2017 1:01 PM
Subject: RE: Colucci Personal Property
To: Gordon Garrett <ggarrett@garrettlawsc.com<mailto:ggarrett@garrettlawsc.com>>

I will take a look at what you've drafted and consult with my client.

In the meantime, please do send me a copy of the 2005 trust instrument. I have the 2013 amendment but not the underlying (2005) instrument.

Thanks.

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036

EXHIBIT G

|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>
V-Card<http://www.rrhlawfirm.com/images/vcards/Palmer-Elizabeth-J.vcf>
www.rrhlawfirm.com<http://www.rrhlawfirm.com>

[https://prod12-files.acompli.net/attach?iid=1%3Ax4CtUketUL64lEuF_lEyYQ&aid=409%253a1697%253a0&account_id=1]<http://www.rrhlawfirm.com/>

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CIRCULAR 230 DISCLOSURE
To comply with U.S. Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any entity, investment, plan, transaction, arrangement, or other tax related matter.

From: Gordon Garrett [mailto:ggarrett@garrettlawsc.com]
Sent: Friday, November 3, 2017 11:46 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Subject: Colucci Personal Property

Beth,

After receiving all the paperwork from the Court, it appears that the Coluccis set up the Colucci Living Trust in 2005. As part of our filings, I sent you notice that Michael C. Fox has accepted Successor Trusteeship of this trust.

We have been trying to identify the initial trust corpus. On the second to the last page of the trust agreement is an assignment of jewelry, furnishings, and other personal property. This includes the jewelry that the estate is in the process of selling pursuant to the October 16 application. It seems clear Doris and Ivo assigned this personal property to fund the trust. I realize this document is unsigned, but its execution and the creation of the living trust is subsequently acknowledged in the executed amendment to the trust signed June 18, 2013.

Before I file anything, I would like to try to resolve this outside of court. I have laid out our legal argument in the attached draft petition. I would appreciate a status update on the sale of this property and some feedback before Monday when I think we have a duty to go ahead and file.

I regret the confusion I know this is causing, but I hope we can find an amicable resolution. If you don't have copies of the complete trust document or the amendment, I would be happy to provide those as well.

Thanks,

Gordon

PROBATE JUDGE
FOR CHESTER COUNTY
2019 JAN -4 PM 3:31

Assignment of Personal Property

IVO F. COLUCCI and DORIS D. COLUCCI hereby transfer and assign, without consideration, all right, title and interest which they now have in those Personal Property Items listed below, to IVO F. COLUCCI and DORIS D. COLUCCI, Trustees, or their successors in trust, under the COLUCCI LIVING TRUST, dated February 24, 2005 and any amendments thereto.

FILED-RECORDED
2018 NOV 26 PM 3:09
CHERYL GRAHAM
CLERK OF COURT
CHESTER COUNTY

Personal Property Assigned

Personal Effects
Furniture, Furnishings and Appliances
Jewelry

This assignment was executed on February 24, 2005.

IVO F. COLUCCI

DORIS D. COLUCCI

STATE OF SOUTH CAROLINA)
) SS
COUNTY OF CHARLESTON)

PERSONALLY appeared the undersigned witness and made oath that he/she saw the within named IVO F. COLUCCI and DORIS D. COLUCCI, Trustors, sign, seal and as their act and deed deliver the within instrument and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.

WITNESS

Sworn to before me this February 24, 2005 by IVO F. COLUCCI and DORIS D. COLUCCI, , and the above named witness.

Notary Public for South Carolina

My Commission Expires: _____

EXHIBIT H

Trustees accept the above listed property as the Separate Property of the Wife Trustor.

PROBATE JUDGE
DORCHESTER COUNTY
2019 JAN -4 PM 3:31

AFFIDAVIT OF SERVICE

State of South Carolina | County of Dorchester | Probate Court

Case Number: 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OOF DORIS DUANNE COLUCCI

vs.

Defendant:

For:
Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

PROBATE JUDGE
DORCHESTER COUNTY
2018 JAN -2 PM 2:59

Received by PROCESS SERVICE, INC. to be served on ANDREW CHANDLER ESQ; 115 CHURCH ST, CHARLESTON, SC 29401.

I, John R. Gamble, being duly sworn, depose and say that on the 20th day of November, 2017 at 4:19 pm, I:

PERSONALLY served by delivering a true copy of the APPLICATION TO RESTRAIN SPECIAL ADMINISTRATOR; SUMMONS; PETITION FOR FORMAL TESTACY APPOINTMENT; SUPPLEMENT TO PETITIONER'S PETITION FOR FORMAL TESTACY AND APPOINTMENT OF PERSONAL REPRESENTATIVE;MOTION FOR REMOVAL(10/30/17) ; COPY OF LAST WILL FOR DORIS D. COLUCCI; AMENDMENT; MOTION FOR REMOVAL (10/20/17) to: ANDREW CHANDLER ESQ; at the address of: 115 CHURCH ST, CHARLESTON, SC 29401.

I am over eighteen and have no interest in the above action.

FILED-RECORDED
2018 NOV 26 PM 3:09
CHERYL GRAY
CLERK OF COURT
DORCHESTER COUNTY

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2017003044

Subscribed and Sworn to before me on the 21st day of November, 2017 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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EXHIBIT I

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
Phone: (843) 577-2355
Fax: (843) 577-5024
Fed Id: 57-1036154

INVOICE

Invoice #LEX-2017003044
11/21/2017

Gordon H. Garrett, Esq.
1075 East Montague Avenue
North Charleston, SC 29405

Case Number: Dorchester 2017-ES-18-00294

Plaintiff:
IN RE: ESTATE OF DORIS DUANE COLLECT

Defendant:

Served: 11/20/2017 4:19 pm
To be served on: ANDREW CHANDLER ESQ;

ITEMIZED LISTING

Line Item	Quantity	Price	Amount
Service Fee	1.00	70.00	70.00
Photocopies	50.00	0.10	5.00
TOTAL CHARGED:			$75.00
BALANCE DUE:			**$75.00**

Due upon receipt-Past Due after 30 days.
5% late charge per month on overdue accounts.
Please take note of our new mailing and email addresses. They are P.O. Box 20097, Charleston, SC 29413 and processserviceinc@gmail.com

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STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)

IN THE MATTER OF THE ESTATE OF DORIS DUANE COLUCCI AKA DORIS D. COLUCCI) **PROPOSAL FOR DISTRIBUTION #1**

(Decedent)) CASE NUMBER: 2017-ES-18-00294

PROBATE JUDGE DORCHESTER COUNTY 2018 SEP 25 PM 3:31

Name and Address of Distributee	Amount and/or Item(s)
Michael C. Fox, Trustee of The Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto as determined by the Court (as devisee under the Will of Doris D. Colucci) 1624 Durant Avenue, North Charleston, SC 29405	25% interest in the house and lot located at 3590 Sr 145, Preston Holly, NY
	50% interest in the house and lot/lands/structures located at 400 Murray Blvd., Summerville, SC
	All of decedent's interest in household goods and furnishings (and animals) located at 400 Murray Blvd., Summerville, SC
	All remaining collection of jewelry pieces owned by the decedent

***NOTE: The Trustee should take notice of the impact of the Petition to Determine Heirs filed in the Dorchester County Probate Court on October 4, 2017, which was removed to the Circuit Court as 2017-CP-18-1816 (the "Slayer Action"). The assets proposed to be distributed to the Trustee are subject to and should be administered with reference to whatever final judgment may be rendered in the Slayer Action.**

Executed this 24th day of September, 2018.

Special Administrator Signature: [signature] SA

Name: Andrew W. Chandler
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, SC 29401
Telephone (Work): (843) 577-2300
Email: chandler@eckb.com

CHERYL GOATLEY CLERK OF COURT DORCHESTER COUNTY

FILED-RECORDED 2018 NOV 26 PM 3:09

FORM #410ES (1/2014)
62-3-908, 62-3-1001

EXHIBIT K

STATE OF SOUTH CAROLINA

COUNTY OF: DORCHESTER

FILED-RECORDED
2018 NOV 26 PM 3:09
CHERYL GRAHAM
CLERK OF COURT

IN THE PROBATE COURT

INVENTORY AND APPRAISEMENT

☐ ORIGINAL
☒ AMENDED #1
(must restate the unchanged information from the original inventory)

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

CASE NUMBER: 2017 ES 18 00294

File the original Inventory and Appraisement with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. An Amended Inventory should be utilized for correcting, adjusting or adding to an original inventory, and *must restate the unchanged information from the original Inventory*. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate		$521,740.50
Schedule B - Stocks and Bonds		$-0-
Schedule C - Notes Due Decedent and Cash		$214,296.75
Schedule D - Insurance on Decedent's Life - Part 1 - Payable to Estate		$-0-
Part 2 - Payable to Beneficiary	$-0-	
Schedule E - Jointly Owned Property	$257.88	
Schedule F - Other Miscellaneous Assets Payable to Estate		$2,084,217.11
Schedule G - Transfers During Decedent's Life	$-0-	$-0-
Schedule H - Powers of Appointment	$-0-	$-0-
Schedule I - Annuities and Retirement Accounts	$54,772.61	$-0-
GROSS VALUE OF PROBATE ESTATE		$2,820,254.36

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 19th day of November 20 18

Notary Public for South Carolina
My Commission Expires: ~~09/13/2028~~ 4/10/2025

Personal Representative Signature: *Andrew W. Chandler as SA*
Print Name: Andrew W. Chandler, Special Administrator
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street, Charleston, SC 29401
Telephone (Work): (843) 577-2300
(Home):
(Cell):
(Email): chandler@eckb.com

Attorney:
Address:

Telephone:
Email:

Co-Personal Representative Signature (if applicable)
Name:
Address:

Telephone (Work):
Telephone (Home):
(Cell):
(Email):

PROBATE JUDGE
DORCHESTER COUNTY, S.C.
2018 APR 23 PM 1:35

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A – REAL ESTATE. List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on the Encumbrance Schedule below. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No. Description	% owned by Decedent	Fair Market Value	Value of Decedent's interest
1. House & Lot located [redacted] Dorchester County, Summerville, SC Tax Map Number: [redacted]	50%	(Tax Assessment Value) 368,388.00	184,194.00
2. House and Lot located [redacted] Albany County, Preston Holw, NY Tax Map Numbe[redacted]	25%	(Tax Assessment Value) 190,186.00	47,546.50
3. House and Lot located [redacted] Colleton County, Edisto Island, SC Tax Map Number: [redacted]	50%**††	580,000.00	290,000.00

TOTAL SCHEDULE A
(also enter under recapitulation, page 1) $ 521,740.50

SCHEDULE B – STOCKS AND BONDS. List below all stocks and bonds in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property with right of survivorship, you may list in Schedule E.

Item No.	Description	Face Value	Appraised Value
1.	None		

TOTAL SCHEDULE B
(also enter under recapitulation, page 1) $ -0-

SCHEDULE C – CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by Decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.), cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	Bank of America Savings Account #xx47	10,018.87
2.	Bank of America Checking Account #xx37	4,709.09
3.	50% of Promissory Note due from H.I.D., LLC to Ivo & Doris Colucci $202,929.17 due as of date of death	101,464.59
4.	Cash On Hand	813.94
5.	Refund – Chris Patton, Attorney at Law	1,744.68
6.	Refund – Blue Cross Blue Shield	117.91
7.	Refund – Roberts Oxygen Company, Inc.	178.17
8.	Refund – Tenant Health	41.53
9.	Refund - Staples	50.00
10.	50% of HD Vest Property Account #xx19 $3,582.42 Balance as of 4/30/17††	1,791.21
11.	50% of Bank of America Checking Account #xx67 – Joint Account held with Ivo Colucci††	1,290.17
12.	50% of Martant Realty Mortgage	92,076.59

TOTAL SCHEDULE C
(also enter under recapitulation, page 1) $ 214,296.75

SCHEDULE D – LIFE INSURANCE (If none, so state.)

Part 1 – Life Insurance – List the insurance on the life of the Decedent which is payable to the Estate.

Item No.	Description	Value
1.	None	

TOTAL PART 1

(also enter under recapitulation, page 1) $ -0-

Part 2 (OPTIONAL) – You may list here the insurance on the life of the Decedent which is payable to beneficiaries.

Item No.	Description	Beneficiary	Value
1.	None		

TOTAL PART 2

$ -0-

SCHEDULE E – JOINT WITH RIGHT OF SURVIVORSHIP – You may list below any non-probate property jointly owned by the Decedent with another with right of survivorship. List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest
1.	Wells Fargo Savings Account #xx81	John M. Antonio		Non-Probate
2.	Voya Annuity Account #xx82	John M. Antonio		Non-Probate

TOTAL SCHEDULE E

(also enter under recapitulation, page 1) $ -0-

SCHEDULE F – OTHER MISCELLANEOUS ASSETS PAYABLE TO ESTATE. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state. (For jointly owned tangible personal property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value
1.	Collection of Jewelry Pieces	9,810.00
2.	Diamond Ring	TBD
3.	Rolex Watch	4,400.00
4.	25% Interest in H.I.D., LLC	462,757.11
5.	25% Interest in Terrivo Enterprises, LLC/Terrivo Investments	1,093,750.00
6.	25.5% Interest in I&M Colucci, a Partnership/I&M Enterprises, LLC/I&M Enterprises, LP	510,000.00
7.	50% Interest in Household Goods & Furnishings††	1,000.00
8.	50% Interest in 2004 Chevrolet Express VIN #xx14**††	TBD
9.	50% Interest in 1979 Chevrolet Corvette VIN #xx91**††	TBD
10.	50% Interest in 2015 Toyota Prius VIN #xx85**††	2,500.00

TOTAL SCHEDULE F

(also enter under recapitulation, page 1) $ 2,084,217.11

NOTE: FOR SCHEDULES G, H, AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G – TRANSFERS DURING DECEDENT'S LIFE. List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by

Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

1.	None	
2.		-0-

(OPTIONAL) describe and list amounts not payable to estate:

1.	The Colucci Living Trust dated 02/24/2005 (if applicable, as determined by the Probate Court)	Non-Probate
2.		

TOTAL SCHEDULE G
(also enter under recapitulation, page 1) $ -0-

SCHEDULE H – POWERS OF APPOINTMENT. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

1.	None	

(OPTIONAL) describe and list amounts not payable to estate:

1.	None	

TOTAL SCHEDULE H
(also enter under recapitulation, page 1) $ -0-

SCHEDULE I – ANNUITIES AND RETIREMENT ACCOUNTS (IRA's, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

1.	None	

(OPTIONAL) describe and list amounts not payable to estate:

1.	Genworth Life Traditional IRA Contract #xx76	54,772.61††

TOTAL SCHEDULE I
(also enter under recapitulation, page 1) $ 54,772.61††

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate). List debts of the Decedent secured by assets on the above Schedules and describe the debt and the specific asset encumbered.

Item No.	Schedule & Item Number Encumbered Thereby	Description & Amount
1.	None	

TOTAL ENCUMBRANCES
$ -0-

****NOTE:**
Pursuant to Property Agreement dated February 24, 2005 (See Attached)

††NOTE:
As may be impacted by applicability of Slayer Act. SC Code Ann. 62-2-803.

STATE OF SOUTH CAROLINA

COUNTY OF: DORCHESTER

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2017 ES 18 00294

PROBATE JUDGE
DORCHESTER COUNTY
2018 APR 23 PM 1:36

On the 20th day of April, 2018, I mailed the Inventory & Appraisement Amended #1.

☐ A copy of which is attached hereto and incorporated herein, or
☒ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
David K. Haller, Esq., Attorney for Christa M. Yantis as Conservator (Demand for Notice)	604 Savannah Highway Charleston, SC 29407
Edwardo K. Curry, Esq., Attorney for Stefan Colucci (Demand for Notice)	6518-D Dorchester Road North Charleston, SC 29418
Angus Lawton, Esq., Attorney for Michael A. Colucci & John M. Antonio (Demand for Notice)	496 Bramson Court #100 Mt. Pleasant, SC 29464

SWORN to before me this 20th day of April, 2018

Notary Public for South Carolina
Name: Brenda F. Nelson
My Commission Expires: 11/05/2025

Signature: Amy Neilson
Name: Amy Neilson
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, SC 29401
Telephone (Work): (843) 577-2300
(Home):
(Cell):
E-mail: amy@eckb.com

Relationship to Decedent/Estate: Paralegal to Andrew W. Chandler, Esq.

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

STATE OF SOUTH CAROLINA

COUNTY OF: DORCHESTER

IN THE MATTER OF:
DORIS DUANE COLUCCI
(Decedent)

FILED-RECORDED
2018 NOV 26 PM 3:10
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

IN THE PROBATE COURT

ACCOUNTING

CASE NUMBER: 2017 ES 18 00294

☐ FINAL
☒ INTERIM # 1

PROBATE JUDGE
DORCHESTER COUNTY
2019 JAN -4 PM 3:41

The undersigned Special Administrator submits this accounting, which covers the period from 04/14/17* through 06/30/18.

The documentation on the following page of this form sets forth a complete accounting for the period specified, which is summarized as follows:

Beginning Balance from Inventory(ies) or prior Interim Accounting, if applicable	2,865,316.20
Plus: Receipts (Rent, Refunds, Dividends, Interest, etc.)	7,729.68
Subtotal	2,873,145.88
Less: Disbursements and Distributions	229,226.14
Ending Balance	2,643,919.74

FILED
19 JUL -5 PM 1:
PROBATE JUDGE
DORCHESTER COUNTY

The Special Administrator declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and are true to the best knowledge and belief of the Special Administrator.

SWORN to before me this 3rd day of July, 2018

Notary Public for South Carolina
My Commission Expires: 07/13/2026

Signature:
Name: Andrew W. Chandler, Special Administrator ao SA
Address: Evans, Carter, Kunes & Bennett, P.A.
115 Church Street, Charleston, SC 29401
Telephone: (843) 577-2300
Email: chandler@eckb.com

*The Special Administrator incudes transactions from date of death (04/14/2017) through date of his appointment (07/10/2017). During this period of time, the Special Administrator did not authorize any charges, expenses or payments on behalf of the estate.

FORM #361ES (1/2016)
62-3-704, 62-3-1001

EXHIBIT M
274

INVENTORY PROBATE ASSETS & RECEIPTS (probate assets received into estate)		DISBURSEMENTS & DISTRIBUTIONS (probate assets disbursed/paid out from estate)	
Interest Component of H.I.D., LLC Note Payments	$2,981.63	Taxes:	
Interest Component of Mariant Realty Note Payments	$4,843.85	2015 SC Department of Revenue	$2,923.98
Bank Interest	$4.20	2015 Federal Income Taxes	$16,762.74
		Reimbursement of Social Security Levy (Ivo Colucci)	$301.28
		Administrative Expenses:	
		Pre-authorized Direct TV Payment (authorized ACH prior to death)	$528.47
		Pre-authorized TJX MasterCard Payment (authorized ACH prior to death)	$3,521.13
		Appraisal/Videography	$3,225.00
		Additional Death Certificates	$24.00
		Life Insurance Policy Locater Fee	$75.00
		Bond Premiums	$2,123.00
		Check Order	$122.40
		Bank Fees	$82.50
		Probate Court Fees	$6,686.78
		John Antonio Evaluation per Court	$2,375.00
		Funeral Expenses	$15,836.80
		Legal & Tax Services:	
		Special Administrator (fees & costs)	$89,195.40
		Evans, Carter, Kunes & Bennett, P.A. (permitted by Court Order dated 07/28/2017)	$1,630.00
		Rosen, Rosen & Hagood, LLC (fees & costs) (permitted by Court Order dated 07/24/2017)	$76,654.51
		Johnson & Lanning, CPA (permitted by Court Order dated 12/05/2017)	$6,326.25
		400 Murray Blvd. Expenses:	
		Homeowner's Insurance	$514.40
		HVAC Repair	$317.50
TOTAL	7,829.68	TOTAL	229,226.14

ELECTRONICALLY FILED - 2018 Dec 06 4:14 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT OF COMMON PLEAS CASE NO: 2017-CP-18-1816
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, Petitioner, v. ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	

MOTION TO DISMISS
PETITIONER FOX'S "MOTION TO RESTRAIN SPECIAL ADMINISTRATOR"

TO: PETITIONER ABOVE-NAMED AND HIS LEGAL COUNSEL:

PLEASE TAKE NOTICE that the undersigned attorneys for Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris D. Colucci, will move before the Presiding Judge of the First Judicial Circuit at the Dorchester County Courthouse, 5200 E. Jim Bilton Blvd., St. George, SC 29477, or at such other office as the Court may direct, after ten (10) days from the date of service hereof or at such time and place as the Court may direct, for an Order

ELECTRONICALLY FILED - 2018 Dec 06 4:14 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

dismissing Petitioner Michael C. Fox's "Motion to Restrain Special Administrator" pursuant to South Carolina Rule of Civil Procedure 12(b)(1) and 12(h)(3) on the following grounds:

1. The probate court has "exclusive original jurisdiction over all subject matter related to…the estates of decedents". S.C. Code Ann. § 62-1-302(a)(1).

2. Petitioner Fox filed his Motion in the same "matter" and with the same caption as that assigned by this Court to his Petition for Formal Testacy and Appointment when it was properly removed from probate court to circuit court. This Petition sought the admission of the Decedent's will to probate and the appointment of Petitioner Fox as personal representative of the Estate. However, "[t]he removal to the circuit court of an action or proceeding within the exclusive jurisdiction of the probate court applies only to the particular action or proceeding removed, and the probate court otherwise retains continuing exclusive jurisdiction." S.C. Code Ann. § 62-1-302(c).

3. In fact, in its order granting Petitioner Fox' Motion for Removal of the Petition for Formal Testacy and Appointment, the probate court indicated that "[j]urisdiction is retained as to all other matters involving this case except for issues previously or subsequently removed." See Order for Removal, attached hereto as Exhibit 1.

4. That the circuit court lacks jurisdiction over Petitioner Fox's Motion is further evidenced by the fact that, although certain matters over which the probate court has exclusive original jurisdiction may be removed to circuit court as a matter of right, Petitioner's Motion, and the relief sought therein, are not such matters and would not be so removable even if initially filed in the probate court. The only subject matters concerning representatives of estates that are removable to circuit court as a matter of right are formal proceedings for the "appointment of

general personal representatives". S.C. Code Ann. § 62-1-302(d)(1).[1] The term "general personal representative" is defined to specifically exclude special administrators, such as Respondent Chandler. S.C. Code Ann. § 62-1-201(33) ("'General personal representative' excludes special administrator.").

WHEREFORE, for the reasons set forth above, Respondent Andrew W. Chandler, Esquire, Special Administrator of the Estate of Doris Duane Colucci, respectfully that the Court dismiss and/or deny Petitioner Fox's Motion to Restrain Special Administrator.

ROSEN, ROSEN & HAGOOD, LLC

s/ Elizabeth J. Palmer
H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
December 6, 2018

[1] This section, S.C. Code Ann. § 62-1-302(d)(1), was amended in 2008 specifically to add the word "general" before "personal representative."

ELECTRONICALLY FILED - 2018 Dec 06 4:14 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE PROBATE COURT PROBATE CASE NO 2017ES1800294
IN RE: THE ESTATE OF DORIS DUANE COLUCCI	)	COURT OF COMMON PLEAS CASE NO _____
Michael C. Fox, Named Personal Representative in the Last Will of Doris Colucci	)	**Summons**
v.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.	)	

FILED
DORCHESTER COUNTY
2019 JAN -4 PM 2:31
PROBATE COURT

TO THE INTERESTED PARTIES ABOVE-NAMED:

You are hereby summoned and required to answer the Petition for Removal of Special Administrator herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the Plaintiff, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

Dated: January 4/2019

Gordon H. Garrett
ggarrett@garrettlawsc.com
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)
Attorneys for Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN RE:
THE ESTATE OF DORIS DUANE COLUCCI,

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci

v.

Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr.

IN THE PROBATE COURT
CASE NO: 2017-ES-1800294

Requesting Removal to the:
COURT OF COMMON PLEAS
CASE NO: _____

PETITION FOR REMOVAL OF SPECIAL ADMINISTRATOR

SC CODE §62-3-611

FILED
2017 JUN -4 PM 2:51
PROBATE JUDGE
DORCHESTER COUNTY

Michael Fox, a person interested in the Estate of Doris Colucci as Trustee of the sole heir, the Colucci Family Trust, as well as the named Successor Personal Representative of the Estate of Doris Colucci, hereby petitions under South Carolina Code §62-3-611 for removal of the Special Administrator of the Estate of Doris Colucci, Andrew Chandler, Esq. The appointment of a Special Administrator is subject to termination as provided in §62-3-611. (S.C. Code §62-3-618.) Further, this matter is properly removable by Petitioner's Motion of Removal under S.C. Code §62-1-302 as the Petitioner's Petition pertains to the formal proceedings for the probate of wills and for the appointment of a general personal representative.

South Carolina Code §62-3-611 states that after service of the summons and petition upon the personal representative and receipt of notice of removal proceedings, the personal representative "shall not act except to account, or to correct maladministration, or preserve the estate."

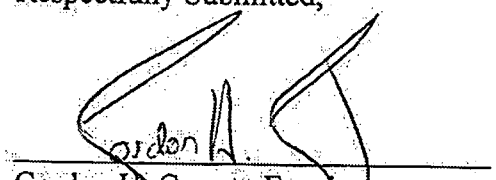
The Petitioner believes removal would be in the best interest of the estate and that the Special Administrator has failed to perform necessary duties pertaining to his office.

These acts are further described in the Petitioner's Motion to Restrain Personal Representative and are hereby incorporated herein by reference into this Petitionion as Exhibit A.

The Petitioner hereby requests:

That the Special Administrator be removed pursuant to §62-3-611 and that a general Personal Representative be appointed, for such relief requested in Petitioner's Motion to Restrain, and for such further relief as the Court may order.

Respectfully Submitted,



Gordon H. Garrett, Esquire
Attorney for Michael Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405

This 4th day of January, 2019

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
) PROBATE JUDGE DORCHESTER COUNTY
COUNTY OF DORCHESTER) 2019 JAN -4 P 3:29 **MOTION FOR REMOVAL**
)
IN THE MATTER OF:)
DORIS DUANE COLUCCI) CASE NUMBER: 2017ES1800294
(Decedent))

A formal proceeding concerning the above matter was commenced on October 30, 2017. The undersigned hereby moves for removal of this action to the Circuit Court and asserts that this action is removable because it involves the following:

- ☑ Probate of Will
- ☑ Appointment of Personal Representative
- ☐ Construction of Will
- ☐ Title to property in which the Estate of a decedent asserts an interest
- ☐ Internal or external matter involving a trust (excluding "special needs trusts")
- ☐ Action in which there is a right to trial by jury and in which the amount in controversy is at least $5,000
- ☐ Action concerning gifts under the SC Uniform Gifts to Minors Act

This Motion is made no later than ten (10) days from n/a, 20____, the date on which all responsive pleadings were filed. By copy of this Motion, the undersigned is giving notice to interested persons as required by law.

Executed this 4 day of January, 20 19.

Signature: _____
Print Name: Gordon Garrett
Address: 1075 East Montague Ave
North Charlesoth, SC 29405
Telephone (Work): 843-554-5515
(Home): _____
(Cell): _____
Email: office@garrettlawsc.com
Relationship to Decedent/Estate: _____

ORDER FOR REMOVAL

☐ It is hereby ORDERED on the Court's own Motion that this action be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ The Motion for Removal is hereby GRANTED. This action shall be removed to the Circuit Court.
- ☐ Jurisdiction is retained as to all other matters involving this case.
- ☐ The related matters of _____ are also removed to serve the best interest of the Estate and/or the interest of judicial economy.

☐ It is hereby ORDERED that the Motion for Removal is DENIED because _____.

Executed this _____ day of _____, 20____.

_____, Probate Court Judge

FORM #109ES (1/2016)
62-1-302

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
	)	
MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,	)	
	)	
Petitioner,	)	**MOTION FOR EMERGENCY HEARING**
	)	
v.	)	
	)	
ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR.,	)	
	)	
Respondents.	)	

TO: ATTORNEY FOR PETITIONER MICHAEL C. FOX

PLEASE TAKE NOTICE that Respondent Andrew Chandler, Esquire, as Special Administrator of the Estate of Doris Duane Colucci, will move before the Presiding Judge of the Probate Court for the First Judicial Circuit at the Dorchester County Probate Court at 5200 E. Jim Bilton Blvd., St. George, SC 29477, on the 9th day of January, 2019, at 12:00 p.m., or as soon as possible, for an Order denying Petitioner's Petition for Removal of Special Administrator. The grounds for this Motion are as follows:

1. Petitioner Fox filed a Petitioner for Removal of Special Administrator on or about January 4, 2019. Service of this pleading was accepted by counsel for Respondent Chandler on January 8, 2019.

2. Pursuant to S.C. Code Ann. § 62-3-611, after a summons and petition seeking removal of a personal representative is served on the respondent, the personal representative, with few exceptions, is restrained from continuing to administer the estate.

3. Although twenty days' notice of a hearing is typically required, pursuant to S.C. Code Ann. § 62-1-401(b), the Court "for good cause shown may provide for a different method or time of giving notice for any hearing."

4. Because Petitioner Fox's Petition presumably has the effect of halting nearly all administration of the Estate of Doris Duane Colucci, Respondent Chandler submits that good cause exists to set a hearing on that Petition on an emergency basis.

5. Further, because Petitioner Fox cannot establish any basis for the removal of Respondent Chandler, the Petition must be denied.

WHEREFORE, Respondent Chandler, by and through his undersigned counsel, moves the Court to schedule the hearing on Petitioner Fox's Petition on an emergency basis, to deny that Petition, and, pursuant to S.C. Code Ann. § 62-1-111, award Respondent Chandler his fees and costs in defending the Petition and such other and further relief as this Court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

ROSEN, ROSEN & HAGOOD, LLC

H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

ATTORNEYS FOR RESPONDENT
ANDREW W. CHANDLER, ESQUIRE,
SPECIAL ADMINISTRATOR OF THE
ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
January 8, 2019

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: DORCHESTER)
)
) PROOF OF DELIVERY
IN THE MATTER OF:)
Doris Duane Colucci) CASE NUMBER: 2017-ES-18-00294
(Decedent))

On the 8 day of January, 2019, I mailed or delivered the following document(s):

Motion for Emergency Hearing

☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☒ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
Gordon H. Garrett, Esquire	1075 East Montague Avenue, North Charleston, SC 29405
David K. Hailer, Esquire	604 Savannah Highway, Charleston, SC 29407
Angus M. Lawton, Esquire	496 Bramson Court, Suite 100, Mt. Pleasant, SC 29464
Eduardo K. Curry, Esquire	6518-D Dorchester Road, North, Charleston, SC 29418
Glenn P. Churchill, Esquire	115 River Landing Drive, Suite 102, Charleston, SC 29492
P. Brandt Shelbourne, Esquire	131 E. Richardson Avenue, Summerville, SC 29483

SWORN to before me this 8 day of January, 20 19

Notary Public for South Carolina
My Commission Expires: 5/5/25

Signature: Taylor Davis
Print Name: Taylor Davis
Address: 151 Meeting Street, Suite 400
Charleston, SC 29401
Telephone (Work): 843-577-6726
(Home):
(Cell):
E-mail: tdavis@rrhlawfirm.com
Relationship to Decedent/Estate: Legal Assistant to Andrew Gowdown, Esquire Attorney for Andrew Chandler, Esquire, as Special Administrator of the Estate of Doris Duane Colucci

FORM #120PC (1/2014)
62-1-401, 62-3-706, 62-3-1001, SCRCP 4(d)(9)

Subject: Estate of Doris Duane Colucci
Date: Tuesday, January 8, 2019 at 3:35:34 PM Eastern Standard Time
From: Molly Edwards
To: chandler@eckb.com, Elizabeth Palmer, Gordon Garrett, dhaller@hallerlawfirm.com, angus@lawtonlawfirm.net, currylawfirm@bellsouth.net, gpclawfirm@gmail.com, Brandt Shelbourne (brandt@shelbournelaw.com)
Attachments: image001.png, image002.png, image003.png, image004.png, image005.png, image006.png, 2018_01_08 Colucci, Amended Notice of Hearing.pdf, 2018_01_08 Colucci Order Denying Removal.pdf

Dear All:

Please find attached the Order Denying Removal in the above captioned matter. If you would like to receive a certified copy of this Order by mail, please let me know.

Also, as all parties are scheduled to be at Court tomorrow, the Court has granted the Special Administrator's request for an emergency hearing on the outstanding Petition for Removal of Special Administrator. The hearing for that Petition will begin tomorrow at 12:00 p.m.

Kind Regards,

Molly Edwards

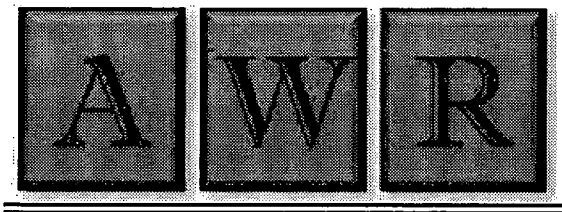
Molly D. Edwards
Associate Probate Judge

DORCHESTER COUNTY PROBATE COURT
5200 East Jim Bilton Boulevard
St. George, SC 29477
P: (843) 832-0309
F: (843) 832-0222
E: medwards@dorchestercountysc.gov
www.dorchestercountysc.gov/probate

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(general) Garrett Law Offices

From: awr@scheduledepo.com
Sent: Thursday, February 21, 2019 9:39 AM
To: Taylor Davis
Subject: Deposition files from AWR: Michael Claude Fox - 01/25/2019



court reporting | videography | videoconferencing | trial presentation

A. William Roberts, Jr. & Associates
worldwide case management 24/7

Witness: Michael Claude Fox
Caption: Gabrielle Z. Lee vs Ivo Francesco Colucci, et al.
Date Taken: 01/25/2019

Please note the invoice(s) for this action will follow in the next two to three business days.

Dear Counsel:

The electronic files from the above-referenced matter are now available for you to access immediately online via AWR's Litigation Repository. Simply click on the "click here" link below or copy and paste the link URL into your web browser for access. *Google Chrome is the preferred web browser for viewing all files.*

Click here to access transcripts and exhibits

https://www.yeslawonline.com/default.aspx?tid=TPB4483174d4bbfb4-563b-4095-a423-4e9aaf973bbf

****To view/download the exhibits, please click on the Exhibit folder on the top right hand of the screen after clicking on the link above.**

Please note that the above links expire in 30 days. If you would like to utilize AWR's Litigation Repository and view/search all of your transcripts and exhibits, please create an account or log in here. If you already have an account, your cases are available immediately.

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ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, ELIZABETH J. PALMER, ESQUIRE, ON BEHALF OF ROSEN HAGOOD, LLC, Applicant, v. MICHAEL C.FOX, IN HIS CAPACITY AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, IN HIS CAPACITY AS SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	)	IN THE PROBATE COURT CASE NO: 2017-ES-18-00294 **EMERGENCY APPLICATION FOR RESTRAINT OF PERSONAL REPRESENTATIVE**

PROBATE COURT DORCHESTER COUNTY, S.C. 2019 FEB 13 PM 2:10

TO: ATTORNEY FOR RESPONDENT MICHAEL C. FOX

PLEASE TAKE NOTICE that Applicant Elizabeth J. Palmer, Esquire, on behalf of Rosen Hagood, LLC, will move before the Presiding Judge of the Probate Court for the First Judicial Circuit at the Dorchester County Probate Court at 5200 E. Jim Bilton Blvd., St. George, SC 29477, as soon as possible should a hearing be required, for an Order Restraining Personal Representative. The grounds for this Application are as follows:

1. The Decedent was killed by her husband on April 14, 2017.

EXHIBIT B

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

2. Andrew W. Chandler, Esquire, was appointed Special Administrator of the Estate by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis.

3. By Order filed July 24, 2017, this Court approved Mr. Chandler's hiring of Rosen Hagood, LLC ("RH"), to "represent him in his capacity as Special Administrator of the Estate in connection with the investigation and pursuit of all litigation matters and claims related to the Estate."

4. RH has represented Mr. Chandler in the administration of the Estate since that time, including filing two lawsuits in October 2017: (1) a wrongful death action pending in Charleston County Court of Common Pleas; and (2) a Petition to Determine Heirs, which was brought pursuant to the "Slayer's Act" and is pending in Dorchester County Court of Common Pleas.

5. In August 2017, Decedent's purported Last Will and Testament, dated June 18, 2013, was filed with this Court.

6. It was not until October 30, 2017, that Michael C. Fox, who is named as a successor personal representative in the Will, filed a Petition for Formal Testacy and Appointment, seeking to have the Will admitted to probate and to have himself admitted as personal representative of the Estate.

7. A hearing on the Petition was held on August 13, 2018, and, by Order filed August 27, 2018, the Dorchester County Court of Common Pleas ordered that the Will be admitted to probate. A decision concerning the appointment of Mr. Fox as personal representative was taken under advisement.

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

8. Following the admission of the Will to probate, and with full knowledge of the fact that Mr. Fox was named as a successor personal representative of the Estate, this Court entered a Modified Order for the Appointment of a Special Administrator, dated August 27, 2018, which found that "[t]he continued appointment and service of Andrew W. Chandler as the Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets." Modified Order attached as Exhibit 1.

9. On February 13, 2019, the Dorchester County Court of Common Pleas issued its Order concerning the appointment of Mr. Fox, ordering that Mr. Fox be appointed as personal representative.

10. The appointment of Mr. Fox terminated Mr. Chandler's appointment as Special Administrator pursuant to S.C. Code Ann. § 62-3-618.

11. As a result of the termination of Mr. Chandler's appointment, RH became a creditor of the Estate and, as such, pursuant to S.C. Code Ann. § 62-1-201(23), an "interested person." RH Creditor's Claim is attached as Exhibit 2.

12. RH is making this Application pursuant to S.C. Code Ann. § 62-3-607(a) because Mr. Fox's appointment as personal representative unreasonably jeopardizes the interests of the Estate and those interested in it.

13. Mr. Fox has demonstrated on numerous occasions that his intentions do not align with, and run afoul of, the best interests of the Estate and the timely and efficient administration of the Estate. For example, on more than one occasion Mr. Fox has taken measures to frustrate the administration of the Estate and Mr. Chandler's attempts to distribute Estate assets to its sole devisee, the Colucci Living Trust. A

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

description of these measures, as well as this Court's determination that "[Mr.] Fox and his counsel have taken measures to frustrate [Mr.] Chandler's distribution of Estate assets to the Trust" is contained in this Court's Order, filed on February 7, 2019, which denied Mr. Fox's petition seeking the removal of Mr. Chandler as special administrator. See Order, attached as Exhibit 3, p. 10.

14. In fact, this Court ordered that Mr. Fox pay the Estate the attorneys' fees and costs incurred in defending Mr. Fox's Petition for Removal of Special Administrator, presumably because of the Court's determination that he "failed to present to this Court any evidence or law in support of his arguments that cause exists to remove [Mr.] Chandler as Special Administrator." Order, p. 16. Additionally, the Court noted that, based on the presentation of the case, it was clear that the "intention in filing the Petition for Removal of Special Administrator was to interpose delay in administering the Decedent's Estate." Order (Ex. 3), pp, 16-17, fn. 6.

15. Additionally, the Estate is facing complicated tax issues which Mr. Fox is not fit and able to handle (largely due to the fact that he may bear some responsibility for those issues which may have detrimental impacts on the Estate). Some of those issues are described in this Court's Order, pp. 13-16 (Ex. 3).

16. As it pertains to the handling of the two pending lawsuits described infra, ¶ 4, Applicant has concerns that Mr. Fox's allegiance and long-time friendship with Ivo Colucci, the primary defendant in both actions, poses a conflict of interest and would interfere in his ability to pursue the highest and best recovery for the Estate. Mr. Fox was

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deposed as a fact witness in both of these lawsuits on January 25, 2019, and testified that Mr. Colucci, who shot and killed the Decedent, was his "best friend."[1]

17. To be sure, at this juncture in the administration of the Estate, nearly two years following Decedent's death, changing the fiduciary, regardless of who that replacement may be, would inevitably result in delay and waste, all to the detriment of the Estate. This Court has already determined the following:

> Based on the extremely litigious and multifaceted complications plaguing this Estate, removing the Special Administrator at this point would be illogical. It would cause an extreme hardship to the Estate for a new fiduciary to have to learn and understand all the management, negotiations, and issues that have been handled and will continue to need to be handled.

Order (Ex. 3), p. 16.

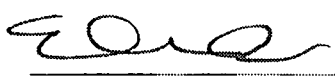
18. Pursuant to S.C. Code Ann. § 62-3-607, Applicant requests that the Court restrain Mr. Fox, on a temporary basis until a hearing can be held, as general Personal Representative, from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62–3-607.

WHEREFORE, Applicant Elizabeth J. Palmer, on behalf of Rosen Hagood, LLC, requests that the Court restrain Michael C. Fox as general personal representative of the Estate of Doris Duane Colucci from exercising any powers or discharging any duties of his office, pursuant to S.C. Code Ann. § 62-3-607, both temporarily and, following a hearing, indefinitely, and for such other and further relief as this Court may deem just and proper.

[1] Applicant has attempted to obtain a copy of the transcript of Mr. Fox's deposition but was informed that the court reporter would not release it as she is waiting for counsel for Mr. Fox to provide her with certain exhibits.

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ROSEN HAGOOD, LLC



H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

Charleston, South Carolina
February 13, 2019

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF DORCHESTER)

STATEMENT OF CREDITOR'S CLAIM

IN THE MATTER OF:
DORIS DUANE COLUCCI) CASE NUMBER: 2017 ES 18 00294
(Decedent))

Decedent's Date of Death (if known): April 14, 2017
Decedent's Last Mailing Address: c/o Andrew W. Chandler, 115 Church Street, Charleston, SC 29401

Creditor:	Rosen Hagood, LLC
Address:	P.O. Box 893
	Charleston, SC 29402
Telephone:	(843) 577-6726
Email:	epalmer@rrhlawfirm.com
Original Creditor:	n/a
Address (if different from above)	n/a
Claim Amount Due:	$6,301.72
Account Number:	9719-00M
Other Reference Number:	n/a
Basis of claim (Ex: Contract, Services Rendered for decedent, etc):	Legal Services Rendered
Date claim will become due (if not already due)	Due Now
Nature of uncertainty as to the claim, if any (i.e. contingent claim, amount of claim, due date):	n/a
Description of security as to the claim, if any (Ex: Collateral for the debt)	n/a

Signature: [signature]
Name: Elizabeth J. Palmer, Esq.
Title: Creditor Representative
Date: 2/13/19

INSTRUCTIONS: Claims **MUST** be filed with the Probate Court of the county in which the Decedent's Estate is under administration and may be delivered or mailed to the fiduciary appointed to administer the Estate (see SCPC 62-3-803, 62-3-804, and 62-3-806).

No claim against a Decedent's estate may be presented or legal action commenced against a Decedent's Estate prior to the appointment of a Personal Representative to administer the Decedent's Estate (except see SCPC 62-3-804(1)(b)).

Satisfaction or withdrawal of claim (FORM 325) **MUST** be filed once claim is resolved.

EXHIBIT 3

FORM #371ES (1/2016)
62-3-104, 62-3-803, 62-3-804, 62-3-806

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, ELIZABETH J. PALMER, ESQUIRE, ON BEHALF OF ROSEN HAGOOD, LLC, Applicant, v. MICHAEL C.FOX, IN HIS CAPACITY AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, IN HIS CAPACITY AS SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	) IN THE PROBATE COURT)) CASE NO: 2017-ES-18-00294)	**EMERGENCY APPLICATION FOR APPOINTMENT OF TEMPORARY SPECIAL ADMINISTRATOR**

PROBATE COURT
DORCHESTER COUNTY
2019 FEB 13 PM 12:12

TO: ATTORNEY FOR RESPONDENT MICHAEL C. FOX

PLEASE TAKE NOTICE that Applicant Elizabeth J. Palmer, Esquire, on behalf of Rosen Hagood, LLC, will move before the Presiding Judge of the Probate Court for the First Judicial Circuit at the Dorchester County Probate Court at 5200 E. Jim Bilton Blvd., St. George, SC 29477, as soon as possible should a hearing be required, for an Order appointing Andrew W. Chandler, Esquire, as Temporary Special Administrator of the Estate of Doris Duane Colucci ("Estate"). The grounds for this Application are as follows:

EXHIBIT C

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1. The Decedent was killed by her husband on April 14, 2017.

2. Andrew W. Chandler, Esquire, was appointed Special Administrator of the Estate by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis.

3. By Order filed July 24, 2017, this Court approved Mr. Chandler's hiring of Rosen Hagood, LLC ("RH"), to "represent him in his capacity as Special Administrator of the Estate in connection with the investigation and pursuit of all litigation matters and claims related to the Estate."

4. RH has represented Mr. Chandler in the administration of the Estate since that time, including filing two lawsuits in October 2017: (1) a wrongful death action pending in Charleston County Court of Common Pleas; and (2) a Petition to Determine Heirs, which was brought pursuant to the "Slayer's Act" and is pending in Dorchester County Court of Common Pleas.

5. In August 2017, Decedent's purported Last Will and Testament, dated June 18, 2013, was filed with this Court.

6. It was not until October 30, 2017, that Michael C. Fox, who is named as a successor personal representative in the Will, filed a Petition for Formal Testacy and Appointment, seeking to have the Will admitted to probate and to have himself admitted as personal representative of the Estate.

7. A hearing on the Petition was held on August 13, 2018, and, by Order filed August 27, 2018, the Dorchester County Court of Common Pleas ordered that the Will be admitted to probate. A decision concerning the appointment of Mr. Fox as personal representative was taken under advisement.

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8. Following the admission of the Will to probate, and with full knowledge of the fact that Mr. Fox was named as a successor personal representative of the Estate, this Court entered a Modified Order for the Appointment of a Special Administrator, dated August 27, 2018, which found that "[t]he continued appointment and service of Andrew W. Chandler as the Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets." Modified Order attached as Exhibit 1.

9. On February 13, 2019, the Dorchester County Court of Common Pleas issued its Order concerning the appointment of Mr. Fox, ordering that Mr. Fox be appointed as personal representative.

10. The appointment of Mr. Fox terminated Mr. Chandler's appointment as Special Administrator pursuant to S.C. Code Ann. § 62-3-618.

11. As a result of the termination of Mr. Chandler's appointment, RH became a creditor of the Estate and, as such, pursuant to S.C. Code Ann. § 62-1-201(23), an "interested person." RH Creditor's Claim is attached as Exhibit 2.

12. RH is making this Application in order to protect the Estate, prevent waste, and ensure that it continues to be administered efficiently and effectively.

13. Mr. Fox has demonstrated on numerous occasions that his intentions do not align with, and run afoul of, the best interests of the Estate and the timely and efficient administration of the Estate. For example, on more than one occasion Mr. Fox has taken measures to frustrate the administration of the Estate and Mr. Chandler's attempts to distribute Estate assets to its sole devisee, the Colucci Living Trust. A description of these measures, as well as this Court's determination that "[Mr.] Fox and

his counsel have taken measures to frustrate [Mr.] Chandler's distribution of Estate assets to the Trust" is contained in this Court's Order, filed on February 7, 2019, which denied Mr. Fox's petition seeking the removal of Mr. Chandler as special administrator. See Order, attached as Exhibit 3, p. 10.

14. In fact, this Court ordered that Mr. Fox pay the Estate the attorneys' fees and costs incurred in defending Mr. Fox's Petition for Removal of Special Administrator, presumably because of the Court's determination that he "failed to present to this Court any evidence or law in support of his arguments that cause exists to remove [Mr.] Chandler as Special Administrator." Order, p. 16. Additionally, the Court noted that, based on the presentation of the case, it was clear that the "intention in filing the Petition for Removal of Special Administrator was to interpose delay in administering the Decedent's Estate." Order (Ex. 3), pp, 16-17, fn. 6.

15. At this juncture in the administration of the Estate, nearly two years following Decedent's death, changing the fiduciary, regardless of who that replacement may be, would inevitably result in delay and waste, all to the detriment of the Estate. This Court has already determined the following:

> Based on the extremely litigious and multifaceted complications plaguing this Estate, removing the Special Administrator at this point would be illogical. It would cause an extreme hardship to the Estate for a new fiduciary to have to learn and understand all the management, negotiations, and issues that have been handled and will continue to need to be handled.

Order (Ex. 3), p. 16.

16. The ongoing litigation matters, business matters, and tax matters in this Estate require a fiduciary familiar with the issues, who lacks any actual or potential conflicts of interest. Mr. Chandler has extensive experience in probate matters, is

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recognized state-wide for his knowledge in this area, and has ably served as a fiduciary to this Court. The appointment and service of Mr. Chandler as the Temporary Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets. The best interests of the Estate of Doris D. Colucci are protected by the appointment of Andrew W. Chandler as Temporary Special Administrator.

17. Mr. Chandler has demonstrated beyond question that he is capable of administering this complex Estate and that he has done so in a competent and efficient manner.

18. Pursuant to S.C. Code Ann. § 62-3-614(1), Applicant requests that Mr. Chandler be appointed as the temporary special administrator of the Estate and be ordered to take appropriate actions involving estate assets with all of the powers of a general personal representative.

WHEREFORE, Applicant Elizabeth J. Palmer, on behalf of Rosen Hagood, LLC, moves the Court to appoint Andrew W. Chandler, Esquire, as the temporary special administrator of the Estate of Doris Duane Colucci on an emergency basis and for such other and further relief as this Court may deem just and proper.

ROSEN HAGOOD, LLC



H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401

(843) 577-6726

Charleston, South Carolina
February 13, 2019

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-CP-18-1816
The Estate of Doris Duane Colucci,	)	
Michael C. Fox Personal Representative the Estate of Doris Duane Colucci,	)	**Rule to Show Cause**
Plaintiff,	)	
vs.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	)	
Defendants.	)	

Plaintiff Michael C. Fox would respectfully show unto this Court:

1. On February 13, 2019, this Court issued its Order appointing Michael C. Fox as Personal Representative of the Estate. The Order also required Andrew Chandler to "forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent." This Court further ordered Mr. Fox and Mr. Chandler to "work together for the benefit of the Estate." This Order is attached as Exhibit A.

2. On February 13, 2109, counsel for Andrew Chandler, the former special administrator of the Estate, filed a claim on behalf of her firm for $6,301.72 against the Estate. This claim is attached as Exhibit 3 of Exhibit B and Exhibit 3 of Exhibit C. Mr. Fox had not yet even received

EXHIBIT
B

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the records or funds of the Estate before the claim was filed. Further, this claim was filed within hours of this Court issuing its Order.

3. Mr. Chandler subsequently used this claim as a pretext to file an Emergency Application to Restrain the Personal Representative and Appointment of Temporary Special Administrator through his attorney in an attempt to circumvent the clear language of this Court's February 13, 2019 Order. In this "emergency" application, Chandler, through his attorney, sought the restraint of Michael C. Fox and his re-appointment as Temporary Special Administrator. These Applications are attached as Exhibit B and Exhibit C. These Applications frustrate the clear and unambiguous order of this Court.

4. With standing allowed on the basis of this dubious creditor's claim, the Probate Court granted the application and re-appointed Mr. Chandler as the Temporary Special Administrator and restrained Mr. Fox from carrying out the terms of this Court's Order. The Probate Court's orders are attached as Exhibits D and E.

5. The arguments of the February 13, 2019 Applications were presented to this Court in Andrew Chandler's February 8, 2019, Motion to Dismiss, which was ruled upon by this Court in its February 13, 2019 Order. Accordingly, Mr. Chandler, either individually or through his attorney, is precluded from re-asserting them. See Carman v. South Carolina Alcoholic Beverage Control Com'n, 317 S.C. 1, 451 S.E.2d 383 (S.C. 1994); Laughon v. O'Braitis, 360 S.C. 520, 602 S.E.2d 108 (Ct. App. 2004).

6. The acts of Andrew Chandler, taken through his attorney, constitute a willful violation of this Court's Order.

WHEREFORE, Petitioner prays for an Order of this Court:

a) Adjudging Andrew Chandler, or any other persons or entities it deems culpable, in willful contempt of this Court's February 13, 2019 Order;

b) Requiring Respondent to pay Petitioner's attorney's fees and costs associated with this action;

c) For such other and further relief as this Court deems just and proper.

s/ Ryan A. Love
Ryan A. Love
Gordon H. Garrett
Garrett Law Offices, LLC
1075 E. Montague Avenue
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (fax)
rlove@garrettlawsc.com
Attorneys for the Plaintiff

North Charleston, South Carolina
Dated: February 14, 2019

ELECTRONICALLY FILED - 2019 Feb 14 12:07 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE COURT THE PROBATE COURT
In Re:	)	№ 2017-ES-18-00294
The Estate of Doris Duane Colucci,	)	
Michael C. Fox, Personal Representative in the Last Will of Doris Duane Colucci,	)	**Return to Emergency Application for Restraint of Personal Representative**
Plaintiff,	)	
vs.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, Richard M. Hyman, Jr, and Rosen Hagood, LLC,	)	
Defendants.	)	

Plaintiff Michael C. Fox, Personal Representative of the Estate of Doris Duane Colucci ("Fox") submits the following[1] in opposition to Rosen Hagood, LLC's ("Rosen") Emergency Application for Appointment of Temporary Special Administrator:

1. Rosen's arguments are barred by the doctrines of res judicata and collateral estoppel. Mr. Fox is the duly appointed General Personal Representative of the Estate of Doris Colucci. The Dorchester County Court of Common Pleas signed this Order on February 12, 2019. This Order further found Mr. Fox qualified to serve as Personal Representative, ordered him to collect the

[1] To the extent applicable, the arguments of Fox's February 19, 2019, Motion to Alter or Amend are incorporated herein by reference. Fox further asserts the right to supplement his arguments in this matter at hearing.

assets of the Estate, and investigate any waste or fraud. The Court also ordered that Chandler, "forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. This Court further orders that the Special Administrator Mr. Chandler and the Personal Representative Mr. Fox work together for the benefit of the Estate." The Court of Common of Pleas' ruling has not been appealed is the law of the case. See e.g. Charleston Lumber Co. v. Miller Hous. Corp., 338 S.C. 171, 525 S.E.2d 869 (2000).

2. When the Court of Common Pleas issued its February 12, 2019 Order, it had before it all of the Special Administrator's and Rosen Hagood, LLC's concerns and arguments, including the findings made in the Probate Court's February 7, 2019 Order regarding the appointment of Fox and the restraint of Chandler, and it found that Mr. Fox was qualified.

3. Chandler presented his arguments to the Court of Common Pleas on two separate occasions prior to its issuing the February 12, 2019 Order:

a. On November 26, 2018, Mr. Fox filed a Motion to Restrain the Special Administrator Andrew Chandler in the Court of Common Pleas.[2] On February 8, 2019, the Special Administrator moved to dismiss Fox's Motion to Restrain in the Dorchester County Court of Common Pleas. Attached to this motion, and incorporated into its arguments, was this Court's February 7, 2019 Order.

b. Via email, the Special Administrator specifically requested the Circuit Court consider this Court's February 7, 2019 order as it related to the qualification and appointment of Mr. Fox. Attached as Exhibit A are the emails to the Circuit Court.

[2] SC Code Section 62-3-607 states that such motion shall be set for hearing within ten days or at such other times as the parties may agree.

4. "The doctrine of res judicata provides that final judgment on the merits of an action precludes the parties or their privies from relitigating claims that were or could have been raised in that action." In re S.N.A. Nut Co., 215 B.R. 1004, 1008 (1997); see also Plum Creek Dev. Co., Inc. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Under the doctrine of res judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.' ").

5. Under the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim. South Carolina Property and Casualty Ins. Guar. Ass'n v. Wal–Mart Stores, Inc., 304 S.C. 210, 403 S.E.2d 625 (1991).

6. Therefore, the February 7, 2019 Order was carefully considered by the Court of Common Pleas and that Court chose to make findings that overrule the February 7, 2019 Order. Rosen's arguments are barred by the doctrines of res judicata and collateral estoppel.

7. Three of the Colucci children have executed affidavits requesting that Fox be appointed at Personal Representative and Andrew Chandler be removed as Special Administrator. These affidavits are on file with the Dorchester County Probate Court and are incorporated herein by reference.

8. Part of Rosen's argument is that new counsel will need to be hired for the Estate. Because attorney Elizabeth Palmer of Rosen is now a witness, she cannot represent the Estate in this matter; therefore, a new attorney is necessary for the Estate, regardless of who is special administrator or personal representative.

9. To the extent that the February 12, 2019 Circuit Court Order is now an order of the Probate Court, Rosen has violated it by acting as a proxy for Chandler. Attached as Exhibit B is Plaintiff's Rule to Show Cause filed with the Circuit Court.

10. Mr. Fox has not frustrated the purpose of the Estate. Mr. Fox, initially named in the Last Will as the Successor Personal Representative, filed an application for informal probate which was denied.[3] On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment ("Formal Petition") in the Dorchester County Probate Court. Mr. Fox believed that the commencement of such formal proceedings should act to appoint Mr. Fox as the Special Administrator[4] and that any action he or any other administrator might take would be stayed beyond what was necessary to preserve the estate.[5] The Court did not appoint Mr. Fox as the Special Administrator nor prevented the acting Special Administrator to engage in actions beyond what was necessary to preserve the estate. The Court's February 7, 2019 Order errs when it finds that Mr. Fox acted inappropriately in questioning the sale of estate assets or distribution of estate assets when the Special Administrator was barred by statute from engaging in such behavior. (Feb.7, 2019, Probate Court Order, p. 9).

11. In response to footnote 1 of the Application, Plaintiff notes that on two separate occasions, Plaintiff's counsel provided the court reporter and Westin Craig Anthony, LLC, with the requested exhibits. Attached as Exhibit C are the emails to the court reporter and to Westin Craig Anthony, LLC.

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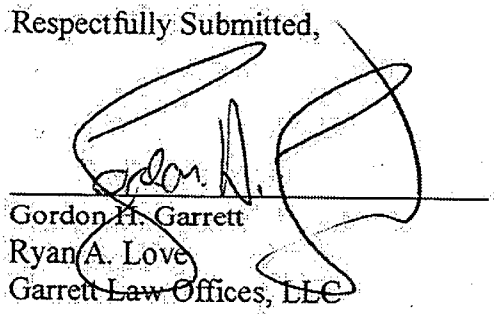
[3] The Dorchester County Probate denied Mr. Fox's informal application without making any finding of fact as required under SC Code Section §62-3-303.

[4] SC Code §62-3-615 states that if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.

[5] SC Code §62-3-414 states that after formal proceedings commence, the Personal Representative shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

Wherefore, Michael C. Fox having fully responded to the Application of Elizabeth J. Palmer, on behalf of Rosen Hagood, LLC, requests that the Court deny the Application, terminate Andrew Chandler as the temporary special administrator, and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,



Gordon H. Garrett
Ryan A. Love
Garrett Law Offices, LLC
1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (fax)
office@garrettlawsc.com
Attorneys for Plaintiff

North Charleston, South Carolina

Dated: February 21, 2019

Ryan Love

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 2:44 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney); Ryan Love
Cc: David Haller; currylawfirm; Glenn Churchill; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt; (general) Garrett Law Offices
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Attachments: Proposed Order appointing Fox revised.docx

Mr. McKinney,

I have attached a revised Proposed Order Appointing Fox including the language we have requested that the Court consider.

Please let me know if the Court requires anything further from us at this time.

Sincerely,
Beth Palmer

Elizabeth Palmer
Attorney at Law

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
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ROSEN | HAGOOD

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EXHIBIT A

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 12:08 PM
To: Ryan Love <rlove@garrettlawsc.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Love,

Thank you for your submission. The Court will make its decision by the end of the day. We are awaiting the proposed amendments from Ms. Palmer. If the Court does not receive the proposed amendments, the Court will still make its decision by the end of the day.

Sincerely,

Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Ryan Love <rlove@garrettlawsc.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Your Honor,

While we respect counsel's request to change the Court's decision, we have arrived at this point because the current Special Administrator is at complete odds with the Trustee of the Colucci Living Trust, multiple members of the Colucci family, and over the resolution of the pending suits. There is no question that Doris Colucci fully intended and named in her Will, Michael Fox, to be the General Personal Representative with the full meaning and force of the South Carolina Code.
Further, we have attached affidavits from three of the Colucci children requesting that Mr. Chandler be removed and that Mr. Fox be appointed. In addition, Mr. Fox, as Trustee of the Colucci Living Trust, is not satisfied with Mr. Chandler's performance and does not wish him to continue to administer any further issues in this Estate. We would ask the Court consider these factors in light of Ms. Palmer's request.

Respectfully Submitted,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 11:03 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Counsels,

Good morning. Ms. Palmer, please provide a proposed order, with your suggested amendments for the Court's review. The Court will make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 10:32 AM
To: Ryan Love <rlove@garrettlawsc.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Dickson, Edgar W. <edicksonj@sccourts.org>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Judge Dickson and Mr. McKinney,

Good morning. As you know, we represent Andrew Chandler, who is currently the Special Administrator of the Estate of Doris Duane Colucci. We have represented Mr. Chandler in that capacity since July 2017, bringing both the Petition to Determine Heirs (under the Slayer's Act) and the wrongful death lawsuit in October 2017. We would respectfully request hat the Court, pursuant to S.C. Code Ann. s. 62-3-715, consider revising the proposed Order to provide that, excluded from Mr. Fox's powers as Personal Representative, is the power to maintain/pursue the pending litigation, i.e., the wrongful death lawsuit and the Petition to Determine Heirs.

Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case.

We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust (the sole devisee of Mrs. Colucci's Will, of which Mr. Fox is the Trustee).

If the Court is inclined to revise the Order as we have requested, we would be happy to draft the proposed revisions for the Court's consideration.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
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www.rrhlawfirm.com

ROSEN | HAGOOD

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From: Ryan Love <rlove@garrettlawsc.com>
Sent: Monday, February 11, 2019 5:21 PM
To: edicksonlc@sccourts.org
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net;

andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Pursuant to your request, please find enclosed a proposed order in this matter. I have circulated this order amongst counsel today (see below), and Mr. Haller suggested the addition of the language in footnote 1.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Ryan Love
Sent: Monday, February 11, 2019 12:47 PM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

All,

Please find enclosed our proposed order in this matter. Please let me know by 5pm today if you have any objections or revisions.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Monday, February 11, 2019 11:56 AM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>

Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsel, continuance granted for both the Motion to Restrain and the Motion to Dismiss. Please e-file the necessary order.

Additionally, Upon removal to the Circuit Court, the Probate Court granted the removal subsequent to certain conditions. On November 20, 2017 the Motion for Removal was granted however, jurisdiction was retained as to all other matters involving this case except for issues previously or subsequently removed. The Court was asked to rule on the following issues:

1.) Probate of will

2.) Appointment of Personal Representative

The Court probated the will during the hearing in Dorchester County on August 13, 2018 and was signed August 27, 2018. The only matter that was outstanding was the appointment of a personal representative.

After careful consideration, it was this Court's initial decision that Mr. Andrew W. Chandler, Esq be removed as the Special Administrator of the estate. However, prior to the Court making its decision, the Probate Court ruled that the power to remove the Special Administrator was not removed to the Circuit Court. Therefore, this Court makes no further decision regarding the Special Administrator. However, the Probate Court, in its removal order, did vest the Circuit Court with the power to appoint a Personal Representative. Therefore, it is decided that Mr. Michael C. Fox be appointed and/or remain as the Personal Representative. Additionally, it is ordered that any and all information regarding the estate be turned over to Mr. Fox for review to ensure that there has been no waste, abuse, or fraud within the estate and to fulfill the duties bestowed upon him by the Decedent. The parties are ordered to work together in the interest of the estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter. This is the Court's decision after receiving the additional information last week.

Attorney Garrett, Judge Dickson asks that you prepare the Order reflecting his decision. When the Order has been prepared, please forward copies to opposing counsel for review. Then, please email the order to our office in a word document form.

If you have any questions or concerns, please contact this office by email or telephone at (803) 535-2356.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: David Haller <dhaller@hallerlawfirm.com>
Sent: Monday, February 11, 2019 11:16 AM
To: currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Curry represents Stefan Colucci, who is mistakenly listed as pro se in the clerk's roster.

David K. Haller
843-224-7860
Sent from my iPhone
Please excuse typos and incomprehensible autocorrects.

THIS COMMUNICATION CONTAINS CONFIDENTIAL MATERIAL SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT OR BOTH. PLEASE REPORT ANY MISDIRECTED COMMUNICATIONS TO THE SENDER.

On Feb 11, 2019, at 11:06 AM, currylawfirm <currylawfirm@bellsouth.net> wrote:

> I also consent to continuance. Eduardo Curry
>
> Sent from my T-Mobile 4G LTE Device
>
> ------- Original message -------
> From: Glenn Churchill <gpclawfirm@gmail.com>
> Date: 2/11/19 10:56 AM (GMT-05:00)
> To: "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org>
> Cc: "David K. Haller" <dhaller@hallerlawfirm.com>, Elizabeth Palmer <epalmer@rrhlawfirm.com>, Ryan Love <rlove@garrettlawsc.com>, lester.schwartz@sctaxlawyer.com, "Andrew W. Chandler" <chandler@eckb.com>, Brew Hagood <bhagood@rrhlawfirm.com>, "Andrew D. Gowdown" <agowdown@rrhlawfirm.com>, scarborough@eckb.com, jlee@eckb.com, angus@lawtonlawfirm.net, andrewtcashlaw@gmail.com, carlpierce@piercesloan.com, bensmoot@piercesloan.com, "Shelbourne, Brandt" <brandt@shelbournelaw.com>, currylawfirm@bellsouth.net, "Dickson, Edgar W. Secretary (Catherine C. Wilson)" <edicksonsc@sccourts.org>, "Melissa R. Bates" <MBates@dorchestercountysc.gov>
> Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816
>
> I am not certain if my consent is necessary, but I consent to the continuance in my capacity as guardian ad litem for John Antonio.

Glenn P. Churchill, Esquire
115 River Landing Drive, Suite 102
Charleston, SC 29492
843/849-1384 o
843/853-9377 f

On Mon, Feb 11, 2019 at 10:51 AM Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

Counsel, good morning. The concern with a continuance is as follows: So far, we have not had all the necessary consents to grant a continuance. In addition, apparently a Pro-Se has been noticed to be here today for the case. Therefore, there is a concern that not all the necessary parties would be able to consent in time. If you could provide all the consents needed then a more informed decision will be able to be made. Thank you for your time.

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: David K. Haller <dhaller@hallerlawfirm.com>
Sent: Friday, February 8, 2019 3:14 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Cc: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Dear Judge Dickson and Mr. McKinney:

I represent Christa Yantis, who is the conservator for Ivo Colucci, Mrs. Colucci's surviving spouse. Your Honor's ruling relates to a motion for summary judgment I filed on Ms. Yantis's behalf to seeking probate of Mrs. Colucci's Will and the appointment of a personal representative of her estate.

This week, the parties have been engaged in a two day mediation with John Tiller, with discussions continuing after. Those discussions have blossomed into ways in which the family can bring the several lawsuits currently pending (including this one, there are at least 5) to an end. Your ruling may assist in bringing those issues to a head requiring a settlement of all claims.

I am writing to request that Monday's hearing be continued for no more than 10 days to allow the parties time to continue and complete settlement discussions to wrap all of these matters. I have spoken with some (but not all) of the other counsel and they are in agreement.

Thank you for your time and attention to this matter,

David Haller

David K. Haller
604 Savannah Highway, Charleston, South Carolina 29407

843-224-7860

www.dhallerlawfirm.com

Please note that the information contained in this e-mail does not create an attorney client relationship. An attorney-client relationship is not established until a signed agreement is made between the attorney and prospective client. Nevertheless, the information contained in this e-mail transmission is legally privileged and confidential. It is intended for the use of the individual or company to whom it is directed. If the receiver of this e-mail is not the intended recipient, you are hereby notified that no privilege is waived by virtue of your inadvertent receipt and that any distribution or copying of this e-mail is strictly prohibited by both State and Federal

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On Feb 8, 2019, at 12:31 PM, Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

We will take up all matters on Monday. Thank you for this additional information

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Ryan Love <rlove@garrettlawsc.com>
Cc: lester.schwartz@sctaxlawyer.com; chandler@eckb.com; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; dhaller@hallerlawfirm.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; David K. Haller <dhaller@hallerlawfirm.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,

Beth Palmer

Elizabeth Palmer

|Attorney at Law|

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

<image001.gif>

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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Friday, February 8, 2019 11:20 AM
To: Ryan Love <

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~~~

Ryan Love

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 2:10 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney); Ryan Love
Cc: David Haller; currylawfirm; Glenn Churchill; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt; (general) Garrett Law Offices
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816
Attachments: image001.gif; image002.jpg; image003.jpg; image004.jpg

Mr. McKinney,

Thank you for your email. We will be submitting a revised order shortly.

Sincerely,
Beth Palmer

Get Outlook for iOS<https://aka.ms/o0ukef>

On Tue, Feb 12, 2019 at 12:08 PM -0500, "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:

Mr. Love,

Thank you for your submission. The Court will make its decision by the end of the day. We are awaiting the proposed amendments from Ms. Palmer. If the Court does not receive the proposed amendments, the Court will still make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Ryan Love <rlove@garrettlawsc.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com;

bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Your Honor,

While we respect counsel's request to change the Court's decision, we have arrived at this point because the current Special Administrator is at complete odds with the Trustee of the Colucci Living Trust, multiple members of the Colucci family, and over the resolution of the pending suits. There is no question that Doris Colucci fully intended and named in her Will, Michael Fox, to be the General Personal Representative with the full meaning and force of the South Carolina Code.

Further, we have attached affidavits from three of the Colucci children requesting that Mr. Chandler be removed and that Mr. Fox be appointed. In addition, Mr. Fox, as Trustee of the Colucci Living Trust, is not satisfied with Mr. Chandler's performance and does not wish him to continue to administer any further issues in this Estate. We would ask the Court consider these factors in light of Ms. Palmer's request.

Respectfully Submitted,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Tuesday, February 12, 2019 11:03 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Counsels,

Good morning. Ms. Palmer, please provide a proposed order, with your suggested amendments for the Court's review. The Court will make its decision by the end of the day.

Sincerely,

Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Sent: Tuesday, February 12, 2019 10:32 AM
To: Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Dickson, Edgar W. <edicksonj@sccourts.org<mailto:edicksonj@sccourts.org>>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Judge Dickson and Mr. McKinney,

Good morning. As you know, we represent Andrew Chandler, who is currently the Special Administrator of the Estate of Doris Duane Colucci. We have represented Mr. Chandler in that capacity since July 2017, bringing both the Petition to Determine Heirs (under the Slayer's Act) and the wrongful death lawsuit in October 2017. We would respectfully request that the Court, pursuant to S.C. Code Ann. s. 62-3-715, consider revising the proposed Order to provide that, excluded from Mr. Fox's powers as Personal Representative, is the power to maintain/pursue the pending litigation, i.e., the wrongful death lawsuit and the Petition to Determine Heirs.

Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case.

We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust (the sole devisee of Mrs. Colucci's Will, of which Mr. Fox is the Trustee).

If the Court is inclined to revise the Order as we have requested, we would be happy to draft the proposed revisions for the Court's consideration.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>
V-Card<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.rrhlawfirm.com_vcards_palmer-2Delizabeth.vcf&d=DwMFaQ&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=r_rGSHqW6nb8jCz9Ax5KHJS08MmWaNHP4fQbDBpsKZ0&m=9fRzvzDbh5Nn8HdVWygcDEf9AnAsfeC9iicxy7fRSCw&s=KQAEOrQP7b-7pp_8HKcl4WccBberHIPOTikimsICXRA&e=>
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From: Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>
Sent: Monday, February 11, 2019 5:21 PM
To: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood

<bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Pursuant to your request, please find enclosed a proposed order in this matter. I have circulated this order amongst counsel today (see below), and Mr. Haller suggested the addition of the language in footnote 1.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Ryan Love
Sent: Monday, February 11, 2019 12:47 PM
To: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

All,

Please find enclosed our proposed order in this matter. Please let me know by 5pm today if you have any objections or revisions.

Kind regards,

Ryan A. Love

Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Monday, February 11, 2019 11:56 AM
To: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>
Cc: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>; Melissa R. Bates <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsel, continuance granted for both the Motion to Restrain and the Motion to Dismiss. Please e-file the necessary order.

Additionally, Upon removal to the Circuit Court, the Probate Court granted the removal subsequent to certain conditions. On November 20, 2017 the Motion for Removal was granted however, jurisdiction was retained as to all other matters involving this case except for issues previously or subsequently removed. The Court was asked to rule on the following issues:

1.) Probate of will

2.) Appointment of Personal Representative

The Court probated the will during the hearing in Dorchester County on August 13, 2018 and was signed August 27, 2018. The only matter that was outstanding was the appointment of a personal representative.

After careful consideration, it was this Court's initial decision that Mr. Andrew W. Chandler, Esq be removed as the Special Administrator of the estate. However, prior to the Court making its decision, the Probate Court ruled that the power to remove the Special Administrator was not removed to the Circuit Court. Therefore, this Court makes no further decision regarding the Special Administrator. However, the Probate Court, in its removal order, did vest the Circuit Court with the power to appoint a Personal Representative. Therefore, it is decided that Mr. Michael C. Fox be appointed and/or remain as the Personal Representative. Additionally, it is ordered that any and all information regarding the estate be turned over to Mr. Fox for review to ensure that there has been no waste, abuse, or fraud within

the estate and to fulfill the duties bestowed upon him by the Decedent. The parties are ordered to work together in the interest of the estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter. This is the Court's decision after receiving the additional information last week.

Attorney Garrett, Judge Dickson asks that you prepare the Order reflecting his decision. When the Order has been prepared, please forward copies to opposing counsel for review. Then, please email the order to our office in a word document form.

If you have any questions or concerns, please contact this office by email or telephone at (803) 535-2356.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>
Sent: Monday, February 11, 2019 11:16 AM
To: currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>
Cc: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>; Melissa R. Bates <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Curry represents Stefan Colucci, who is mistakenly listed as pro se in the clerk's roster.
David K. Haller
843-224-7860

Sent from my iPhone
Please excuse typos and incomprehensible autocorrects.

THIS COMMUNICATION CONTAINS CONFIDENTIAL MATERIAL SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT OR BOTH. PLEASE REPORT ANY MISDIRECTED COMMUNICATIONS TO THE SENDER.

On Feb 11, 2019, at 11:06 AM, currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>> wrote:
I also consent to continuance. Eduardo Curry

Sent from my T-Mobile 4G LTE Device

——— Original message ———
From: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>
Date: 2/11/19 10:56 AM (GMT-05:00)
To: "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Cc: "David K. Haller" <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>, Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>, Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>, lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>, "Andrew W. Chandler" <chandler@eckb.com<mailto:chandler@eckb.com>>, Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>, "Andrew D. Gowdown" <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>, scarborough@eckb.com<mailto:scarborough@eckb.com>, jlee@eckb.com<mailto:jlee@eckb.com>, angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>, andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>, carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>, bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>, "Shelbourne, Brandt" <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>, currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>, "Dickson, Edgar W. Secretary (Catherine C. Wilson)" <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>, "Melissa R. Bates" <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

I am not certain if my consent is necessary, but I consent to the continuance in my capacity as guardian ad litem for John Antonio.

Glenn P. Churchill, Esquire
115 River Landing Drive, Suite 102
Charleston, SC 29492
843/849-1384 o
843/853-9377 f

On Mon, Feb 11, 2019 at 10:51 AM Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:
Counsel, good morning. The concern with a continuance is as follows: So far, we have not had all the necessary consents to grant a continuance. In addition, apparently a Pro-Se has been noticed to be here today for the case. Therefore, there

is a concern that not all the necessary parties would be able to consent in time. If you could provide all the consents needed then a more informed decision will be able to be made. Thank you for your time.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: David K. Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>
Sent: Friday, February 8, 2019 3:14 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Cc: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Dear Judge Dickson and Mr. McKinney:

I represent Christa Yantis, who is the conservator for Ivo Colucci, Mrs. Colucci's surviving spouse. Your Honor's ruling relates to a motion for summary judgment I filed on Ms. Yantis's behalf to seeking probate of Mrs. Colucci's Will and the appointment of a personal representative of her estate.

This week, the parties have been engaged in a two day mediation with John Tiller, with discussions continuing after. Those discussions have blossomed into ways in which the family can bring the several lawsuits currently pending (including this one, there are at least 5) to an end. Your ruling may assist in bringing those issues to a head requiring a settlement of all claims.

I am writing to request that Monday's hearing be continued for no more than 10 days to allow the parties time to continue and complete settlement discussions to wrap all of these matters. I have spoken with some (but not all) of the other counsel and they are in agreement.

Thank you for your time and attention to this matter,

David Haller

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mWaNHP4fQbDBpsKZ0&m=IHkAeOcWa3ubtnVkJF5BVBEYSABidMVMcbg9svjZ9D4&s=CajiNx1mUo1lYSdsCvimj1zkhcjAk1
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David K. Haller
604 Savannah Highway, Charleston, South Carolina 29407<https://urldefense.proofpoint.com/v2/url?u=http-
3A__hallerlawfirm.procurrox.com_&d=DwMFaQ&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=r_rGSHqW6nb8jCz9Ax5KHJS08M
mWaNHP4fQbDBpsKZ0&m=IHkAeOcWa3ubtnVkJF5BVBEYSABidMVMcbg9svjZ9D4&s=CajiNx1mUo1lYSdsCvimj1zkhcjAk1
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mWaNHP4fQbDBpsKZ0&m=IHkAeOcWa3ubtnVkJF5BVBEYSABidMVMcbg9svjZ9D4&s=CajiNx1mUo1lYSdsCvimj1zkhcjAk1
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S06MOVKYrR1yA&e=>Please note that the information contained in this e-mail does not create an attorney client relationship. An attorney-client relationship is not established until a signed agreement is made between the attorney and prospective client. Nevertheless, the information contained in this e-mail transmission is legally privileged and confidential. It is intended for the use of the individual or company to whom it is directed. If the receiver of this e-mail is not the intended recipient, you are hereby notified that no privilege is waived by virtue of your inadvertent receipt and that any distribution or copying of this e-mail is strictly prohibited by both State and Federal communications laws. If you have received this e-mail in error, please delete any and all copies of the same from any media to which it may have been stored and destroy any hard copies which may have been generated. This firm does not give tax advice of any kind.

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On Feb 8, 2019, at 12:31 PM, Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:

We will take up all matters on Monday. Thank you for this additional information

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>

Cc: lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>;
chandler@eckb.com<mailto:chandler@eckb.com>; gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>;
scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>;
angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>;
andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>;
dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>;
carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>;
bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>;
currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>; David K. Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>
V-Card<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.rrhlawfirm.com_vcards_palmer-2Delizabeth.vcf&d=DwMFAg&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=r_rGSHqW6nb8jCz9Ax5KHJS08MmWaNHP4fQbDBpsKZ0&m=tKZCmGzyRzqDUJXKHEhMtj17a0SnfPMcSvFlh1IrIhw&s=gGV6Mq4QQ8bDcJwHTFlZZScRS6WK8qgR33oP_mDu0NQ&e=>
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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Friday, February 8, 2019 11:20 AM
To: Ryan Love <
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(general) Garrett Law Offices

From: (general) Garrett Law Offices
Sent: Tuesday, February 12, 2019 3:43 PM
To: 'Caitlyn Young'
Subject: FW: Exhibits for Jan 25 Depo
Attachments: HID 15205053148.pdf; HID 16205053148.pdf; HID 2011205053148.pdf; HID 2013205053148.pdf; HID 2014205053148.pdf; HID-AnalysisofNetIncome.pdf

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From: (general) Garrett Law Offices <office@garrettlawsc.com>
Sent: Friday, February 8, 2019 12:09 PM
To: production4@scheduledepo.com
Subject: Exhibits for Jan 25 Depo

Ms. Schwartz,

Thank you for your help on the transcript. Please find attached the requested exhibits for the Michael Fox Deposition on January 25, 2019. Should you have any further questions please reach out to our office.

-Antonia Francis
Law Clerk
Garrett Law Offices
1075 East Montague Ave.
North Charleston, SC 29405
P: 843-554-5515
F: 843-747-3198

EXHIBIT
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(general) Garrett Law Offices

From: (general) Garrett Law Offices
Sent: Friday, February 8, 2019 12:09 PM
To: production4@scheduledepo.com
Subject: Exhibits for Jan 25 Depo
Attachments: HID 15205053148.pdf; HID 16205053148.pdf; HID 2011205053148.pdf; HID 2013205053148.pdf; HID 2014205053148.pdf; HID-AnalysisofNetIncome.pdf

Ms. Schwartz,

Thank you for your help on the transcript. Please find attached the requested exhibits for the Michael Fox Deposition on January 25, 2019. Should you have any further questions please reach out to our office.

-Antonia Francis
Law Clerk
Garrett Law Offices
1075 East Montague Ave.
North Charleston, SC 29405
P: 843-554-5515
F: 843-747-3198

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT THE PROBATE COURT № 2017-ES-18-00294
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox, Personal Representative of the Estate of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, Richard M. Hyman, Jr, and Rosen Hagood, LLC,** Defendants.	**Motion to Amend Findings by the Court and Motion for Relief from Order or Judgment**

PROBATE JUDGE
DORCHESTER COUNTY, S.C.
2019 FEB 22 AM 11:48

Plaintiff Michael C. Fox, Personal Representative of the Estate of Doris Colucci ("Mr. Fox"), pursuant to Rules 52(b) and 60(b)(5), SCRCP moves to amend and requests relief from this Court's February 13, 2019 Order for Appointment of Temporary Special Administrator as set forth below:

I. Procedural History.

Mr. Fox, initially named in the Last Will as the Successor Personal Representative, filed an application for informal probate which was denied. On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment ("Formal Petition") in the Dorchester County Probate Court. Mr. Fox believed that the commencement of such formal proceedings should act to

appoint Mr. Fox as the Special Administrator [1] and that any action he or any other administrator might take would be stayed beyond what was necessary to preserve the estate. [2] The Court did not appoint Mr. Fox as the Special Administrator nor prevented the acting Special Administrator to engage in actions beyond what was necessary to preserve the estate.

On November 26, 2018, Mr. Fox filed a Motion to Restrain the Special Administrator, Andrew Chandler, in the Court of Common Pleas.[3] On January 4, 2019, Mr. Fox filed a Petition to Restrain the Special Administrator in the Dorchester County Probate Court, advancing the same arguments as in his November 26, 2018 motion. On January 8, 2019, the Special Administrator moved this Court for an emergency hearing on this Petition. On January 9, 2019, this Court heard Fox's petition on an emergency basis. On February 7, 2019, this Court issued its Order refusing to restrain the Special Administrator Andrew Chandler, suggesting numerous times that Mr. Fox is not qualified to serve as the Personal Representative, and issuing sanctions against Mr. Fox in excess of $10,000.00.

The next day, on February 8, 2019, the Special Administrator moved to dismiss Fox's Motion to Restrain in the Dorchester County Court of Common Pleas. Attached to this motion, and incorporated into its arguments, was this Court's February 7, 2019, Order.

On February 12, 2019, the Circuit Court issued its Order finding Fox qualified to serve as personal representative and appointing him to that position, an act that removed Andrew Chandler from his position by operation of law. See S.C. Code 62-3-618.[4] This order also disposed of Fox's

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[1] SC Code §62-3-615 states that if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.

[2] SC Code §62-3-414 states that after formal proceedings commence, the Personal Representative shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

[3] SC Code Section 62-3-607 states that such motion shall be set for hearing within ten days or at such other times as the parties may agree.

[4] Fox would note that the Circuit Court also cites this provision in its order.

and Chandler's pending motions as moot. When it made this decision, the Circuit Court had before it all of this Court's concerns and arguments regarding the appointment of Fox and restrain of Chandler, and it ruled that Fox was qualified.

On February 13, 2109, counsel for Andrew Chandler, the former special administrator of the Estate, filed a claim on behalf of her firm for $6,301.72 against the Estate. Mr. Chandler's counsel subsequently used this claim as a pretext to file an Emergency Application for Appointment of Temporary Special Administrator through his attorney in an attempt to circumvent the clear language of this Court's February 13, 2019 Order. In this "emergency" application, Chandler, through his attorney, sought the reappointment. These Applications frustrate the clear and unambiguous order of the Circuit Court. With standing allowed on the basis of this dubious creditor's claim, the Probate Court granted Chandler's attorney's application and appointed Chandler as Temporary Special Administrator which restrained Mr. Fox from carrying out the terms of Circuit Court's February 12, 2019 Order.

II. Relief Under Rule 52(b), SCRCP.

The Court of Common Pleas' ruling is the law of the case. As is pertains to the February 13, 2019 Order, the Probate Court's various rulings are now in conflict with the higher court's Order. Therefore, the Probate Court must modify its February 13, 2019 Order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact.

As such, Andrew Chandler and Rosen Hagood, LLC's claims are under the doctrine of res judicata. "The doctrine of res judicata provides that final judgment on the merits of an action precludes the parties or their privies from relitigating claims that were or could have been raised in that action." *In re S.N.A. Nut Co.*, 215 B.R. 1004, 1008 (1997); *see also Plum Creek Dev. Co., Inc. v. City of Conway,* 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Under the doctrine of res

judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.' ").

They are also barred by the doctrine of collateral estoppel. When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim. *South Carolina Property and Casualty Ins. Guar. Ass'n v. Wal–Mart Stores, Inc.*, 304 S.C. 210, 403 S.E.2d 625 (1991).

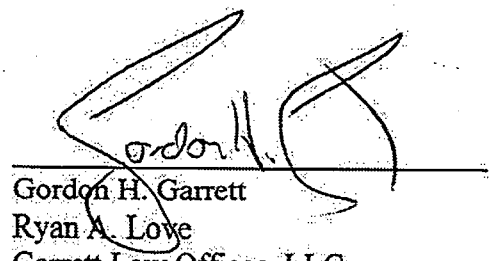
Furthermore, as is pertains to the February 13, 2019 Order, the Probate Court's various rulings are now in conflict with the February 12, 2019 Order. Therefore, the Probate Court must offer relief as far as the February 13, 2019 Order and any other ongoing order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact. It is inequitable to enforce a judgment that has become res judicata, has collateral estoppel effects, reversed, or vacated. Shaw Components, Inc. v. Nat'l Bank of S.C., 304 S.C. 114, 403 S.E.2d 153 (Ct. App. 1991).

III. Relief Under Rule 60(b)(5), SCRCP.

To the extent that the February 13, 2019 Order for Appointment of Temporary Special Administrator may be a final order, The Court of Common Pleas' ruling is the law of the case and the Probate Court is bound to offer relief under South Carolina Rule of Civil Procedure 60(b)(5). As is pertains to the February 13, 2019 Order, the Probate Court's various rulings are now in conflict with the February 12, 2019 Order. Therefore, the Probate Court must offer relief as far as the February 13, 2019 Order and any other ongoing order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact. It is inequitable to enforce a judgment that

has become res judicata, has collateral estoppel effects, reversed, or vacated. Shaw Components, Inc. v. Nat'l Bank of S.C., 304 S.C. 114, 403 S.E.2d 153 (Ct. App. 1991).

Wherefore, Plaintiff Michael C. Fox asks this Court to amend its order or provide relief from its order as set forth in this motion and award Fox such other and further relief it deems just and proper.



Gordon H. Garrett
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843.554.5515 (phone)
843.747.3198 (telefax)
office@garrettlawsc.com
Attorneys for Plaintiff

Dated: February 21, 2019

North Charleston, SC

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT THE PROBATE COURT
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox, Personal Representative in the Last Will of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, Richard M. Hyman, Jr, and Rosen Hagood, LLC,** Defendants.	№ 2017-ES-18-00294 **Return to Emergency Application for Appointment of Temporary Special Administrator**

Plaintiff Michael C. Fox, Personal Representative of the Estate of Doris Duane Colucci ("Fox") submits the following[1] in opposition to Rosen Hagood, LLC's ("Rosen") Emergency Application for Appointment of Temporary Special Administrator:

1. Rosen's arguments are barred by the doctrines of res judicata and collateral estoppel. Mr. Fox is the duly appointed General Personal Representative of the Estate of Doris Colucci. The Dorchester County Court of Common Pleas signed this Order on February 12, 2019. This Order further found Mr. Fox qualified to serve as Personal Representative, ordered him to collect the

[1] To the extent applicable, the arguments of Fox's February 19, 2019, Motion to Alter or Amend are incorporated herein by reference. Fox further asserts the right to supplement his arguments in this matter at hearing.

assets of the Estate, and investigate any waste or fraud. The Court also ordered that Chandler, "forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. This Court further orders that the Special Administrator Mr. Chandler and the Personal Representative Mr. Fox work together for the benefit of the Estate." The Court of Common of Pleas' ruling has not been appealed is the law of the case. See e.g. Charleston Lumber Co. v. Miller Hous. Corp., 338 S.C. 171, 525 S.E.2d 869 (2000).

2. When the Court of Common Pleas issued its February 12, 2019 Order, it had before it all of the Special Administrator's and Rosen Hagood, LLC's concerns and arguments, including the findings made in the Probate Court's February 7, 2019 Order regarding the appointment of Fox and the restraint of Chandler, and it found that Mr. Fox was qualified.

3. Chandler presented his arguments to the Court of Common Pleas on two separate occasions prior to its issuing the February 12, 2019 Order:

a. On November 26, 2018, Mr. Fox filed a Motion to Restrain the Special Administrator Andrew Chandler in the Court of Common Pleas.[2] On February 8, 2019, the Special Administrator moved to dismiss Fox's Motion to Restrain in the Dorchester County Court of Common Pleas. Attached to this motion, and incorporated into its arguments, was this Court's February 7, 2019 Order.

b. Via email, the Special Administrator specifically requested the Circuit Court consider this Court's February 7, 2019 order as it related to the qualification and appointment of Mr. Fox. Attached as Exhibit A are the emails to the Circuit Court.

[2] SC Code Section 62-3-607 states that such motion shall be set for hearing within ten days or at such other times as the parties may agree.

4. "The doctrine of res judicata provides that final judgment on the merits of an action precludes the parties or their privies from relitigating claims that were or could have been raised in that action." In re S.N.A. Nut Co., 215 B.R. 1004, 1008 (1997); see also Plum Creek Dev. Co., Inc. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Under the doctrine of res judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.' ").

5. Under the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim. South Carolina Property and Casualty Ins. Guar. Ass'n v. Wal–Mart Stores, Inc., 304 S.C. 210, 403 S.E.2d 625 (1991).

6. Therefore, the February 7, 2019 Order was carefully considered by the Court of Common Pleas and that Court chose to make findings that overrule the February 7, 2019 Order. Therefore, Rosen's arguments are barred by the doctrines of res judicata and collateral estoppel.

7. Three of the Colucci children have executed affidavits requesting that Fox be appointed at Personal Representative and Andrew Chandler be removed as Special Administrator. These affidavits are on file with the Dorchester County Probate Court and are incorporated herein by reference.

8. Part of Rosen's argument is that new counsel will need to be hired for the Estate. Because attorney Elizabeth Palmer of Rosen is now a witness, she cannot represent the Estate in this matter; therefore, a new attorney is necessary for the Estate, regardless of who is special administrator or personal representative.

9. To the extent that the February 12, 2019 Circuit Court Order is now an order of the Probate Court, Rosen has violated it by acting as a proxy for Chandler. Attached as Exhibit B is Plaintiff's Rule to Show Cause filed with the Circuit Court.

10. Mr. Fox has not frustrated the purpose of the Estate. Mr. Fox, initially named in the Last Will as the Successor Personal Representative, filed an application for informal probate which was denied.[3] On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment ("Formal Petition") in the Dorchester County Probate Court. Mr. Fox believed that the commencement of such formal proceedings should act to appoint Mr. Fox as the Special Administrator[4] and that any action he or any other administrator might take would be stayed beyond what was necessary to preserve the estate.[5] The Court did not appoint Mr. Fox as the Special Administrator nor prevented the acting Special Administrator to engage in actions beyond what was necessary to preserve the estate. The Court's February 7, 2019 Order errs when it finds that Mr. Fox acted inappropriately in questioning the sale of estate assets or distribution of estate assets when the Special Administrator was barred by statute from engaging in such behavior. (Feb.7, 2019, Probate Court Order, p. 9).

Wherefore, Michael C. Fox having fully responded to the Application of Elizabeth J. Palmer, on behalf of Rosen Hagood, LLC, requests that the Court dismiss the Application, restore Michael C. Fox's powers and duties as Personal Representative of the Estate of Doris Colucci,

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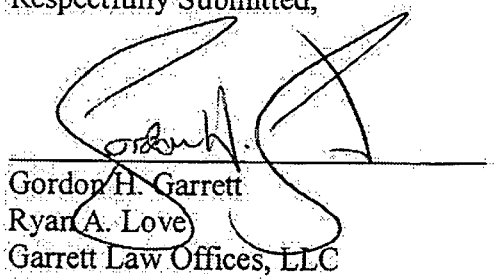
[3] The Dorchester County Probate denied Mr. Fox's informal application without making any finding of fact as required under SC Code Section §62-3-303.

[4] SC Code §62-3-615 states that if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.

[5] SC Code §62-3-414 states that after formal proceedings commence, the Personal Representative shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

award attorneys' fees and costs, and for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,



Gordon H. Garrett
Ryan A. Love
Garrett Law Offices, LLC
1075 East Montague Avenue
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (fax)
office@garrettlawsc.com
Attorneys for Plaintiff

North Charleston, South Carolina

Dated: February 21, 2019

ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER **In Re:** **The Estate of Doris Duane Colucci,** **Michael C. Fox, Personal Representative of the Estate of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, Richard M. Hyman, Jr, and Rosen Hagood, LLC,** Defendants.	IN THE COURT THE PROBATE COURT № 2017-ES-18-00294 **Motion to Amend Findings by the Court and Motion for Relief from Order or Judgment**

2019 FEB 22 AM 11:49

Plaintiff Michael C. Fox, Personal Representative of the Estate of Doris Colucci ("Mr. Fox"), pursuant to Rules 52(b) and 60(b)(5), SCRCP moves to amend and requests relief from this Court's February 13, 2019, Temporary Order Restraining General Personal Representative as set forth below:

I. **Procedural History.**

Mr. Fox, initially named in the Last Will as the Successor Personal Representative, filed an application for informal probate which was denied. On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment ("Formal Petition") in the Dorchester County Probate Court. Mr. Fox believed that the commencement of such formal proceedings should act to

EXHIBIT 9

ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

appoint Mr. Fox as the Special Administrator [1] and that any action he or any other administrator might take would be stayed beyond what was necessary to preserve the estate. [2] The Court did not appoint Mr. Fox as the Special Administrator nor prevented the acting Special Administrator to engage in actions beyond what was necessary to preserve the estate.

On November 26, 2018, Mr. Fox filed a Motion to Restrain the Special Administrator, Andrew Chandler, in the Court of Common Pleas.[3] On January 4, 2019, Mr. Fox filed a Petition to Restrain the Special Administrator in the Dorchester County Probate Court, advancing the same arguments as in his November 26, 2018 motion. On January 8, 2019, the Special Administrator moved this Court for an emergency hearing on this Petition. On January 9, 2019, this Court heard Fox's petition on an emergency basis. On February 7, 2019, this Court issued its Order refusing to restrain the Special Administrator Andrew Chandler, suggesting numerous times that Mr. Fox is not qualified to serve as the Personal Representative, and issuing sanctions against Mr. Fox in excess of $10,000.00.

The next day, on February 8, 2019, the Special Administrator moved to dismiss Fox's Motion to Restrain in the Dorchester County Court of Common Pleas. Attached to this motion, and incorporated into its arguments, was this Court's February 7, 2019, Order.

On February 12, 2019, the Circuit Court issued its Order finding Fox qualified to serve as personal representative and appointing him to that position, an act that removed Andrew Chandler from his position by operation of law. See S.C. Code 62-3-618.[4] This order also disposed of Fox's

[1] SC Code §62-3-615 states that if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.

[2] SC Code §62-3-414 states that after formal proceedings commence, the Personal Representative shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

[3] SC Code Section 62-3-607 states that such motion shall be set for hearing within ten days or at such other times as the parties may agree.

[4] Fox would note that the Circuit Court also cites this provision in its order.

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and Chandler's pending motions as moot. When it made this decision, the Circuit Court had before it all of this Court's concerns and arguments regarding the appointment of Fox and restrain of Chandler, and it ruled that Fox was qualified.

On February 13, 2109, counsel for Andrew Chandler, the former special administrator of the Estate, filed a claim on behalf of her firm for $6,301.72 against the Estate. Mr. Chandler's counsel subsequently used this claim as a pretext to file an Emergency Application to Restrain the Personal Representative through his attorney in an attempt to circumvent the clear language of this Court's February 13, 2019 Order. In this "emergency" application, Chandler, through his attorney, sought the restraint of Michael C. Fox. These Applications frustrate the clear and unambiguous order of this Court. With standing allowed on the basis of this dubious creditor's claim, the Probate Court granted the application and restrained Mr. Fox from carrying out the terms of Circuit Court's February 12, 2019 Order.

II. Relief Under Rule 52(b), SCRCP.

The Court of Common Pleas' ruling is the law of the case. As is pertains to the February 13, 2019 Order, the Probate Court's various rulings are now in conflict with the higher court's Order. Therefore, the Probate Court must modify its February 13, 2019 Order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact.

As such, Andrew Chandler and Rosen Hagood, LLC's claims are under the doctrine of res judicata. "The doctrine of res judicata provides that final judgment on the merits of an action precludes the parties or their privies from relitigating claims that were or could have been raised in that action." *In re S.N.A. Nut Co.*, 215 B.R. 1004, 1008 (1997); *see also Plum Creek Dev. Co., Inc. v. City of Conway*, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Under the doctrine of res

judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.' ").

They are also barred by the doctrine of collateral estoppel. When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim. *South Carolina Property and Casualty Ins. Guar. Ass'n v. Wal–Mart Stores, Inc.*, 304 S.C. 210, 403 S.E.2d 625 (1991).

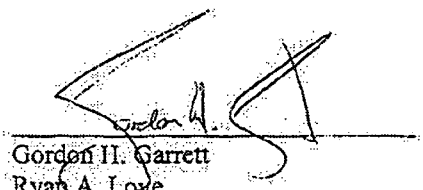
III. Relief Under Rule 60(b)(5), SCRCP.

To the extent that the February 13, 2019, Temporary Order Restraining General Personal Representative may be a final order, The Court of Common Pleas' ruling is the law of the case and the Probate Court is bound to offer relief under South Carolina Rule of Civil Procedure 60(b)(5). As is pertains to the February 13, 2019 Order, the Probate Court's various rulings are now in conflict with the February 12, 2019 Order. Therefore, the Probate Court must offer relief as far as the February 13, 2019 Order and any other ongoing order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact. It is inequitable to enforce a judgment that has become res judicata, has collateral estoppel effects, reversed, or vacated. Shaw Components, Inc. v. Nat'l Bank of S.C., 304 S.C. 114, 403 S.E.2d 153 (Ct. App. 1991).

Wherefore, Plaintiff Michael C. Fox asks this Court to amend its order or provide relief from its order as set forth in this motion and award Fox such other and further relief it deems just and proper.

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Dated: February 21, 2019

North Charleston, SC

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STATE OF SOUTH CAROLINA) COUNTY OF DORCHESTER)	IN THE COURT THE PROBATE COURT FIRST JUDICIAL CIRCUIT
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, Richard M. Hyman, Jr, and Rosen Hagood, LLC,** Defendants.	№ 2017-ES-18-00294 **Motion to Alter or Amend and Relief From Judgment or Order Pursuant to South Carolina Rules of Civil Procedure 52(b), 59(e), & 60(b)(4)&(5)**

Plaintiff Michael C. Fox, personal representative of the Estate of Doris Colucci ("Mr. Fox"), pursuant to Rules 52(b), 59(e), and 60(b)(4) & (5) of the SCRCP, moves to alter or amend, or seek other relief from this Court's February 7, 2019 order as set forth below:

I. **The Dorchester County Court of Common Pleas February 12, 2019 Order is the law of the case and the Dorchester County Probate Court February 7, 2019 must be voided under SCRCP Rule 60(b)(4).**

Mr. Fox is the duly appointed General Personal Representative of the Estate of Doris Colucci. The Dorchester County Court of Common Pleas signed this Order on February 12, 2019. This Order further found Mr. Fox qualified to serve as Personal Representative, ordered him to

EXHIBIT 7

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collect the assets of the Estate, and investigate any waste or fraud. The Court of Common of Pleas' ruling is the law of the case and the Probate Court must void its February 7, 2019 Order under South Carolina Rule of Civil Procedure 60(b)(4) as it is now in conflict with February 12, 2019 Order.

When the Court of Common Pleas issued its February 12, 2019 Order, it had before it all of the Special Administrator's and Rosen Hagood, LLC's concerns and arguments, including the findings made in the Probate Court's February 7, 2019 Order regarding the appointment of Fox and the restraint of Chandler, and it found that Mr. Fox was qualified.

Chandler presented his arguments to the Court of Common Pleas on two separate occasions prior to its issuing the February 12, 2019 Order:

1) On November 26, 2018, Mr. Fox filed a Motion to Restrain the Special Administrator Andrew Chandler in the Court of Common Pleas.[1] On February 8, 2019, the Special Administrator moved to dismiss Fox's Motion to Restrain in the Dorchester County Court of Common Pleas. Attached to this motion, and incorporated into its arguments, was this Court's February 7, 2019 Order.
2) The Special Administrator specifically requested the Circuit Court consider this Court's February 7, 2019 order as it related to the qualification and appointment of Mr. Fox. (See Attached Emails, Exhibit A)

Therefore, the February 7, 2019 Order was carefully considered by the Court of Common Pleas and that Court chose to make findings that overrule the February 7, 2019 Order. On that basis, the February 7, 2019 Order should be voided in its entirety.

[1] SC Code Section 62-3-607 states that such motion shall be set for hearing within ten days or at such other times as the parties may agree.

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Relief under Rule 60(b)(4), SCRCP, "is not discretionary but a matter of right." Richardson Const. Co. v. Meek Eng'g & Const., Inc., 274 S.C. 307, 262 S.E.2d 913 (1980). See New York Life Ins. Co. v. Mobley, 90 S.C. 552, 73 S.E. 1032 (1912); Dill-Ball Co. v. Bailey, 103 S.C. 233, 87 S.E. 1010 (1916).

II. Relief Under Rule 52(b), SCRCP.

To the extent that the February 7, 2019 Order may not be a final order, the Probate Court's various rulings are now in conflict with the February 12, 2019 order. Therefore, Plaintiff requests that this Court modify its February 7, 2019 Order and any other ongoing order that is in conflict with the Court of Common Pleas' February 12, 2019 Order and findings of fact.

A Motion to Amend the Findings is the appropriate way to obtain a ruling when the issue has been raised before the trial court, but it is not mentioned in the order or not explicitly ruled upon. See SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 392 S.E.2d 789 (1990); Flavor-Inn, Inc. v. NCNB Nat. Bank of S.C., 309 S.C. 508, 424 S.E.2d 534 (Ct. App. 1992).

III. Relief Under Rule 59(e), SCRCP.

As is pertains to the February 7, 2019 Order, the Probate Court's various rulings are now in conflict with the February 12, 2019 Order. Therefore, Requests that this Court modify its February 7, 2019 Order and any other ongoing order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact.

IV. Relief Under Rule 60(b)(5), SCRCP.

The Court of Common Pleas' ruling is the law of the case and the Probate Court is bound to offer relief under South Carolina Rule of Civil Procedure 60(b)(5). As is pertains to the February 7, 2019 Order, the Probate Court's various rulings are now in conflict with the February 12, 2019 Order. Therefore, the Probate Court must offer relief as far as the February 7, 2019 Order and any

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other ongoing order that conflicts with the Court of Common Pleas' February 12, 2019 Order and findings of fact. It is inequitable to enforce a judgment that has become res judicata, has collateral estoppel effects, reversed, or vacated. Shaw Components, Inc. v. Nat'l Bank of S.C., 304 S.C. 114, 403 S.E.2d 153 (Ct. App. 1991).

V. The Order omits finding on several issues that must be preserved for appeal.

In addition to the Court's failure to provide findings set forth above, this Court has also failed to rule on several other important, potentially dispositive, issues. In order to preserve these issues for appeal,[2] Fox would request rulings on the following:

1. The February 7, 2019 Order also does not consider or explain the alleged *ex parte* communications between the Special Administrator and the Court. See Rule 3(b)(7), CJC, Rule 501, SCACR.

2. The February 7, 2019 Order also does not consider or explain why Fox was not entitled to review Chandler's billing records. If this Court's order is based on a lack of evidence, Fox should be given access and an opportunity to develop his case.

3. The February 7, 2019 Order does not address Chandler's request for sanctions against Fox's attorney Gordon Garrett. S.C. Code § 62-1-111 does allow for sanctions against parties, but not against their attorneys. Accordingly, Chandler's request for sanctions against Fox's attorney is without basis and is itself subject to sanction by this Court. While it is true that the Probate Court has the discretion to award costs and expense, it is not equitable to sanction a party for a motion made in good faith. Further, it is well-settled that if a motion for sanctions is made for an improper purpose, the movant can be subject to sanction. See Rule 11(a), SCRCP; E.g. Smith v. Psychiatric

[2] Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Fox would further request each party to this estate to consent to this case's eventual appeal to the South Carolina Supreme Court, in order to prevent multiple costly appeals. See S.C. Code § 62-1-308(l).

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Sols., Inc., 750 F.3d 1253, 1260 (11th Cir. 2014) (citing Fed. R. Civ. P. 11(b)(1)). Such an improper purpose includes the harassment of the opposing party. See Claudet v. First Fed. Credit Control, Inc., No. 6:14-cv-2068, 2015 WL 7984410 (M.D. Fla. Order Dated Nov. 17, 2015) (sanctioning counsel who engaged in unprofessional behavior and filed a motion for sanction to harass opposing counsel).

4. The Court mentions that Fox has not filed a Demand for Notice in this matter. However, Fox's designation as Personal Representative and Trustee of the Colucci Trust obviously indicate he expected to be made aware of the special administrator's actions. The Court errs in placing the duty on Mr. Fox to demand information regarding the Estate. Rather, the Special Administrator violated his duty to work with the named personal representative in good faith after the admittance of the Last Will.

5. In Page 2 of 17 of the Court's Order, the Court errs in describing the Decedent's Last Will as a "purported" Last Will. Doris Colucci has a valid Last Will which was admitted to Probate by the Court of Common Pleas. It is an error of fact to describe such Will as purported or to ignore the voluminous language that Doris Colucci intended for Mr. Fox to be her Personal Representative.

6. There was no emergency and the Court did not attempt to find one when scheduling an emergency hearing. This Court's Order provides no explanation why Mr. Fox was not provided the request notice for the January 9, 2019 hearing. Further, the February 7, 2019 Order is silent as to the grounds for the emergency.

7. This Court lacked Subject Matter Jurisdiction to issue the February 7, 2019 Order. On November 20, 2017, this Court removed Fox's Petition for Formal Testacy and Appointment to the Circuit Court. The effect of removal was to divest this Court of jurisdiction in that matter. See

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S.C. Code § 62-1-302. The removal of a special administrator is the natural consequence of the appointment of a personal representative (S.C. Code § 62-3-618), and therefore the removal and restraint of the special administrator was within the purview of the Circuit Court upon removal. This Court never had the jurisdiction to issue a ruling on the Petition to Restrain and should amend its order accordingly.[3]

8. Mr. Fox has not frustrated the purpose of the Estate. Mr. Fox, initially named in the Last Will as the Successor Personal Representative and filed an application for informal probate which was denied.[4] On October 30, 2017, Mr. Fox filed a Petition for Formal Testacy and Appointment ("Formal Petition") in the Dorchester County Probate Court. Mr. Fox believed that the commencement of such formal proceedings should act to appoint Mr. Fox as the Special Administrator[5] and that any action he or any other administrator might take would be stayed beyond what was necessary to preserve the estate.[6] The Court did not appoint Mr. Fox as the Special Administrator nor prevented the acting Special Administrator to engage in actions beyond what was necessary to preserve the estate. The Court's February 7, 2019 Order errs when it finds that Mr. Fox acted inappropriately in questioning the sale of estate assets or distribution of estate assets when the Special Administrator was barred by statute from engaging in such behavior. (Feb.7, 2019, Probate Court Order, p. 9).

9. Due to the emergency scheduling of the hearing, Mr. Fox was unable to adequately prepare

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[3] In the alternative, Fox would ask this Court to set aside its February 7, 2019 order as void. Rule 60, SCRCP.

[4] The Dorchester County Probate denied Mr. Fox's informal application without making any finding of fact as required under SC Code Section §62-3-303.

[5] SC Code §62-3-615 states that if a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified.

[6] SC Code §62-3-414 states that after formal proceedings commence, the Personal Representative shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

and present certain evidence. Attached, are affidavits from three of the Colucci family members that express their desire that Mr. Chandler be removed and Mr. Fox be appointed.

Wherefore, Plaintiff Michael C. Fox asks this Court to alter or amend its order as set forth in this motion and award Fox such other and further relief it deems just and proper.[7]

Dated: 02/19/2019

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[7] Fox would object to the participation of attorney Elizabeth Palmer in any further proceedings in this matter. On February 12, 2019, Palmer, on behalf of her firm Rosen Hagood, LLC, filed an Emergency Application to Restrain Personal Representative on the basis that Rosen Hagood was a creditor of the estate and an interested party. This Emergency Application argues, among other things, that Fox is unfit to serve as personal representative. Fox believes that Palmer is now a necessary witness in this matter and is now disqualified to appear under Rule 3.7, RPC, Rule 407, SCACR.

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE COURT OF COMMON PLEAS FOR THE FIRST JUDICIAL CIRCUIT CASE NO: 2017-CP-18-1816
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, PETITIONER, v. ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., RESPONDENTS.	)	**RESPONDENT CHANDLER'S MOTION TO RECONSIDER, ALTER, OR AMEND**

Pursuant to Rule 59(e), SCRCP, Respondent Chandler respectfully requests that the Court reconsider its February 13, 2019, Order appointing Michael Fox as Personal Representative of the Estate of Doris Colucci (the "Estate"). As set forth below, the grounds for this Motion are: 1) the Court failed to fully understand the implications of replacing the Estate's fiduciary at this stage in the administration of the Estate; and 2) Mr. Fox is not suitable to serve as the Estate's fiduciary.

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PROCEDURAL BACKGROUND

Doris Colucci was shot and killed by her husband, Ivo Colucci, on April 14, 2017. Respondent Chandler, who has been designated as a Certified Specialist in Estate Planning and Probate Law by the South Carolina Supreme Court and who has an L.L.M. in taxation, was appointed as Special Administrator of the Estate by the Dorchester County Probate Court on July 10, 2017 (having been temporarily appointed as Special Administrator upon the Probate Court's request on June 9, 2017).

In August 2017, the Decedent's Will was submitted to the Probate Court. The Will appointed Ivo Colucci as the personal representative, and named the following persons, in order of priority, as successor personal representatives: 1) Michael C. Fox; 2) Henry Burkes; and 3) Richard Hyman, Jr., Esquire.

On October 30, 2017, Petitioner Fox filed a Petition for Formal Testacy and Appointment, seeking both to have the Decedent's Will admitted to probate and to be appointed as personal representative of the Estate. The Petition was removed from the Probate Court to the Circuit Court and was heard on August 13, 2018. By Order filed August 27, 2018, the Court admitted the Will to probate, taking the issue of Mr. Fox's appointment under advisement. Upon the Will's admission to probate, the "Colucci Living Trust, dated February 24, 2005 and any amendments or restatements thereto" (the "Trust") became the sole devisee of the Estate. Mr. Fox, who was named as a successor trustee of the Trust, executed an "Acceptance by Successor Trustee" on October 27, 2017, and has served as the Trustee since that time.

Following its receipt of this Court's Order admitting the Will to probate, the Probate Court issued a Modified Order for the Appointment of a Special Administrator, finding in part that "[t]he continued appointment and service of Andrew W. Chandler as the Special

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Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets." See Modified Order, ¶ 5, attached as Exhibit 1.

On January 4, 2019, Mr. Fox filed a Petition for Removal of Special Administrator in the Probate Court. An emergency hearing was scheduled and heard by the Probate Court on January 9, 2019. By Order filed February 7, 2019, the Probate Court denied Mr. Fox's Petition, holding that "Petitioner Fox made a number of accusations against Respondent Chandler and his counsel but failed to present to this Court any evidence or law in support of his arguments that cause exists to remove Respondent Chandler as Special Administrator." See 2/7/19 Order, p. 16, attached as Exhibit 2.[1] While the issue before the Probate Court was the removal of Mr. Chandler and not, as here, the appointment of Mr. Fox, the Probate Court's 2/7/19 Order contains findings of fact and conclusions of law that Mr. Chandler submits are appropriate for this Court's consideration.

On February 13, 2019, this Court issued an Order finding Michael Fox qualified to serve as the General Personal Representative of the Estate of Doris Duane Colucci and thereby appointed him to serve in that position in accordance with her Last Will. This Court additionally ordered that the former special administrator forward Mr. Fox all the records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. Pursuant to S.C. Code Ann. § 62-3-618, Mr. Chandler's appointment as special administrator terminated upon the appointment of Mr. Fox.

[1] Although this Order was submitted to this Court in connection with a separate motion (which has since been dismissed as moot), it was not submitted as part of Mr. Chandler's opposition to Mr. Fox's Petition for Appointment. We would therefore request that the Court consider it in connection with its determination of this Motion.

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By Temporary Order Restraining General Personal Representative (attached as Exhibit 3) and Order for Appointment of Temporary Special Administrator (attached as Exhibit 4), both entered following this Court's Order appointing Mr. Fox as personal representative, the Probate Court temporarily restrained Mr. Fox "from exercising any powers or discharging any duties of his office" and appointed Mr. Chandler as the temporary special administrator with "all the powers of a general Personal Representative."

ARGUMENT

Pursuant to Rule 59(e), SCRCP, Mr. Chandler respectfully requests that this Court reconsider, alter, or amend the Order appointing Mr. Fox as Personal Representative. A motion pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure is appropriate where a party, "believes the Court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue...." Elam v. S.C. Dep't of Transp., 361 S.C. 9, 602 S.E. 2d 772 (2004).

I. The replacement of the Estate's fiduciary at this point in time would be detrimental to the Estate and those interested in it.

Replacing Mr. Chandler with Mr. Fox or any other fiduciary at this stage in the Estate's administration, given the time and effort expended by, and the progress made by, Mr. Chandler and his counsel, would frustrate judicial economy and prejudice the Estate and those interested in it with additional unnecessary costs, delay, and duplication of efforts resulting in waste to the Estate. The Probate Court, which has overseen the administration of this Estate and is intimately familiar with the issues therein, held in its 2/7/19 Order:

> "Based on the extremely litigious and multifaceted complications plaguing this Estate, removing the Special Administrator at this point would be illogical. It would cause an extreme hardship to the Estate for a new fiduciary to have to learn and understand all the management, negotiations, and issues that have been handled and will continue to need to be handled."

See 2/7/19 Order, p. 16.

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One example of the hardship that would be caused by Mr. Fox's appointment is apparent when considering the time and expense the Estate would incur in the transition period. Mr. Chandler and his counsel would be required to expend a large amount of time to transfer their knowledge and files to Mr. Fox and his counsel. That would result in the Estate incurring the expense of all four of these individual's fees and costs, all just to accomplish the transition with no tangible benefit to the Estate. In all likelihood, Mr. Chandler's involvement, and/or that of his counsel, would be required to some extent for the foreseeable future, and potentially up until the Estate is closed. By way of illustration, attached collectively as Exhibit 5 are emails concerning the sale of a piece of property in which the Estate has an interest. These emails were exchanged in the time period between when this Court's Order appointing Mr. Fox was entered and when the Probate Court temporarily restrained Mr. Fox by order entered later that same day and necessarily required that both counsel for Mr. Chandler and for Mr. Fox be included. Putting the Estate in a position where is it required to compensate two fiduciaries and/or two attorneys for the same tasks, and worse, for tasks that are administrative in nature (i.e., the transition process) and that do not provide any benefit to the Estate, is detrimental to the Estate's best interests and those who are interested in it.

Likewise, the delay that Mr. Fox's appointment would cause in the two pending lawsuits, the wrongful death action and the Petition to Determine Heirs (brought pursuant to the "Slayer Statute", S.C. Code Ann. § 62-2-803), is detrimental to the Estate, especially considering that, at the beginning of February, two days of mediation were conducted and, while the cases were not resolved at mediation, negotiations have continued and have made progress. These lawsuits were both filed in October 2017. A significant amount of discovery has been conducted, including numerous depositions, the identification of a total of five expert witnesses, review of thousands

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of documents, witness interviews, and the review of more than 50 hours of video received from the Solicitor's Office. To put these lawsuits essentially on hold while Mr. Fox's counsel spends the hundreds of hours that would be required to get up to speed on those suits is not in the Estate's best interests or those who are interested in it.

It cannot be denied that Mr. Fox was named by the Decedent as one of her successor personal representatives and that, on that basis, he is entitled to be considered for that position. However, the existence of a will nominating a specific person as a successor personal representative is but one factor that must be considered. In considering whether a person nominated by a decedent has an absolute right to appointment, the South Carolina Supreme Court explained the following:

> The law provides administration as a means for the collection and distribution of assets. The right of those interested to have collection and distribution according to law is the dominant right. The right of any particular person to take charge of the assets is a secondary right. If the allowance of the claim to exercise this secondary right would result in defeating the main purpose to be attained, it must be refused.

Ex parte Small, 69 S.C. 43, 48 S.E. 40, 40–41 (1904).

Because the appointment of any fiduciary, not just Mr. Fox, would detrimentally affect the Estate and those interested in it, Mr. Chandler asks that the Court reconsider its Order appointing Mr. Fox as the personal representative of the Estate.

II. Mr. Fox is not qualified to serve as the personal representative of this Estate.

Even if named in the Will, "a person must be appointed by order of the court, qualify, and be issued letters" in order "to acquire the powers and undertake the duties and liabilities of a personal representative." S.C. Code Ann. § 62-3-103. "No person is qualified to serve as a personal representative who is…a person whom the court finds unsuitable in formal proceedings." S.C. Code Ann. § 62-3-203(c)(2). The authority of the Court to deny appointment

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to a person otherwise entitled to priority on the basis that the Court finds the person to be unsuitable will not be disturbed absent clear abuse of discretion. *Parkman v. Hanna*, 311 S.C. 20, 426 S.E.2d 743 (1992).

As part of its 2/7/19 Order, the Probate Court considered whether or not Mr. Chandler's use of Estate funds to object to the appointment of Mr. Fox as personal representative of the Estate was proper. Mr. Chandler testified at the hearing on the Petition for Removal of Special Administrator as to the reasons he believed Mr. unqualified, including the fact that the Estate faces multiple issues resulting from tax returns that were improperly prepared by Mr. Fox, the Coluccis' long-time bookkeeper. The 2/7/19 Order quotes at length the testimony of Mr. Chandler concerning the grounds for his objection to the appointment of Mr. Fox, which is incorporated herein by reference. See 2/7/19 Order, pp. 12-16.

An additional basis on which Mr. Fox's appointment should be reconsidered is the fact that he has taken certain actions, as Trustee of the Trust, to frustrate the administration of the Estate and the distribution of assets to the Trust, the sole devisee of Decedent's Will. Those are described in the Probate Court's 2/7/19 Order and incorporated herein. See 2/7/19 Order, pp. 9-17. In fact, given Mr. Fox's grossly unsubstantiated basis and attempt to remove the special administrator, the Probate Court ordered him to pay the costs, expenses, and attorneys' fees incurred by the Estate in responding to the Petition for Removal of Special Administrator in the amount of $10,882.96. The obligation owed by Mr. Fox to the Estate, in and of itself, implicates Mr. Fox's qualification to serve as personal representative, as he is actively seeking to have this obligation modified, placing himself in a position adverse to the estate for which he seeks appointment.[2]

[2] Mr. Fox has filed a Motion to Alter or Amend and Relief from Judgment or Order in the Probate Court in response to the 2/7/19 Order.

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Finally, it is well-established that it is not appropriate for a person to serve as the personal representative of an estate where conflicts of interest exist. Mr. Fox was deposed as a fact witness in the pending lawsuits in January 2019. He testified as follows:

> And I will tell you this, that in regards to both parties you're talking about, I have been -- I've had a friendship with Ivo Colucci and Terry Weidberg that was closer than I had with my own brother and my family. Those two fellows was the most honest fellows in the world and either one of them would do me a favor, anything I asked of them at any time, day or night, and I the same for them. They were -- they were -- so as far as a social relationship, they were my best of friends as well as my clients.

See Fox Depo., p. 58, attached as Exhibit 6.[3]

Given the potential, if not actual, conflict of interest that Mr. Fox has in serving as the fiduciary for the Estate, his appointment is improper. As personal representative, Mr. Fox would be charged with continuing the prosecution of the wrongful death action and the "Slayer" action, both of which aim to relieve Ivo Colucci of assets and the latter of which requires that the Estate prove Ivo Colucci "feloniously and intentionally" killed the Decedent. While Mr. Fox's intentions in seeking appointment are not being questioned, his potential bias and his status as a fact witness in these lawsuits cannot be ignored. In fact, in its Temporary Order Restraining General Personal Representative, filed after this Court's Order appointing Mr. Fox, the Probate Court found "that Mr. Fox is not an appropriate fiduciary to serve as the general Personal Representative of the Estate of Doris D. Colucci given his actual or potential conflicts of interest..." See 2/13/19 Temporary Order Restraining General Personal Representative, p. 3, attached as Exhibit 3.

CONCLUSION

For these reasons, this Court should reconsider its Order appointing Petitioner Fox as the personal representative and deny that portion of Petitioner Fox's Petition for Testacy

[3] Terry Weidberg, deceased, was a long-time business partner of Ivo Colucci.

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Appointment. In the alternative, if this Court is unwilling to deny Mr. Fox's Petition, it should alter or amend its Order to provide that, excluded from Mr. Fox's powers as personal representative of the Estate is the power to: (1) maintain or pursue the wrongful death and Slayer Acts; (2) handle any tax issues that have arisen or may arise, including any transaction concerning, or arising out of, Mr. Fox's preparation of tax returns; or (3) handle any issue which the Probate Court determines to involve a conflict of interest between Mr. Fox and the Estate.

This motion will be supported by further argument of counsel as permitted by the Court.

ROSEN, ROSEN & HAGOOD, LLC

s/ Elizabeth J. Palmer
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726
agowdown@rrhlawfirm.com
epalmer@rrhlawfirm.com

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
February 25, 2019

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Elizabeth Palmer

From: Angus Lawton <angus@lawtonlawfirm.net>
Sent: Wednesday, February 13, 2019 10:38 AM
To: 'David K. Haller'; Elizabeth Palmer; Gordon Garrett; Lisa Wolff Herbert
Cc: Marion Jackson
Subject: FW: Draft Closing Statement: 39 41 Mary
Attachments: Closing Statement 3-01827v3.pdf; doc03841820190213103508.pdf

Folks, I have attached a closing statement that Marion Jackson provided to me this morning relating to the Mary Street deal. I understand that the closing is set to go forward next Thursday.

According to my calculations, the split from the real estate sale to the partners is:

Ivo: $[redacted]
Doris' estate: $
Michael: $

David and Beth, please let me know if you agree or disagree with these numbers. (I think there may be one penny that needs to be accounted for, but we can work that out.). Gordon, please also weigh in on the #s if you would like.

Gordon, I have also attached a copy of the settlement agreement that was entered into some time ago, settling the Mary Street dispute. Please let us know if you have any questions or concerns about that document, the Mary Street litigation, or the closing.

Thanks.

Angus M. Lawton
Attorney at Law
SC Board Certified Mediator & Arbitrator
LAWTON
LAW FIRM, LLC
496 Bramson Court, Suite 100
Mt. Pleasant, SC 29464
(843) 881-9901 (Office)
(843) 881-8839 (Fax)
www.lawtonlawfirm.net

From: Marion Jackson [mailto:marionjacksonrealtor@gmail.com]
Sent: Tuesday, February 12, 2019 7:59 PM
To: Angus Lawton <angus@lawtonlawfirm.net>
Cc: Lisa W Herbert <Lisa@lisawolffherbert.com>
Subject: Draft Closing Statement: 39 41 Mary

Angus,

Attached is the preliminary closing statement showing Cash to Seller(s): $[redacted]

EXHIBIT 5

ELECTRONICALLY FILED - 2019 Feb 25 3:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

Elizabeth Palmer

From: Lisa Wolff Herbert <Lisa@lisawolffherbert.com>
Sent: Wednesday, February 13, 2019 11:07 AM
To: 'David K. Haller'; 'Angus Lawton'
Cc: Elizabeth Palmer; 'Gordon Garrett'; 'Marion Jackson'
Subject: RE: Draft Closing Statement: 39 41 Mary

Hi David,

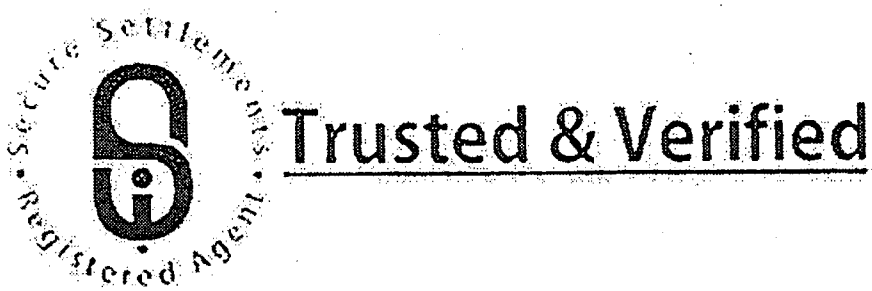
I just tried to call you. Can you call me so we can discuss coordinating documents and signatures and funding?

Thanks,
Lisa

Lisa Wolff Herbert, PA
864 Lowcountry Blvd.
Suite C
Mt. Pleasant, SC 29464
(843)849-0888 Phone
(843)849-0889 Fax

PLEASE REMEMBER ALL FUNDS FOR CLOSINGS MUST BE WIRED TO OUR TRUST ACCOUNT. WE CANNOT ACCEPT CASHIERS CHECKS OR ACH TRANSFERS. **PLEASE CALL OUR OFFICE AT (843) 849-0888 AND SPEAK WITH LISA OR ANNE TO OBTAIN AND/OR CONFIRM OUR WIRING INSTRUCTIONS PRIOR TO WIRING YOUR FUNDS. **

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From: David K. Haller [mailto:dhaller@hallerlawfirm.com]
Sent: Wednesday, February 13, 2019 10:55 AM
To: Angus Lawton
Cc: Elizabeth Palmer; Gordon Garrett; Lisa Wolff Herbert; Marion Jackson
Subject: Re: Draft Closing Statement: 39 41 Mary

All:

This was on my to do list for today, as well. Attached is the latest version I have of the closing statement (which continues to be amended).

David

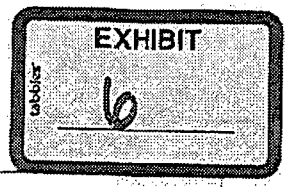
Total Control Panel Login

To: epalmer@rrhlawfirm.com Remove this sender from my allow list

From: lisa@lisawolffherbert.com

You received this message because the sender is on your allow list.

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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON

GABRIELLE Z. LEE, as guardian ad litem for JANE DOE, a minor under the age of fourteen (14 years),

Plaintiffs,

vs. CASE NO. 2017-CP-10-2897

IVO FRANCESCO COLUCCI, ALICE M. NORTON as Guardian for IVO FRANCESCO COLUCCI, CHRISTA M. YANTIS as Conservator for IVO FRANCESCO COLUCCI, COLUCCI'S JEWELRY FACTORY, INC. and TERRIVO ENTERPRISES, LLC,

Defendants.

(Caption continued on Page 2)

DEPOSITION OF: MICHAEL C. FOX

DATE: January 25, 2019

TIME: 1:31 PM

LOCATION: Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC

TAKEN BY: Counsel for the Defendant
Terrivo Enterprises, LLC

REPORTED BY: TERRI L. BRUSSEAU, RPR, CRR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Charleston, SC (843) 722-8414
Hilton Head, SC (843) 785-3263
Myrtle Beach, SC (843) 839-3376
Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030
Charlotte, NC (704) 573-3919
Asheville, NC (828) 398-2800

you're talking about both of them. Okay.

Q. Let's talk about Terry Weidberg.

A. Yes, I had social activities with him. He would come up to my house. He would eat dinner with me. We would go to passover at -- he was a Messianic Jew and I am a major fan of the Hebrew race and I would go to the Messianic services of Beth Shofar with him. We would eat out together. And we were -- he would call me at two o'clock in the morning with questions or whatever that would be compatible with our social relationship.

And I will tell you this, that in regards to both parties you're talking about, I have been -- I've had a friendship with Ivo Colucci and Terry Weidberg that was closer than I had with my own brother and my family. Those two fellows was the most honest fellows in the world and either one of them would do me a favor, anything I asked of them at any time, day or night, and I the same for them. They were -- they were -- so as far as a social relationship, they were my best of friends as well as my clients.

Q. Okay. How long had you known Terry Weidberg?

A. Probably for the last -- in all

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ELECTRONICALLY FILED - 2019 Mar 04 1:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF DORCHESTER)	FIRST JUDICIAL CIRCUIT
In Re:)	№ 2017-CP-18-1816
)	
The Estate of Doris Duane Colucci,)	
)	
Michael C. Fox, Personal Representative the Estate of Doris Duane Colucci,)	**Return to Respondent Chandler's Motion to Reconsider, Alter, or Amend**
)	
Petitioner,)	
)	
vs.)	
)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,)	
)	
Respondents.)	
)	

Petitioner Michael C. Fox respectfully requests that the Court deny Andrew Chandler's Motion to Reconsider, Alter, or Amend without a hearing, pursuant to Rule 59(f), SCRCP. As set forth below, the grounds for denying this Motion are 1) the Court had before it and carefully considered the all relevant arguments and evidence to appoint Michael C. Fox; and 2) Mr. Fox was found and is suitable to serve as the personal representative.

Background

On June 18, 2013, Doris Colucci executed her Last Will. Doris Colucci passed away on April 14, 2017. Her death likely occurred as result of conduct giving rise to a claim for wrongful death against her husband, Ivo Colucci. The decedent's Last Will was not immediately discovered.

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As a result of the Will's absence, Andrew Chandler, Esq., was appointed Special Administrator by the Probate Court on a temporary basis by Order dated June 9, 2017. Thereafter, several of the parties entered into a Consent Order further establishing Mr. Chandler as a permanent Special Administrator with the powers of a general personal representative by Order dated July 10, 2017.

On or around August 24, 2017, Doris Colucci's original Last Will was delivered to the Dorchester County Probate Court. On October 27, 2017, Michael Fox elected to serve and is the named and current Trustee of such living trust, known as the "Colucci Living Trust, dated February 24, 2005" (hereinafter "The Trust"). From August 24, 2017 through October 24, 2017, the Special Administrator did not act to probate the Last Will. On October 30, 2017, at his own cost, Michael Fox filed for Formal Probate proceedings and removal of this action to the Dorchester County Court of Common Pleas[1]. On November 30, 2017, The Special Administrator thereafter filed an Answer and Objection to Movant's Petition for Formal Testacy and Appointment as Personal Representative ("Objection"). On May 23, 2018, Ivo Colucci filed a Motion for Summary Judgment on the Petition for Formal Testacy and Appointment of a Personal Representative.

On August 8, 2018, Andrew Chandler filed a Memorandum in Partial Opposition to Summary Judgment. Mr. Chandler argued that:

> [T]he negative effects the appointment of Petitioner Fox would have on the Estate and those interested in it, specifically, the delay and waste of Estate assets, render Petitioner Fox unsuitable to serve as Personal Representative…Transitioning the administration of the Estate from Respondent Chandler and his attorney to Petitioner Fox and his attorney would be a time-consuming, and costly, process. Replacing Respondent Chandler with Petitioner Fox or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, Respondent Chandler would frustrate judicial economy and prejudice the Estate and those interested in it with additional unnecessary costs, delay, and duplication of efforts.

[1] On October 24, 2017, Mr. Fox filed for appointment via informal probate. Mr. Fox's application was denied without explanation.

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Nearly a year after the discovery of the Last Will and with only the Special Administrator objecting to Mr. Fox's appointment, a hearing for Ivo Colucci's Motion for Summary Judgment was held on August 13, 2018 before the Dorchester County Court of Common Pleas. No member of the Colucci family objected to the appointment of Mr. Fox or the other named individuals as Personal Representative. To the contrary, only the Special Administrator objected to the appointment of a Personal Representative. The hearing concluded with the Special Administrator consenting to probate of the Last Will of Doris Colucci but continuing to object to the appointment of a Personal Representative. The Court therefore took under advisement the appointment of the Personal Representative. On January 4, 2019, Mr. Fox filed a Petition for Removal of Special Administrator in the Probate Court. In response, Mr. Chandler, through an ex parte communication with the Probate Court, requested an emergency hearing regarding the Petition. The emergency hearing was scheduled and heard by the Probate Court on January 9, 2019.[2] By Order filed February 7, 2019, the Probate Court denied Mr. Fox's Petition.

On February 13, 2019, at 8:45 AM, this Court issued an Order finding Michael Fox qualified to serve as the General Personal Representative of the Estate of Doris Duane Colucci and appointed him to serve in that position in accordance with her Last Will. At 2:08 PM, that same day, counsel for Andrew Chandler filed a Creditors Claim on behalf of Rosen Hagood, LLC. Mr. Chandler, apparently using his attorney as a proxy, subsequently used this claim to file an Emergency Application to Restrain the Personal Representative and Appointment of Temporary Special Administrator in an attempt to circumvent the clear language of this Court's February 13, 2019 Order. In this emergency application, Chandler, through his attorney, sought the restraint of Michael C. Fox and his re-appointment as Temporary Special Administrator. With standing

[2] Due to questions of jurisdiction, a substantially similar motion was made in Circuit Court in November 20, 2018.

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allowed on the basis of this dubious creditor's claim[3], the Probate Court granted the application and re-appointed Mr. Chandler as the Temporary Special Administrator and restrained Mr. Fox from carrying out the terms of this Court's Order. In that short span of time, nothing transpired that would constitute new evidence or events that would necessitate Mr. Fox's restraint as Personal Representative.

Argument

Mr. Fox respectfully requests that this Court deny Mr. Chandler's Motion to Reconsider, Alter or Amend the Order appointing Mr. Fox as Personal Representative. This Motion seeks to re-argue the merits of the case and attempts to introduce new evidence and the record clearly supports Mr. Fox's qualifications.

I. Mr. Chandler is using his Rule 59 motion to re-argue the merits of the case.

Mr. Chandler should not be allowed to re-argue the issues of judicial economy, the alleged cost and time required to replace the Personal Representative, the alleged conflict of interest of Mr. Fox, whether or not this Court had considered the February 7, 2019 Probate Court Order, and the issues regarding the "Mary Street" property. Acevedo v. Colvin, No. CIV.A. 0:12-2137-TMC, 2014 WL 3798813 (D.S.C. Aug. 1, 2014) (A "Rule 59(e) motion is not intended to allow for reargument of the very issues that the court has previously decided.") (citing DeLong v. Thompson, 790 F.Supp. 594, 618 (E.D.Va.1991)) (under federal rules). Contra Elam v. S.C. Dep't of Transp., 361 S.C. 9, 602 S.E. 2d 772 (2004). As Mr. Fox will show, all of the above referenced issues were brought to this Court's attention on numerous occasions.

On November 30, 2017, Mr. Chandler filed his Answer and Objection ("Answer") with this Court. Specifically, Mr. Chandler argued that:

[3] This creditor's claim was never presented to Mr. Fox for payment before Rosen Hagood, LLC filed its application to restrain.

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> [R]eplacing [Mr. Chandler] with [Mr. Fox] or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, [Mr. Chandler] would frustrate judicial economy and prejudice the Estate." Mr. Chandler further argued that, because there are alleged issues with Mr. Fox's accounting work for the Decent and her husband Mr. Fox has an alleged conflict of interest and should not serve as Personal Representative for the Estate.

On August 8, 2018, Chandler filed his Memorandum in Partial Opposition to Summary Judgement ("Memorandum") with this Court. Once again, Mr. Chandler argued that:

> Transitioning the administration of the Estate from Respondent Chandler and his attorney to Petitioner Fox and his attorney would be a time-consuming, and costly, process. Replacing Respondent Chandler with Petitioner Fox or any other Personal Representative at this stage, given the time and effort expended by, and the progress made by, Respondent Chandler would frustrate judicial economy and prejudice the Estate and those interested in it with additional unnecessary costs, delay, and duplication of efforts.

Exhibit 5 to Mr. Chandler's Memorandum is Mr. Chandler's affidavit. In it, Mr. Chandler once again voices his concerns regarding the appointment of Mr. Fox as Personal Representative. Mr. Chandler argues that there may be a possible conflict of interest because Mr. Fox had a long-standing relationship with the Coluccis. (Chandler Affidavit p. 2 ¶ 6). Mr. Chandler also raises his concerns regarding a potential audit by the IRS and S.C. Department of Revenue. (Chandler Affidavit p. 2 ¶ 10). Mr. Fox prepared the Coluccis' tax returns for many years and Mr. Chandler argues that this too, creates a conflict of interest. (Chandler Affidavit p. 2 ¶ 10).

On February 5, 2019, the undersigned brought to the Court's attention that it had not yet ruled on the appointment of Mr. Fox. On February 6, 2019, the Court acknowledged that it had not made a ruling, but one would be forthcoming. On February 8, 2019, counsel for Andrew Chandler contacted the Court and requested that this Court:

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> [C]onsider the Supplement [to Motion to Dismiss] and the attached [February 7, 2019] Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment.

This email is attached as Exhibit A. The February 7, 2019 Order was attached to counsel's email to the Court and also filed with this Court as Exhibit 1 to Andrew Chandler's Supplement to Motion to Dismiss (filed February 8, 2019).

On February 12, 2019 the undersigned emailed the Court regarding Mr. Chandler's suggested changes to the Proposed Order. Attached to that email were the affidavits of three of the Colucci children requesting that Mr. Chandler be removed, and that Mr. Fox be appointed. The affidavits of the Colucci children are attached as Exhibit B.

On February 12, 2019, counsel for Mr. Chandler emailed the Court regarding their Proposed Order. In pertinent part, Chandler's counsel once again advanced the position that:

> "Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit[s] were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case. We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust."

This email is attached as Exhibit C.

The Defendant's Motion to Reconsider, Alter, or Amend states that:

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> [T]he Court failed to fully understand the implications of replacing the Estate's fiduciary at this stage in the administration of the Estate...Although this Order was submitted to this Court in connection with a separate motion (which has since been dismissed as moot), it was not submitted as part of Mr. Chandler's opposition to Mr. Fox's Petition for Appointment. We would therefore request that the Court consider it in connection with its determination of this Motion.

However, in this Court's February 13, 2019, order, it specifically states that: "[T]his Court carefully consider[ed] **the arguments of counsel and the record**." (emphasis added). Mr. Chandler presents no argument, or evidence, that he did not already present to this Court (or could have presented). This fact, in and of itself, is sufficient for this Court to deny Defendant's motion. Mr. Chandler has brought up nothing new except his displeasure this Court's Order.

Mr. Chandler argues the Court should reconsider its findings of fact regarding the alleged cost and time required to replace the Personal Representative, the alleged conflict of interest of Mr. Fox, whether or not this Court had considered the February 7, 2019 Probate Court Order, and the issues regarding the "Mary Street" property. All of these issues were previously raised multiple times before this Court. Mr. Chandler's arguments in support of his motion to reconsider simply rehash the arguments and the record, all of which were carefully considered by this Court. Therefore, Mr. Chandler's argument does not support a motion for reconsideration.

II. Mr. Chandler is attempting to impermissibly introduce new evidence and introduce evidence that should have been presented prior to this Court's February 13, 2019 Order via a Rule 59 motion.

It appears that Defendant argues that Mr. Fox's deposition testimony in Lee v. Colluci, et al. 2017-CP-10-2897 (a collateral matter) is somehow new evidence of a "conflict of interest". This evidence could have been presented, or at least mentioned, in earlier submissions to this Court. "A party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment but was not." Poch v. Bayshore Concrete

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Prod./S.C., Inc., 386 S.C. 13, 31, 686 S.E.2d 689, 699 (Ct. App. 2009); Dixon v. Dixon, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (finding issue raised for first time in Rule 59, SCRCP, motion is not preserved for review); Kiawah Prop. Owners Grp. v. Public Serv. Comm'n., 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004) (stating an issue raised for first time in petition for rehearing not preserved); Mozingo v. Ford Motor Company, Op. No. 2009-UP-282 (S.C. Ct. App. 2009) ("a party cannot use Rule 59(e) to present new evidence to the court"). If this transcript was as important last month as it is now, Defendant could have requested a "rough copy" from the court reporter for filing and submitted the final version later. Accordingly, any consideration of this evidence by this Court is improper.[4]

III. Mr. Fox is qualified to serve as the personal representative of this Estate.

On August 13, 2018, this Court held a hearing for Ivo Colucci's Motion for Summary Judgment. At this hearing, counsel for Mr. Chandler stated:

> I want to make it clear to the Court and to Mr. Fox that **our objection has nothing to do with his character, calling into question his character; it is nothing to that extent at all. He is a lovely man.** I've met him now twice. Our objection is because first of all this estate has been administered by Mr. Chandler and to some extent myself as his attorney for over 14 months at this point...It is a complicated estate. We have made a lot of progress but there are still some things that remain to be done, some of which are outlined or set forth in Mr. Chandler's affidavit which was attached to our memo... At this point in time if we were to transition the administration of this estate to Mr. Fox and his attorney it would cause a huge delay."

(Summary Judgment Trans. p. 13 ¶ 23 to p. 14 ¶ 24). (emphasis added). In addition, Mr. Chandler also testified that:

> "Mr. Fox has been a longtime friend and confidant of the Colucci's for a very long period of time. He would clearly be a witness in a

[4] However, even if this deposition transcript was considered, it has no probative value, as it establishes no new fact bearing on the decision to appoint Fox or remove Chandler.

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> slayer action... there is the wrongful death claim that is ongoing. Mr. Fox will likely be a witness in that action. There are we have a variety of tax returns that have been recently filed that are based on tax returns filed by Mr. Fox. If they are audited, he will be a witness and they would likely have to be a Special Administrator appointed to deal with those issues... the things that remain are complicated and frankly ones that - and **I'm not saying that Mr. Fox wouldn't otherwise be capable of doing them**, but he is also a witness to many of them."

(Summary Judgment Trans. p. 19 ¶ 8-10). South Carolina Jurisprudence has settled all of the arguments that Mr. Chandler has raised against the appointment of Mr. Fox. "A court may not by judicial construction make a will for the decedent that he has not made for himself." Blackmon v. Weaver, 366 S.C. 245, 250, 621 S.E.2d 42, 44 (Ct. App. 2005). There is a strong deference shown to the personal representative chosen by the testator. "The Courts have ever been reluctant to take the management of an estate from those to whom it has been confided by the testator, for to that extent the intention expressed in his will would be defeated." Id. at 251, 621 S.E.2d at 45 (Ct. App. 2005) (quoting Smith v. Heyward, 115 S.C. 145, 164, 105 S.E. 275, 282 (1920). The power to remove a personal representative "should be executed with great caution, and not at all, unless it is made to appear to be necessary for the protection of the estate, to prevent loss or injury to it from misappropriation, maladministration or fraud." Id. (quoting Smith, at 164–65, 105 S.E. at 282.). "The mere existence of conflict between a personal representative and a beneficiary is an inadequate reason for removal of the personal representative. Without a showing of fault, the court will not remove a personal representative." Id.

If Mr. Chandler's argument was followed to its logical conclusion, any friend of a decedent named as a personal representative has a conflict of interest and must be removed. Such a proposition turns the practice of estate planning on its head. It is extremely common for a testator to name a close friend or family member as personal representative of their estate. Further, Mr.

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Chandler's arguments are not supported by case law. South Carolina jurisprudence on this matter shows a strong deference to the wishes of a decedent. Mr. Chandler has offered no evidence other than speculative accusations that Mr. Fox is unqualified. With that alone, the evidence does not support any conflict of interest for Mr. Fox.

Conclusion

For these reasons, this Court should deny Mr. Chandler's Motion to Reconsider, Alter, or Amend without a hearing, pursuant to Rule 59(f), SCRCP. Mr. Chandler has on multiple occasions brought his concerns, arguments, and evidence before this Court. After careful consideration of the arguments of counsel and the record, this Court found Mr. Fox qualified to serve the Personal Representative of the Estate of Doris Colucci. Furthermore, this Court should deny Mr. Chandler's alternative request to limit Mr. Fox's authority to act as the General Personal Representative.[5]

Dated: March 4, 2019

/s/ Ryan A. Love
Ryan A. Love
Gordon H. Garrett
rlove@garrettlawsc.com
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)
Attorneys for Petitioner

[5] Attached as Exhibit D is Mr. Chandler's proposed order requesting the limitation of Mr. Fox's powers as Personal Representative. The language in Mr. Chandler's proposed order was submitted to the Court and was not included in the Final Order.

ELECTRONICALLY FILED - 2019 Mar 04 1:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

Ryan Love

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney); Ryan Love
Cc: lester.schwartz@sctaxlawyer.com; chandler@eckb.com; gpclawfirm@gmail.com; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; dhaller@hallerlawfirm.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt; currylawfirm@bellsouth.net; David K. Haller; Dickson, Edgar W. Secretary (Catherine C. Wilson)
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Attachments: 2019_02_07 Colucci, Doris.pdf; Supplement to MTD.PDF

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,
Beth Palmer

Elizabeth Palmer
|*Attorney at Law*|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

ROSEN | HAGOOD

EXHIBIT A

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT OF COMMON PLEAS FIRST JUDICIAL CIRCUIT
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,** Defendants.	№ 2017-CP-18-1816 **Affidavit of Kim Colucci**

My name is Kim Colucci and I am a beneficiary of the Colucci Living Trust. It is my preference that Mr. Michael Fox serve as the administrator in whatever capacity of the Estate of Doris Duane Colucci. I desire that Andrew Chandler stop acting as the special administrator of the Estate of Doris Duane Colucci.

February 7, 2019

Kim Colucci

The foregoing instrument was acknowledged before me by **KIM COLUCCI,** on the 7 day of February, 2019.

Notary Public for South Carolina

My Commission Expires: MY COMMISSION EXPIRES SEPTEMBER 5, 2023

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER	FIRST JUDICIAL CIRCUIT
In Re:	№ 2017-CP-18-1816
The Estate of Doris Duane Colucci,	
Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,	**Affidavit of Robert Colucci**
Plaintiff,	
vs.	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	
Defendants.	

My name is Robert Colucci and I am a beneficiary of the Colucci Living Trust. It is my preference that Mr. Michael Fox serve as the administrator in whatever capacity of the Estate of Doris Duane Colucci. I desire that Andrew Chandler stop acting as the special administrator of the Estate of Doris Duane Colucci.

February 7, 2019

Robert Colucci

The foregoing instrument was acknowledged before me by **ROBERT COLUCCI,** on the 7 day of February, 2019.

Notary Public for South Carolina

My Commission Expires: MY COMMISSION EXPIRES SEPTEMBER 5, 2023

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER)
) FIRST JUDICIAL CIRCUIT

In Re:)

The Estate of Doris Duane Colucci,) № 2017-CP-18-1816

Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,) **Affidavit of Stefan Colucci**

Plaintiff,)

vs.)

Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,)

Defendants.)

My name is Stefan Colucci and I am a beneficiary of the Colucci Living Trust. It is my preference that Mr. Michael Fox serve as the administrator in whatever capacity of the Estate of Doris Duane Colucci. I desire that Andrew Chandler stop acting as the special administrator of the Estate of Doris Duane Colucci.

February 7, 2019

Stefan Colucci

The foregoing instrument was acknowledged before me by **STEFAN COLUCCI,** on the 7 day of February, 2019.

Notary Public for South Carolina
My Commission Expires: 7/9/2023

JaRon Brown
Notary Public, State of South Carolina
County of Charleston
My Comm Exp 07/09/2023

Ryan Love

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 2:44 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney); Ryan Love
Cc: David Haller; currylawfirm; Glenn Churchill; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt; (general) Garrett Law Offices
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Attachments: Proposed Order appointing Fox revised.docx

Mr. McKinney,

I have attached a revised Proposed Order Appointing Fox including the language we have requested that the Court consider.

Please let me know if the Court requires anything further from us at this time.

Sincerely,
Beth Palmer

Elizabeth Palmer
Attorney at Law

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

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To comply with U.S. Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments or enclosures) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any entity, investment, plan, transaction, arrangement, or other tax related matter.

EXHIBIT

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 12:08 PM
To: Ryan Love <rlove@garrettlawsc.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Love,

Thank you for your submission. The Court will make its decision by the end of the day. We are awaiting the proposed amendments from Ms. Palmer. If the Court does not receive the proposed amendments, the Court will still make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Ryan Love <rlove@garrettlawsc.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Your Honor,

While we respect counsel's request to change the Court's decision, we have arrived at this point because the current Special Administrator is at complete odds with the Trustee of the Colucci Living Trust, multiple members of the Colucci family, and over the resolution of the pending suits. There is no question that Doris Colucci fully intended and named in her Will, Michael Fox, to be the General Personal Representative with the full meaning and force of the South Carolina Code.
Further, we have attached affidavits from three of the Colucci children requesting that Mr. Chandler be removed and that Mr. Fox be appointed. In addition, Mr. Fox, as Trustee of the Colucci Living Trust, is not satisfied with Mr. Chandler's performance and does not wish him to continue to administer any further issues in this Estate. We would ask the Court consider these factors in light of Ms. Palmer's request.

Respectfully Submitted,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 11:03 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Counsels,

Good morning, Ms. Palmer, please provide a proposed order, with your suggested amendments for the Court's review. The Court will make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 10:32 AM
To: Ryan Love <rlove@garrettlawsc.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Dickson, Edgar W. <edicksonj@sccourts.org>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Judge Dickson and Mr. McKinney,

Good morning. As you know, we represent Andrew Chandler, who is currently the Special Administrator of the Estate of Doris Duane Colucci. We have represented Mr. Chandler in that capacity since July 2017, bringing both the Petition to Determine Heirs (under the Slayer's Act) and the wrongful death lawsuit in October 2017. We would respectfully request that the Court, pursuant to S.C. Code Ann. s. 62-3-715, consider revising the proposed Order to provide that, excluded from Mr. Fox's powers as Personal Representative, is the power to maintain/pursue the pending litigation, i.e., the wrongful death lawsuit and the Petition to Determine Heirs.

Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case.

We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust (the sole devisee of Mrs. Colucci's Will, of which Mr. Fox is the Trustee).

If the Court is inclined to revise the Order as we have requested, we would be happy to draft the proposed revisions for the Court's consideration.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
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www.rrhlawfirm.com

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From: Ryan Love <rlove@garrettlawsc.com>
Sent: Monday, February 11, 2019 5:21 PM
To: edicksonic@sccourts.org
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net;

andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Pursuant to your request, please find enclosed a proposed order in this matter. I have circulated this order amongst counsel today (see below), and Mr. Haller suggested the addition of the language in footnote 1.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Ryan Love
Sent: Monday, February 11, 2019 12:47 PM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

All,

Please find enclosed our proposed order in this matter. Please let me know by 5pm today if you have any objections or revisions.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Monday, February 11, 2019 11:56 AM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>

Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsel, continuance granted for both the Motion to Restrain and the Motion to Dismiss. Please e-file the necessary order.

Additionally, Upon removal to the Circuit Court, the Probate Court granted the removal subsequent to certain conditions. On November 20, 2017 the Motion for Removal was granted however, jurisdiction was retained as to all other matters involving this case except for issues previously or subsequently removed. The Court was asked to rule on the following issues:

1.) Probate of will

2.) Appointment of Personal Representative

The Court probated the will during the hearing in Dorchester County on August 13, 2018 and was signed August 27, 2018. The only matter that was outstanding was the appointment of a personal representative.

After careful consideration, it was this Court's initial decision that Mr. Andrew W. Chandler, Esq be removed as the Special Administrator of the estate. However, prior to the Court making its decision, the Probate Court ruled that the power to remove the Special Administrator was not removed to the Circuit Court. Therefore, this Court makes no further decision regarding the Special Administrator. However, the Probate Court, in its removal order, did vest the Circuit Court with the power to appoint a Personal Representative. Therefore, it is decided that Mr. Michael C. Fox be appointed and/or remain as the Personal Representative. Additionally, it is ordered that any and all information regarding the estate be turned over to Mr. Fox for review to ensure that there has been no waste, abuse, or fraud within the estate and to fulfill the duties bestowed upon him by the Decedent. The parties are ordered to work together in the interest of the estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter. This is the Court's decision after receiving the additional information last week.

Attorney Garrett, Judge Dickson asks that you prepare the Order reflecting his decision. When the Order has been prepared, please forward copies to opposing counsel for review. Then, please email the order to our office in a word document form.

If you have any questions or concerns, please contact this office by email or telephone at (803) 535-2356.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: David Haller <dhaller@hallerlawfirm.com>
Sent: Monday, February 11, 2019 11:16 AM
To: currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Curry represents Stefan Colucci, who is mistakenly listed as pro se in the clerk's roster.

David K. Haller
843-224-7860
Sent from my iPhone
Please excuse typos and incomprehensible autocorrects.

THIS COMMUNICATION CONTAINS CONFIDENTIAL MATERIAL SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT OR BOTH. PLEASE REPORT ANY MISDIRECTED COMMUNICATIONS TO THE SENDER.

On Feb 11, 2019, at 11:06 AM, currylawfirm <currylawfirm@bellsouth.net> wrote:

> I also consent to continuance. Eduardo Curry
>
> Sent from my T-Mobile 4G LTE Device
>
> -------- Original message --------
> From: Glenn Churchill <gpclawfirm@gmail.com>
> Date: 2/11/19 10:56 AM (GMT-05:00)
> To: "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org>
> Cc: "David K. Haller" <dhaller@hallerlawfirm.com>, Elizabeth Palmer <epalmer@rrhlawfirm.com>, Ryan Love <rlove@garrettlawsc.com>, lester.schwartz@sctaxlawyer.com, "Andrew W. Chandler" <chandler@eckb.com>, Brew Hagood <bhagood@rrhlawfirm.com>, "Andrew D. Gowdown" <agowdown@rrhlawfirm.com>, scarborough@eckb.com, jlee@eckb.com, angus@lawtonlawfirm.net, andrewtcashlaw@gmail.com, carlpierce@piercesloan.com, bensmoot@piercesloan.com, "Shelbourne, Brandt" <brandt@shelbournelaw.com>, currylawfirm@bellsouth.net, "Dickson, Edgar W. Secretary (Catherine C. Wilson)" <edicksonsc@sccourts.org>, "Melissa R. Bates" <MBates@dorchestercountysc.gov>
> Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816
>
> I am not certain if my consent is necessary, but I consent to the continuance in my capacity as guardian ad litem for John Antonio.

Glenn P. Churchill, Esquire
115 River Landing Drive, Suite 102
Charleston, SC 29492
843/849-1384 o
843/853-9377 f

On Mon, Feb 11, 2019 at 10:51 AM Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

Counsel, good morning. The concern with a continuance is as follows: So far, we have not had all the necessary consents to grant a continuance. In addition, apparently a Pro-Se has been noticed to be here today for the case. Therefore, there is a concern that not all the necessary parties would be able to consent in time. If you could provide all the consents needed then a more informed decision will be able to be made. Thank you for your time.

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: David K. Haller <dhaller@hallerlawfirm.com>
Sent: Friday, February 8, 2019 3:14 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Cc: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Dear Judge Dickson and Mr. McKinney:

I represent Christa Yantis, who is the conservator for Ivo Colucci, Mrs. Colucci's surviving spouse. Your Honor's ruling relates to a motion for summary judgment I filed on Ms. Yantis's behalf to seeking probate of Mrs. Colucci's Will and the appointment of a personal representative of her estate.

This week, the parties have been engaged in a two day mediation with John Tiller, with discussions continuing after. Those discussions have blossomed into ways in which the family can bring the several lawsuits currently pending (including this one, there are at least 5) to an end. Your ruling may assist in bringing those issues to a head requiring a settlement of all claims.

I am writing to request that Monday's hearing be continued for no more than 10 days to allow the parties time to continue and complete settlement discussions to wrap all of these matters. I have spoken with some (but not all) of the other counsel and they are in agreement.

Thank you for your time and attention to this matter,

David Haller

David K. Haller
604 Savannah Highway, Charleston, South Carolina 29407

843-224-7860

www.dhallerlawfirm.com

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On Feb 8, 2019, at 12:31 PM, Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

We will take up all matters on Monday. Thank you for this additional information

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Ryan Love <rlove@garrettlawsc.com>
Cc: lester.schwartz@sctaxlawyer.com; chandler@eckb.com; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; dhaller@hallerlawfirm.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; David K. Haller <dhaller@hallerlawfirm.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,

Beth Palmer

Elizabeth Palmer

Attorney at Law

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
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<image001.gif>

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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Friday, February 8, 2019 11:20 AM
To: Ryan Love <

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Ryan Love

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 2:10 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney); Ryan Love
Cc: David Haller; currylawfirm; Glenn Churchill; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt; (general) Garrett Law Offices
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816
Attachments: image001.gif; image002.jpg; image003.jpg; image004.jpg

Mr. McKinney,

Thank you for your email. We will be submitting a revised order shortly.

Sincerely,
Beth Palmer

Get Outlook for iOS<https://aka.ms/o0ukef>

On Tue, Feb 12, 2019 at 12:08 PM -0500, "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:

Mr. Love,

Thank you for your submission. The Court will make its decision by the end of the day. We are awaiting the proposed amendments from Ms. Palmer. If the Court does not receive the proposed amendments, the Court will still make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Ryan Love <rlove@garrettlawsc.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com;

bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Your Honor,

While we respect counsel's request to change the Court's decision, we have arrived at this point because the current Special Administrator is at complete odds with the Trustee of the Colucci Living Trust, multiple members of the Colucci family, and over the resolution of the pending suits. There is no question that Doris Colucci fully intended and named in her Will, Michael Fox, to be the General Personal Representative with the full meaning and force of the South Carolina Code.
Further, we have attached affidavits from three of the Colucci children requesting that Mr. Chandler be removed and that Mr. Fox be appointed. In addition, Mr. Fox, as Trustee of the Colucci Living Trust, is not satisfied with Mr. Chandler's performance and does not wish him to continue to administer any further issues in this Estate. We would ask the Court consider these factors in light of Ms. Palmer's request.

Respectfully Submitted,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Tuesday, February 12, 2019 11:03 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Counsels,

Good morning. Ms. Palmer, please provide a proposed order, with your suggested amendments for the Court's review. The Court will make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Sent: Tuesday, February 12, 2019 10:32 AM
To: Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Dickson, Edgar W. <edicksonj@sccourts.org<mailto:edicksonj@sccourts.org>>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices <office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Judge Dickson and Mr. McKinney,

Good morning. As you know, we represent Andrew Chandler, who is currently the Special Administrator of the Estate of Doris Duane Colucci. We have represented Mr. Chandler in that capacity since July 2017, bringing both the Petition to Determine Heirs (under the Slayer's Act) and the wrongful death lawsuit in October 2017. We would respectfully request that the Court, pursuant to S.C. Code Ann. s. 62-3-715, consider revising the proposed Order to provide that, excluded from Mr. Fox's powers as Personal Representative, is the power to maintain/pursue the pending litigation, i.e., the wrongful death lawsuit and the Petition to Determine Heirs.

Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case.

We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust (the sole devisee of Mrs. Colucci's Will, of which Mr. Fox is the Trustee).

If the Court is inclined to revise the Order as we have requested, we would be happy to draft the proposed revisions for the Court's consideration.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
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|fax| 843-724-8036
|direct phone| (843) 266-8166
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www.rrhlawfirm.com<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.rrhlawfirm.com&d=DwMFaQ&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=r_rGSHqW6nb8jCz9Ax5KHJS08MmWaNHP4fQbDBpsKZ0&m=9fRzvzDbh5Nn8HdVWygcDEf9AnAsfeC9iicxy7fRSCw&s=kPp36lOjGG4ZF9U6py35cXi_olQYl1FDu1StSHUY6Lw&e=>

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From: Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>
Sent: Monday, February 11, 2019 5:21 PM
To: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>
Cc: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood

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bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt
<brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices
<office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Pursuant to your request, please find enclosed a proposed order in this matter. I have circulated this order amongst counsel today (see below), and Mr. Haller suggested the addition of the language in footnote 1.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Ryan Love
Sent: Monday, February 11, 2019 12:47 PM
To: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm
<currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>; Glenn Churchill
<gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer
<epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>;
lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler
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andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>;
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bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt
<brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; (general) Garrett Law Offices
<office@garrettlawsc.com<mailto:office@garrettlawsc.com>>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

All,

Please find enclosed our proposed order in this matter. Please let me know by 5pm today if you have any objections or revisions.

Kind regards,

Ryan A. Love

Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Monday, February 11, 2019 11:56 AM
To: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>
Cc: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>; Melissa R. Bates <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsel, continuance granted for both the Motion to Restrain and the Motion to Dismiss. Please e-file the necessary order.

Additionally, Upon removal to the Circuit Court, the Probate Court granted the removal subsequent to certain conditions. On November 20, 2017 the Motion for Removal was granted however, jurisdiction was retained as to all other matters involving this case except for issues previously or subsequently removed. The Court was asked to rule on the following issues:

1.) Probate of will

2.) Appointment of Personal Representative

The Court probated the will during the hearing in Dorchester County on August 13, 2018 and was signed August 27, 2018. The only matter that was outstanding was the appointment of a personal representative.

After careful consideration, it was this Court's initial decision that Mr. Andrew W. Chandler, Esq be removed as the Special Administrator of the estate. However, prior to the Court making its decision, the Probate Court ruled that the power to remove the Special Administrator was not removed to the Circuit Court. Therefore, this Court makes no further decision regarding the Special Administrator. However, the Probate Court, in its removal order, did vest the Circuit Court with the power to appoint a Personal Representative. Therefore, it is decided that Mr. Michael C. Fox be appointed and/or remain as the Personal Representative. Additionally, it is ordered that any and all information regarding the estate be turned over to Mr. Fox for review to ensure that there has been no waste, abuse, or fraud within

the estate and to fulfill the duties bestowed upon him by the Decedent. The parties are ordered to work together in the interest of the estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter. This is the Court's decision after receiving the additional information last week.

Attorney Garrett, Judge Dickson asks that you prepare the Order reflecting his decision. When the Order has been prepared, please forward copies to opposing counsel for review. Then, please email the order to our office in a word document form.

If you have any questions or concerns, please contact this office by email or telephone at (803) 535-2356.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: David Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>
Sent: Monday, February 11, 2019 11:16 AM
To: currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>>
Cc: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>; Melissa R. Bates <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Curry represents Stefan Colucci, who is mistakenly listed as pro se in the clerk's roster.
David K. Haller
843-224-7860

Sent from my iPhone
Please excuse typos and incomprehensible autocorrects.

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On Feb 11, 2019, at 11:06 AM, currylawfirm <currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>> wrote:
I also consent to continuance. Eduardo Curry

Sent from my T-Mobile 4G LTE Device

------- Original message -------
From: Glenn Churchill <gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>>
Date: 2/11/19 10:56 AM (GMT-05:00)
To: "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Cc: "David K. Haller" <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>, Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>, Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>, lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>, "Andrew W. Chandler" <chandler@eckb.com<mailto:chandler@eckb.com>>, Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>, "Andrew D. Gowdown" <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>, scarborough@eckb.com<mailto:scarborough@eckb.com>, jlee@eckb.com<mailto:jlee@eckb.com>, angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>, andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>, carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>, bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>, "Shelbourne, Brandt" <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>, currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>, "Dickson, Edgar W. Secretary (Catherine C. Wilson)" <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>, "Melissa R. Bates" <MBates@dorchestercountysc.gov<mailto:MBates@dorchestercountysc.gov>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

I am not certain if my consent is necessary, but I consent to the continuance in my capacity as guardian ad litem for John Antonio.

Glenn P. Churchill, Esquire
115 River Landing Drive, Suite 102
Charleston, SC 29492
843/849-1384 o
843/853-9377 f

On Mon, Feb 11, 2019 at 10:51 AM Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:
Counsel, good morning. The concern with a continuance is as follows: So far, we have not had all the necessary consents to grant a continuance. In addition, apparently a Pro-Se has been noticed to be here today for the case. Therefore, there

is a concern that not all the necessary parties would be able to consent in time. If you could provide all the consents needed then a more informed decision will be able to be made. Thank you for your time.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: David K. Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>
Sent: Friday, February 8, 2019 3:14 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Cc: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>; lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>; Andrew W. Chandler <chandler@eckb.com<mailto:chandler@eckb.com>>; gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>; scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>; angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>; andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>; carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>; bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>; currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Dear Judge Dickson and Mr. McKinney:

I represent Christa Yantis, who is the conservator for Ivo Colucci, Mrs. Colucci's surviving spouse. Your Honor's ruling relates to a motion for summary judgment I filed on Ms. Yantis's behalf to seeking probate of Mrs. Colucci's Will and the appointment of a personal representative of her estate.

This week, the parties have been engaged in a two day mediation with John Tiller, with discussions continuing after. Those discussions have blossomed into ways in which the family can bring the several lawsuits currently pending (including this one, there are at least 5) to an end. Your ruling may assist in bringing those issues to a head requiring a settlement of all claims.

I am writing to request that Monday's hearing be continued for no more than 10 days to allow the parties time to continue and complete settlement discussions to wrap all of these matters. I have spoken with some (but not all) of the other counsel and they are in agreement.

Thank you for your time and attention to this matter,

David Haller

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David K. Haller
604 Savannah Highway, Charleston, South Carolina 29407<https://urldefense.proofpoint.com/v2/url?u=http-
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mWaNHP4fQbDBpsKZ0&m=IHkAeOcWa3ubtnVkJF5BVBEYSABidMVMcbg9svjZ9D4&s=CajiNx1mUo1lYSdsCvimj1zkhcjAk1
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www.dhallerlawfirm.com<https://urldefense.proofpoint.com/v2/url?u=http-
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S06MOVKYrR1yA&e=>Please note that the information contained in this e-mail does not create an attorney client relationship. An attorney-client relationship is not established until a signed agreement is made between the attorney and prospective client. Nevertheless, the information contained in this e-mail transmission is legally privileged and confidential. It is intended for the use of the individual or company to whom it is directed. If the receiver of this e-mail is not the intended recipient, you are hereby notified that no privilege is waived by virtue of your inadvertent receipt and that any distribution or copying of this e-mail is strictly prohibited by both State and Federal communications laws. If you have received this e-mail in error, please delete any and all copies of the same from any media to which it may have been stored and destroy any hard copies which may have been generated. This firm does not give tax advice of any kind.

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On Feb 8, 2019, at 12:31 PM, Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>> wrote:

We will take up all matters on Monday. Thank you for this additional information

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>

From: Elizabeth Palmer <epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>; Ryan Love <rlove@garrettlawsc.com<mailto:rlove@garrettlawsc.com>>

Cc: lester.schwartz@sctaxlawyer.com<mailto:lester.schwartz@sctaxlawyer.com>;
chandler@eckb.com<mailto:chandler@eckb.com>; gpclawfirm@gmail.com<mailto:gpclawfirm@gmail.com>; Brew Hagood <bhagood@rrhlawfirm.com<mailto:bhagood@rrhlawfirm.com>>; Andrew D. Gowdown <agowdown@rrhlawfirm.com<mailto:agowdown@rrhlawfirm.com>>;
scarborough@eckb.com<mailto:scarborough@eckb.com>; jlee@eckb.com<mailto:jlee@eckb.com>;
angus@lawtonlawfirm.net<mailto:angus@lawtonlawfirm.net>;
andrewtcashlaw@gmail.com<mailto:andrewtcashlaw@gmail.com>;
dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>;
carlpierce@piercesloan.com<mailto:carlpierce@piercesloan.com>;
bensmoot@piercesloan.com<mailto:bensmoot@piercesloan.com>; Shelbourne, Brandt <brandt@shelbournelaw.com<mailto:brandt@shelbournelaw.com>>;
currylawfirm@bellsouth.net<mailto:currylawfirm@bellsouth.net>; David K. Haller <dhaller@hallerlawfirm.com<mailto:dhaller@hallerlawfirm.com>>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org<mailto:edicksonsc@sccourts.org>>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com<mailto:epalmer@rrhlawfirm.com>
V-Card<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.rrhlawfirm.com_vcards_palmer-2Delizabeth.vcf&d=DwMFAg&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=r_rGSHqW6nb8jCz9Ax5KHJS08MmWaNHP4fQbDBpsKZ0&m=tKZCmGzyRzqDUJXKHEhMtj17a0SnfPMcSvFlh1Irihw&s=gGV6Mq4QQ8bDcJwHTFlZZScRS6WK8qgR33oP_mDu0NQ&e=>
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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org<mailto:edicksonlc@sccourts.org>>
Sent: Friday, February 8, 2019 11:20 AM
To: Ryan Love <
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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney)
Sent: Tuesday, March 5, 2019 9:31 AM
To: Elizabeth Palmer; Ryan Love
Cc: David Haller; currylawfirm; Glenn Churchill; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler; Brew Hagood; Andrew D. Gowdown; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; Shelbourne, Brandt; (general) Garrett Law Offices; Becky Stevens; Melissa R. Bates; Dickson, Edgar W. Secretary (Catherine C. Wilson)
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsels.

Good morning. In light of the last order that this Court filed and the results of the Probate Court's order which was filed immediately after this Court's decision, it is requested that the Counsels all get together and develop a *timeline* that explains the jurisdiction of the Circuit Court over this case and the jurisdiction of Probate Court over this case. Once this is completed, this timeline needs to be filed with the Clerk's office. This is to ensure that the Circuit Court (no matter what judge the remaining issues appear before) is aware as to where, in Counsel's analysis, the Circuit Court's jurisdiction begins and ends. This will ensure that the Circuit Court is able to make more informed decisions without encroaching on possible Probate Court jurisdiction. Please let us know when this is done. Thank you for your cooperation with this request.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 26, 2019 6:23 AM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Please find attached a copy of Respondent Chandler's Motion to Reconsider, Alter or Amend, being provided to Judge Dickson pursuant to Rule 59(g). Please let us know if the Judge would like for us to send a hard copy to his chambers, we are happy to do so.

Have a great day,
Beth

Elizabeth Palmer
|Attorney at Law|

151 Meeting Street, Suite 400
Charleston, SC 29401
|office| 843.577.6726
|fax| 843.724.8036
|direct phone| (843) 266-8166
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ROSEN | HAGOOD

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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 12:08 PM
To: Ryan Love <rlove@garrettlawsc.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Love,

Thank you for your submission. The Court will make its decision by the end of the day. We are awaiting the proposed amendments from Ms. Palmer. If the Court does not receive the proposed amendments, the Court will still make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Ryan Love <rlove@garrettlawsc.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Your Honor,

While we respect counsel's request to change the Court's decision, we have arrived at this point because the current Special Administrator is at complete odds with the Trustee of the Colucci Living Trust, multiple members of the Colucci family, and over the resolution of the pending suits. There is no question that Doris Colucci fully intended and named in her Will, Michael Fox, to be the General Personal Representative with the full meaning and force of the South Carolina Code.
Further, we have attached affidavits from three of the Colucci children requesting that Mr. Chandler be removed and that Mr. Fox be appointed. In addition, Mr. Fox, as Trustee of the Colucci Living Trust, is not satisfied with Mr. Chandler's performance and does not wish him to continue to administer any further issues in this Estate. We would ask the Court consider these factors in light of Ms. Palmer's request.

Respectfully Submitted,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Tuesday, February 12, 2019 11:03 AM
To: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Counsels.

Good morning. Ms. Palmer, please provide a proposed order, with your suggested amendments for the Court's review. The Court will make its decision by the end of the day.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 12, 2019 10:32 AM
To: Ryan Love <rlove@garrettlawsc.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Dickson, Edgar W. <edicksonj@sccourts.org>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Judge Dickson and Mr. McKinney,

Good morning. As you know, we represent Andrew Chandler, who is currently the Special Administrator of the Estate of Doris Duane Colucci. We have represented Mr. Chandler in that capacity since July 2017, bringing both the Petition to Determine Heirs (under the Slayer's Act) and the wrongful death lawsuit in October 2017. We would respectfully request that the Court, pursuant to S.C. Code Ann. s. 62-3-715, consider revising the proposed Order to provide that, excluded from Mr. Fox's powers as Personal Representative, is the power to maintain/pursue the pending litigation, i.e., the wrongful death lawsuit and the Petition to Determine Heirs.

Changing the "leadership" of these cases, which have included significant discovery, expert expense, two days of mediation, and numerous depositions (nine to date, one of which was Mr. Fox, with one scheduled tomorrow), would inevitably result in delaying the conclusion of these matters and waste to the Estate. If the power to pursue these lawsuit were to be bestowed upon Mr. Fox, the attorney(s) he selects to represent him would require a substantial amount of time to get up to speed and into a position to continue moving the cases forward. For example, there are thousands of documents that have been received through discovery and over 50 hours of video received from the solicitor's office that we have reviewed and that would need to be re-reviewed by any attorney coming into this case.

We have made significant progress towards settlement. In fact, settlement discussions were taking place late into yesterday afternoon. Moreover, should settlement negotiations ultimately fail, we anticipate trial in both cases being scheduled early to mid-summer. Stopping these cases in their tracks now would not benefit the Estate, the statutory beneficiaries, or the trust (the sole devisee of Mrs. Colucci's Will, of which Mr. Fox is the Trustee).

If the Court is inclined to revise the Order as we have requested, we would be happy to draft the proposed revisions for the Court's consideration.

Sincerely,
Beth Palmer

Elizabeth Palmer
|Attorney at Law|
151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
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V-Card
www.rrhlawfirm.com

ROSEN | HAGOOD

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From: Ryan Love <rlove@garrettlawsc.com>
Sent: Monday, February 11, 2019 5:21 PM
To: edicksonlc@sccourts.org
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Pursuant to your request, please find enclosed a proposed order in this matter. I have circulated this order amongst counsel today (see below), and Mr. Haller suggested the addition of the language in footnote 1.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC
1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Ryan Love
Sent: Monday, February 11, 2019 12:47 PM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

All,

Please find enclosed our proposed order in this matter. Please let me know by 5pm today if you have any objections or revisions.

Kind regards,

Ryan A. Love
Garrett Law Offices, LLC

1075 E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)

From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Monday, February 11, 2019 11:56 AM
To: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsel, continuance granted for both the Motion to Restrain and the Motion to Dismiss. Please e-file the necessary order.

Additionally, Upon removal to the Circuit Court, the Probate Court granted the removal subsequent to certain conditions. On November 20, 2017 the Motion for Removal was granted however, jurisdiction was retained as to all other matters involving this case except for issues previously or subsequently removed. The Court was asked to rule on the following issues:

1.) Probate of will

2.) Appointment of Personal Representative

The Court probated the will during the hearing in Dorchester County on August 13, 2018 and was signed August 27, 2018. The only matter that was outstanding was the appointment of a personal representative.

After careful consideration, it was this Court's initial decision that Mr. Andrew W. Chandler, Esq be removed as the Special Administrator of the estate. However, prior to the Court making its decision, the Probate Court ruled that the power to remove the Special Administrator was not removed to the Circuit Court. Therefore, this Court makes no further decision regarding the Special Administrator. However, the Probate Court, in its removal order, did vest the Circuit Court with the power to appoint a Personal Representative. Therefore, it is decided that Mr. Michael C. Fox be appointed and/or remain as the Personal Representative. Additionally, it is ordered that any and all information regarding the estate be turned over to Mr. Fox for review to ensure that there has been no waste, abuse, or fraud within the estate and to fulfill the duties

bestowed upon him by the Decedent. The parties are ordered to work together in the interest of the estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter. This is the Court's decision after receiving the additional information last week.

Attorney Garrett, Judge Dickson asks that you prepare the Order reflecting his decision. When the Order has been prepared, please forward copies to opposing counsel for review. Then, please email the order to our office in a word document form.

If you have any questions or concerns, please contact this office by email or telephone at (803) 535-2356.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
E: edicksonlc@sccourts.org

From: David Haller <dhaller@hallerlawfirm.com>
Sent: Monday, February 11, 2019 11:16 AM
To: currylawfirm <currylawfirm@bellsouth.net>
Cc: Glenn Churchill <gpclawfirm@gmail.com>; Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>; Melissa R. Bates <MBates@dorchestercountysc.gov>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Mr. Curry represents Stefan Colucci, who is mistakenly listed as pro se in the clerk's roster.

David K. Haller
843-224-7860
Sent from my iPhone

Please excuse typos and incomprehensible autocorrects.

THIS COMMUNICATION CONTAINS CONFIDENTIAL MATERIAL SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT OR BOTH. PLEASE REPORT ANY MISDIRECTED COMMUNICATIONS TO THE SENDER.

On Feb 11, 2019, at 11:06 AM, currylawfirm <currylawfirm@bellsouth.net> wrote:

> I also consent to continuance. Eduardo Curry
>
> Sent from my T-Mobile 4G LTE Device
>
> -------- Original message --------
> From: Glenn Churchill <gpclawfirm@gmail.com>
> Date: 2/11/19 10:56 AM (GMT-05:00)
> To: "Dickson, Edgar W. Law Clerk (Nicholas McKinney)" <edicksonlc@sccourts.org>
> Cc: "David K. Haller" <dhaller@hallerlawfirm.com>, Elizabeth Palmer <epalmer@rrhlawfirm.com>, Ryan Love <rlove@garrettlawsc.com>, lester.schwartz@sctaxlawyer.com, "Andrew W. Chandler" <chandler@eckb.com>, Brew Hagood <bhagood@rrhlawfirm.com>, "Andrew D. Gowdown" <agowdown@rrhlawfirm.com>, scarborough@eckb.com, jlee@eckb.com, angus@lawtonlawfirm.net, andrewtcashlaw@gmail.com, carlpierce@piercesloan.com, bensmoot@piercesloan.com, "Shelbourne, Brandt" <brandt@shelbournelaw.com>, currylawfirm@bellsouth.net, "Dickson, Edgar W. Secretary (Catherine C. Wilson)" <edicksonsc@sccourts.org>, "Melissa R. Bates" <MBates@dorchestercountysc.gov>
> Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816
>
> I am not certain if my consent is necessary, but I consent to the continuance in my capacity as guardian ad litem for John Antonio.
>
> Glenn P. Churchill, Esquire
> 115 River Landing Drive, Suite 102
> Charleston, SC 29492
> 843/849-1384 o
> 843/853-9377 f
>
> On Mon, Feb 11, 2019 at 10:51 AM Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

Counsel, good morning. The concern with a continuance is as follows: So far, we have not had all the necessary consents to grant a continuance. In addition, apparently a Pro-Se has been noticed to be here today for the case. Therefore, there is a concern that not all the necessary parties would be able to consent in time. If you could provide all the consents needed then a more informed decision will be able to be made. Thank you for your time.

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: David K. Haller <dhaller@hallerlawfirm.com>
Sent: Friday, February 8, 2019 3:14 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Cc: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: Re: In re: Estate of Colucci, 2017-CP-18-1816

Dear Judge Dickson and Mr. McKinney:

I represent Christa Yantis, who is the conservator for Ivo Colucci, Mrs. Colucci's surviving spouse. Your Honor's ruling relates to a motion for

summary judgment I filed on Ms. Yantis's behalf to seeking probate of Mrs. Colucci's Will and the appointment of a personal representative of her estate.

This week, the parties have been engaged in a two day mediation with John Tiller, with discussions continuing after. Those discussions have blossomed into ways in which the family can bring the several lawsuits currently pending (including this one, there are at least 5) to an end. Your ruling may assist in bringing those issues to a head requiring a settlement of all claims.

I am writing to request that Monday's hearing be continued for no more than 10 days to allow the parties time to continue and complete settlement discussions to wrap all of these matters. I have spoken with some (but not all) of the other counsel and they are in agreement.

Thank you for your time and attention to this matter,

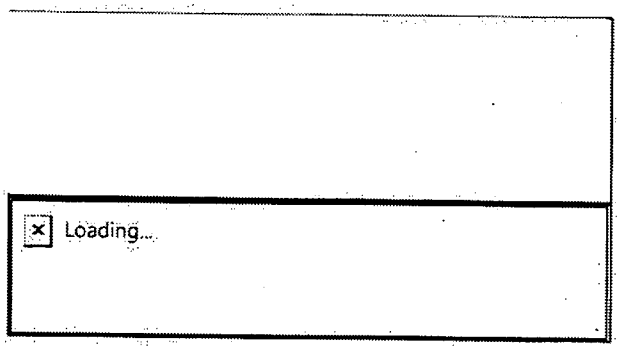
David Haller

David K. Haller
604 Savannah Highway, Charleston, South Carolina 29407

843-224-7860

www.dhallerlawfirm.com

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On Feb 8, 2019, at 12:31 PM, Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org> wrote:

We will take up all matters on Monday. Thank you for this additional information.

Sincerely,

Nicholas McKinney

Law Clerk to Judge Edgar W. Dickson

P.O. Box 1949

Orangeburg, SC 29116

P: (803) 535-2187

E: edicksonlc@sccourts.org

From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Friday, February 8, 2019 12:24 PM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Ryan Love <rlove@garrettlawsc.com>
Cc: lester.schwartz@sctaxlawyer.com; chandler@eckb.com; gpclawfirm@gmail.com; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; andrewtcashlaw@gmail.com; dhaller@hallerlawfirm.com; carlpierce@piercesloan.com; bensmoot@piercesloan.com; Shelbourne, Brandt <brandt@shelbournelaw.com>; currylawfirm@bellsouth.net; David K. Haller <dhaller@hallerlawfirm.com>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Thank you for your email. Attached is an Order from the Probate Court, filed yesterday, denying Petitioner Fox's Petition for Removal of Special Administrator, which was heard on January 9, 2019. We were in the process of filing the attached Supplement to Respondent Chandler's Motion to Dismiss (requesting the dismissal/denial of Petitioner Fox's Motion to Restrain Special Administrator, which was scheduled to be heard by Judge Dickson on Monday) when we received your email, and I believe my assistant may have just filed it as I write this. We are hopeful that the Court will consider the Supplement and the attached Order of the Probate Court before issuing its final order on Petitioner Fox's Petition for Appointment. Please also advise as to whether or not Monday's hearing on Petitioner Fox's Motion to Restrain Special Administrator will take place.

If the Court would like to hear from us concerning the propriety of the appointment of Mr. Burkes, who has not filed a Petition for Appointment, we would be happy to address that issue. Likewise, if the Court has any other questions or concerns, please just let us know.

Sincerely,

Beth Palmer

Elizabeth Palmer

Attorney at Law

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8166
|direct fax| (843) 266-2239
epalmer@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

<image001.gif>

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From: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>
Sent: Friday, February 8, 2019 11:20 AM
To: Ryan Love <

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ELECTRONICALLY FILED - 2019 Mar 04 1:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-CP-18-1816
	)	
The Estate of Doris Duane Colucci,	)	
	)	
Michael C. Fox, Named Personal Representative in the Last Will of Doris Duane Colucci,	)	**Order**
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	)	
	)	
Defendants.	)	
	)	

THIS MATTER comes before this Court on a Petition for Formal Testacy and Appointment filed in the Dorchester County Probate Court on October 30, 2017, and subsequently removed to this Court. This Petition was heard on August 13, 2018, and on August 27, 2018, this Court admitted the Last Will and Testament of Doris Duane Colucci to probate and took the matter of appointment of the Personal Representative under advisement. After careful consideration of the arguments of counsel and the record, this Court finds as follows:

The Last Will and Testament of Doris Duane Colucci, executed June 18, 2013, was admitted to probate on August 27, 2018 with no objection from any party. This Will named the following persons, in order of priority, as Personal Representative of the state: (1) Ivo Colucci, (2) Michael C. Fox, (3) Henry Burkes, (4) M. Richardson Hyman, Jr., Esq.

EXHIBIT D

ELECTRONICALLY FILED - 2019 Mar 04 1:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

This Court finds Michael Fox is qualified to serve as the General Personal Representative of the Estate of Doris Colucci, and hereby appoints him to serve in this position in accordance with the Last Will, provided that, Mr. Fox shall not have the power or authority to prosecute, defend, pursue, or settle the pending lawsuits in which the Estate is currently a party.[1] See S.C. Code §§ 62-3-203, 62-3-414, 62-3-715 & 62-3-618. Specifically, Mr. Fox shall not have the power or authority to prosecute, defend, pursue, or settle the wrongful death action pending in the Charleston County Court of Common Pleas (*Chandler v. Colucci, et al.*, 2017-CP-10-5393) or the Petition to Determine Heirs action pending in the Dorchester County Court of Common Pleas (*Chandler v. Colucci, et al.*, 2017-CP-18-1816).

This Court additionally orders that the former special administrator forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. This transfer of records, however, does not include the litigation files currently maintained by Defendant Chandler's counsel, Rosen Hagood. Those records and files shall remain under the complete control of Defendant Chandler and his counsel so that they may continue their efforts in the above described litigation on behalf of the Estate.

Based on the removal order of the Probate Court, the Probate Court retained jurisdiction on all other issues other than what was indicated on the removal order. Other than this Court's

[1] The Court has been made aware that property located at 39-41 Mary Street, Charleston, SC is scheduled to close on or about February 21, 2019. The property is owned by I&M Colucci, a general partnership, of which Mrs. Colucci's estate owns a twenty-five and a half (25.5%) interest. Nothing in this order should be construed as to limit the ability of Michael C. Fox, as General Personal Representative of the Estate of Doris Duane Colucci, from acting on behalf of the Estate in the business of I&M Colucci, a general partnership, and he is authorized to execute any and all documents necessary to act on behalf of the Estate's interest in the partnership to effectuate the sale of 39-41 Mary Street.

decision above, all additional issues and motions are remanded back to the Probate Court in compliance with its removal order, unless the Probate Court has vested the Circuit Court with the power to decide the matter.[2]

IT IS SO ORDERED.

Edgar W. Dickson
Circuit Court Judge

February _____, 2019
St. George, South Carolina

[2] Pending before this Court are also a Petition to Restrain the Special Administrator and a Motion to Dismiss this Petition. Both of these motions are denied as moot.

ELECTRONICALLY FILED - 2019 Mar 04 1:40 PM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

To: Elizabeth Palmer <epalmer@rrhlawfirm.com>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>; Becky Stevens <BStevens@dorchestercountysc.gov>; Melissa R. Bates <MBates@dorchestercountysc.gov>; Dickson, Edgar W. Secretary (Catherine C. Wilson) <edicksonsc@sccourts.org>
Subject: RE: In re: Estate of Colucci, 2017-CP-18-1816
Importance: High

Counsels,

Good morning. In light of the last order that this Court filed and the results of the Probate Court's order which was filed immediately after this Court's decision, it is requested that the Counsels all get together and develop a *timeline* that explains the jurisdiction of the Circuit Court over this case and the jurisdiction of Probate Court over this case. Once this is completed, this timeline needs to be filed with the Clerk's office. This is to ensure that the Circuit Court (no matter what judge the remaining issues appear before) is aware as to where, in Counsel's analysis, the Circuit Court's jurisdiction begins and ends. This will ensure that the Circuit Court is able to make more informed decisions without encroaching on possible Probate Court jurisdiction. Please let us know when this is done. Thank you for your cooperation with this request.

Sincerely,
Nicholas McKinney
Law Clerk to Judge Edgar W. Dickson
P.O. Box 1949
Orangeburg, SC 29116
P: (803) 535-2187
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From: Elizabeth Palmer <epalmer@rrhlawfirm.com>
Sent: Tuesday, February 26, 2019 6:23 AM
To: Dickson, Edgar W. Law Clerk (Nicholas McKinney) <edicksonlc@sccourts.org>; Ryan Love <rlove@garrettlawsc.com>
Cc: David Haller <dhaller@hallerlawfirm.com>; currylawfirm <currylawfirm@bellsouth.net>; Glenn Churchill <gpclawfirm@gmail.com>; lester.schwartz@sctaxlawyer.com; Andrew W. Chandler <chandler@eckb.com>; Brew Hagood <bhagood@rrhlawfirm.com>; Andrew D. Gowdown <agowdown@rrhlawfirm.com>; scarborough@eckb.com; jlee@eckb.com; angus@lawtonlawfirm.net; Shelbourne, Brandt <brandt@shelbournelaw.com>; (general) Garrett Law Offices <office@garrettlawsc.com>
Subject: In re: Estate of Colucci, 2017-CP-18-1816

Mr. McKinney,

Please find attached a copy of Respondent Chandler's Motion to Reconsider, Alter or Amend, being provided to Judge Dickson pursuant to Rule 59(g). Please let us know if the Judge would like for us to send a hard copy to his chambers, we are happy to do so.

Have a great day,
Beth

Elizabeth Palmer
Attorney at Law

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-CP-18-1816
The Estate of Doris Duane Colucci,	)	
Michael C. Fox, Personal Representative the Estate of Doris Duane Colucci,	)	**Affidavit of Michael C. Fox**
Petitioner.	)	
vs.	)	
Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,	)	
Respondents.	)	

PERSONALLY, APPEARED BEFORE ME, MICHAEL C. FOX, who after being first duly sworn, states as follows:

(1) On the morning of February 13, 2019, I received a copy of the Court of Common Pleas' Order from my attorney that found me to be qualified and appointed me as the Personal Representative of the Estate of Doris Colucci.

(2) Until I received a copy of the Emergency Petition filed by Rosen Hagood, I did not receive a copy of any invoice or request for payment for a claim from Rosen Hagood for services rendered to the Estate or to Andrew Chandler.

(3) Until I received a copy of the Emergency Petition filed by Rosen Hagood, I was never notified that Rosen Hagood had a claim for attorney's fees against the Estate.

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(4) At no time, before or after the issuance of the Order, did I ever receive funds as Personal Representative of the Estate from which a creditor's claim could be paid.

(5) I only learned that Rosen Hagood had a creditor's claim until after the Probate Court had issued an emergency order restraining me several hours after the Court of Common Pleas' Order. In addition to not notifying me of the claim, as Mr. Chandler was in possession of the assets, it was impossible for me to pay the claim.

(6) Since the issuance of the Order, I have not received any of the estate files from Mr. Chandler or any statements for what he has billed the estate.

(7) Since the issuance of the Order, Mr. Chandler has not contacted me or my attorney and has proceeded to administer and liquidate major assets without consulting me.

(8) I have been in contact with many members of the Colucci family. At least three of the family members have executed affidavits asking that Mr. Chandler no longer be allowed to administer the Estate.

(9) I strongly oppose Mr. Chandler continuing to be part of this estate. Mr. Chandler is a divisive and antagonistic force that has frustrated the Colucci family and Doris Colucci's testamentary intent.

(10) Based on reviews of public property records, it is apparent that the Estate has sold most, if not all, of its LLC interests. The LLC had an interest in several real properties. I would have never engaged in the wholesale liquidation of Mrs. Colucci's real property. I fully believe she appointed me and set up a Trust in order to preserve many of the assets that Mr. Chandler has sold without any regard for the terms of the will and trust.

FURTHER AFFIANT SAYETH NAUGHT.

Michael C. Fox

Michael C. Fox

Sworn to and subscribed before me
On this 20 day of March, 2019

Notary Public for South Carolina
My Commission Expires: 10/25/2028

ANTONIA Y FRANCIS NOTARY My Comm. Exp. 10/25/2028 PUBLIC SOUTH CAROLINA

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	)	IN THE COURT OF COMMON PLEAS FIRST JUDICIAL CIRCUIT
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox, Personal Representative the Estate of Doris Duane Colucci,** Petitioner, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,** Respondents.	)	№ 2017-CP-18-1816 **Plaintiff's Jurisdictional Memorandum**

This Court has requested an explanation of its jurisdiction, relative to the probate court, as it relates to Andrew Chandler's counsel filing an emergency petition to reinstate him as the Special Administrator of the Estate of Doris Colucci hours after this Court appointed Michael Fox as the Personal Representative. In some instances, Mr. Chandler correctly states that the Court of Common Pleas has limited jurisdiction to overturn the actions of the Probate Court except on appeal. However, the Court of Common Pleas does have the jurisdiction to enforce its own order. "All courts have the inherent power to punish for contempt, which is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice." Ex parte Cannon, 385 S.C. 643, 685 S.E.2d 814 (Ct. App. 2009). Further, a defendant may waive any complaints he may have regarding personal jurisdiction in a contempt case by failing to object and by appearing to defend his case.

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Id. Based on the law and jurisdiction of this Court, the Court of Common Pleas may conduct a hearing so that Mr. Chandler can show cause why he has refused to comply with the terms of this Court's Order.

Relevant Facts

This Court issued an Order on February 13, 2019 that ordered the following:

1. That Michael Fox is qualified and appointed to serve as Personal Representative
2. Andrew Chandler was to turn over the estate's files, including Mr. Chandler's billing records, to Mr. Fox for his audit and review
3. Andrew Chandler was to forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate.
4. The Personal Representative and the Special Administrator were to cooperate

Pursuant to Fox's Affidavit, the Plaintiff alleges the following occurred:

1. Chandler's counsel ignored the findings of the Court of Common Pleas and filed an emergency petition in the probate court alleging that Fox was not qualified to serve. More worrisome however, upon information and belief, Chandler or his attorney requested Colucci family members to file the emergency petition to reappoint Chandler. When the Colucci family member were unwilling to do so, Chandler's attorney filed a creditor's claim to create a pretext of standing in order to stage a second takeover of the Colucci estate. Neither Chandler or Rosen Hagood notified Fox of the potential claim before the petition or allowed any opportunity for it to be paid. Chandler further refused to turn over the assets of the estate, thereby leaving the estate vulnerable to a takeover by a creditor's claim, in this case, his own attorney.
2. Chandler has failed to turn over the estate's files to Mr. Fox.

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3. Chandler has failed to forward any records of the Estate to Mr. Fox for his review.

4. Chandler has failed to cooperate with Mr. Fox.

I. Michael C. Fox Found Qualified to Serve as the Personal Representative

This Court correctly found that Mr. Fox is qualified to serve at the Personal Representative. The Court's decision is based on centuries of probate law and administration. "A court may not by judicial construction make a will for the decedent that he has not made for himself." Blackmon v. Weaver, 366 S.C. 245, 250, 621 S.E.2d 42, 44 (Ct. App. 2005). There is a strong deference shown to the personal representative chosen by the testator. "The Courts have ever been reluctant to take the management of an estate from those to whom it has been confided by the testator, for to that extent the intention expressed in his will would be defeated." Id. at 251, 621 S.E.2d at 45. (quoting Smith v. Heyward, 115 S.C. 145, 164; 105 S.E. 275, 282 (1920)). Without a showing of fault, a court should not remove a personal representative." Id. Here, counsel for Chandler simply filed an emergency petition, when the only emergency was the issuance of a higher court's order. In a matter of hours and without allowing Mr. Fox to even begin his work, Chandler's counsel filed pleadings that alleged the opposite of this Court's findings. Chandler is correct, however, when it alleges that the Probate Court has the original jurisdiction to restrain Personal Representatives and appoint Special Administrators. This does not prevent the Court of Common Pleas from examining the actions of Mr. Chandler following the February 13, 2019 Order and determining whether they were in violation of this Court's order.

II. The Records of the Estate

Andrew Chandler was ordered to, "forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate." There is nothing in the Probate Court's order that relieves Mr. Chandler of this obligation. While the

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Probate Court does have the jurisdiction, even without any findings of facts or existence of an emergency, to restrain Mr. Fox, it does not have the authority to prevent the disclosure of the estate's billing records or financial dealings. These documents are a critical part of the Plaintiff's record on Appeal and both Mr. Chandler and the Probate Court have refused to give Mr. Fox such records. Plaintiff notes that prior to this Court's February 13, 2019 Order, Plaintiff served Mr. Chandler with Requests to Produce. Specifically, Plaintiff requested all billing records, invoices, and costs incurred the Estate of Doris Colucci from Defendant's counsel or Defendant's role as Special Administrator of the Estate. These requests were never responded to and are attached as Exhibit A.

III. Cooperation of the Personal Representative and the Special Administrator

Through the emergency petitions, it is obvious that Mr. Chandler never intended to work with or turn over the assets of the Estate to the named Personal Representative at any point. This is plainly a hijacking of a private individual's estate by a private law firm and with the cooperation of the Dorchester County Probate Court. See Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013) (Toal, C.J., concurring (describing the Attorney General's takeover of an estate as a "hijack[ing]"). Chandler has now fully dispensed with any pretext that he is following the cardinal rule of trusts and estates law that the intent of the testator must prevail wherever possible. See Johnson v. Thornton, 264 S.C. 252, 257, 214 S.E.2d 124, 127 (1975) ("In determining this question we are guided by the rule that in construing the provisions of a will the intention of the testator is the primary inquiry of the court."); Limehouse v. Limehouse, 256 S.C. 255, 257, 182 S.E.2d 58, 59 (1971) ("The court's aim in construing a Will is to discover and effectuate the expressed intention of the testator.") ("A court may not by judicial construction make a will for the decedent that he has not made for himself") Blackmon v. Weaver, 366 S.C.

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245, 250, 621 S.E.2d 42, 44 (Ct. App. 2005) ("The Courts have ever been reluctant to take the management of an estate from those to whom it has been confided by the testator, for to that extent the intention expressed in his will would be defeated.") Id. at 251, 621 S.E.2d at 45 (Ct. App. 2005) (quoting Smith v. Heyward, 115 S.C. 145, 164, 105 S.E. 275, 282 (1920).

Chandler has damaged the estate by billing hundreds of thousands of dollars for unnecessary work. According to public tax records, Chandler has sold and liquidated real property belonging to the family's LLCs that can never be reacquired and possibly incurred significant capital gains taxes without the necessity to do so. He has created years of future litigation for the Estate to recover damages. This has been done against the wishes of the decedent, the named personal representative, and members of the Colucci family. The extent of the damage done to the estate is still unknown, because Mr. Chandler refuses to release documentation relating to his administration, which he was ordered to do. These actions are alarming and undermine any confidence citizens may have in their ability to do with their personal assets as they wish, leading to a chilling effect on future testators in South Carolina as described in Wilson.

Wherefore, Michael C. Fox prays that this Court review the Plaintiff's affidavit, hold a hearing to compel Mr. Chandler to explain his actions, direct Mr. Chandler to turn over the entire estate file, direct Mr. Chandler and his counsel to turn over copies of their bills, and for such other and further relief as this Court deems just and appropriate.

Dated: March 20, 2019

/s/ Ryan A. Love
Ryan A. Love
Gordon H. Garrett
rlove@garrettlawsc.com
Garrett Law Offices, LLC
1075-A E. Montague Ave.
North Charleston, SC 29405
843.554.5515 (phone)
843.747.3198 (telefax)
Attorneys for Petitioner

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Timeline

June 18, 2013	Doris Colucci executed her Last Will
April 14, 2017	Doris Colucci killed
June 9, 2017	Andrew Chandler appointed as temporary Special Administrator
July 10, 2017	Andrew Chandler appointed by consent as permanent Special Administrator
August 24, 2017	Mrs. Colucci's Last Will delivered to the Probate Court
October 24, 2017	Michael C. Fox filed for informal appointment as Personal Representative
October 27, 2017	Mr. Fox elected to serve as Trustee of the Colucci Living Trust
October 30, 2017	Mr. Fox filed for a Petition for Formal Testacy and Appointment of a Personal Representative and removal of the issues to Circuit Court
November 20, 2017	Probate Court ordered that the Petition for Formal Testacy and Appointment of a Personal Representative be removed to Circuit Court.
November 30, 2017	Mr. Chandler filed his Answer and Objection to the appointment of Mr. Fox as Personal Representative
May 23, 2018	Ivo Colucci filed a Motion for Summary Judgment on the Petition for Formal Testacy and Appointment of a Personal Representative
August 8, 2018	Mr. Chandler filed his Memorandum in Partial Opposition to Summary Judgment
August 13, 2018	Motion for Summary Judgment hearing
August 27, 2018	Circuit Court admitted the Will to Probate. The appointment of a personal representative was taken under advisement
November 26, 2018	Mr. Fox moved in the Circuit Court to Restrain the Special Administrator
December 6, 2018	Mr. Chandler moved to dismiss Mr. Fox's Motion to Restrain
January 4, 2019	Mr. Fox filed a Petition for Removal of the Special Administrator in the Probate Court
January 9, 2019	Emergency hearing for Mr. Fox's Petition was held in the Probate Court

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February 7, 2019	The Probate Court denied Mr. Fox's Petition
February 8, 2019	Mr. Chandler filed a supplemental Motion to Dismiss with Circuit Court
February 13, 2019	8:45 AM: Circuit Court ordered Mr. Fox be appointed as Personal Representative and returned the case file to Probate Court
February 13, 2019	2:08 PM: Counsel for Mr. Chandler filed an Emergency Application to Restrain the Personal Representative and Appointment of a Temporary Special Administrator in the Probate Court
February 13, 2019	2:38 PM: Probate Court ordered that Mr. Fox be temporarily restrained and Mr. Chandler be reappointed as the temporary special administrator
February 14, 2019	Mr. Fox filed a Rule to Show Cause against Mr. Chandler in Circuit Court
February 19, 2019	Mr. Fox moved for Removal of the Emergency Petition/Order to Restrain and to Appoint a Temporary Special Administrator. Mr. Fox also moved for Transfer of Venue and moved to Alter or Amend the Probate Court's February 7, 2019 Order
February 22, 2019	Mr. Fox moved in the Probate Court to Amend the Emergency Orders
February 25, 2019	Mr. Chandler filed a Motion to Reconsider in Circuit Court
March 3, 2019	Mr. Fox filed a Memorandum in Opposition to Mr. Chandler's Motion to Reconsider

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STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT OF COMMON PLEAS CASE NO: 2017-CP-18-1816
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI, MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI, Petitioner, v. ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR., Respondents.	

MEMORANDUM OF LAW:
RESPECTIVE JURISDICTION OF CIRCUIT COURT AND PROBATE COURT

Andrew W. Chandler, Esquire, Temporary Special Administrator of the Estate of Doris Duane Colucci (the "Estate") submits this memorandum in connection with the Court's request that the parties address the division of jurisdiction between the Circuit Court and Probate Court in this matter. The undersigned conferred with counsel for Michael Fox, and, while counsel was able to agree on an objective timeline which has been jointly submitted, it was decided to submit separate analyses of the jurisdictional issues and corresponding statutes.

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Timeline

The following timeline is being provided in addition to that submitted jointly by the parties in light of the Court's request for "a timeline that *explains the jurisdiction* of the Circuit Court over this case and the jurisdiction of Probate Court over this case."

April 14, 2017	Doris Colucci killed
	Probate Court acquired "exclusive original jurisdiction over all subject matter related to" the Estate (S.C. Code Ann. § 62-1-302(a)(1))
July 10, 2017	Andrew W. Chandler appointed Special Administrator of the Estate by the Probate Court
October 30, 2017	Petition for Formal Testacy and Appointment filed in Probate Court by Petitioner Michael Fox
November 20, 2017	Petition for Formal Testacy and Appointment removed to Circuit Court
	Circuit Court acquired jurisdiction to determine (S.C. Code Ann. § 62-1-302(d)(1)):
	1) Whether the will should be admitted to probate; and
	2) Whether Mr. Fox should be appointed as personal representative.
	Exclusive jurisdiction over all other matters relating to the Estate retained by Probate Court (S.C. Code Ann. § 62-1-302(e))
August 27, 2018	Circuit Court admitted will to probate
January 4, 2019	Petition for Removal of Special Administrator filed in Probate Court by Petitioner Fox[1]
February 7, 2019	Probate Court denied Petitioner Fox's Petition for Removal of Special Administrator

[1] Petitioner Fox also filed in the Probate Court a Motion to Remove, seeking to remove to the Circuit Court his Petition for Removal of Special Administrator. The Probate Court denied the removal request, finding that the "only subject matters concerning representatives of estates that are removable to circuit court as a matter of right are formal proceedings for the 'appointment of general personal representatives.'" See Probate Court January 8, 2019, Order Denying Removal, attached as **Exhibit 1**.

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February 13, 2019 8:45 am: Circuit Court ordered Mr. Fox be appointed as personal representative, resolving the last of the two issues over which it had jurisdiction; Circuit Court returned case file to Probate Court

The proceeding before the Circuit Court was concluded upon its determination that Mr. Fox be appointed (S.C. Code Ann. § 62-3-107(4))

Probate Court continues to maintain exclusive jurisdiction over all other matters relating to the Estate, including whether or not the personal representative should be restrained or removed, and whether or not a special administrator should be appointed and, if so, with what duties and rights (S.C. Code Ann. § 62-1-302(e))

2:38 pm: Probate Court ordered that Mr. Fox be temporarily restrained, and appointed Mr. Chandler as temporary Special Administrator. Mr. Fox remains the appointed personal representative

Jurisdiction: In General

Probate Court Jurisdiction: The Probate Court has "exclusive original jurisdiction over all subject matter related to…estates of decedents."[2] There are certain issues that a party may remove to the Circuit Court as a matter of right, including, as applicable here, "formal proceedings for the probate of wills and for the appointment of a general personal representative."[3] Additionally, the Probate Court has the discretion to remove "any other related matter or matters which are before the probate court to the circuit court if the probate court finds that the removal of such related matter or matters would be in the best interest of the estate or in the interest of judicial economy."[4] A removal from Probate to Circuit Court "applies only to the

[2] S.C. Code Ann. § 62-1-302(a)(1) ("To the full extent permitted by the Constitution, and except as otherwise specifically provided, the probate court has exclusive original jurisdiction over all subject matter related to: (1) estates of decedents"); see also S.C. Code Ann. § 14-23-1150(a) ("Every judge of probate, in his county, shall have jurisdiction…as provided in Sections 62-1-301 and 62-1-302, and other applicable sections of the South Carolina Probate Code."); S.C. Const. Art. V, § 8.

[3] S.C. Code Ann. § 62-1-302(d)(1) ("Notwithstanding the exclusive jurisdiction of the probate court over the foregoing matters, any action or proceeding filed in the probate court and relating to the following subject matters, on motion of a party or by the court on its own motion…must be removed to the circuit court and in these cases the circuit court shall proceed on the matter de novo: (1) formal proceedings for the probate of wills and for the appointment of general personal representatives").

[4] S.C. Code Ann. § 62-1-302(f).

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particular action or proceeding removed, and the probate court otherwise retains continuing exclusive jurisdiction" over all other matters related to the estate of a decedent.[5]

Circuit Court Jurisdiction: A Circuit Court's jurisdiction over matters related to estates of decedents is limited to those distinct issues removed to it from the Probate Court and most appeals from decisions of the Probate Court.[6] Additionally, Circuit Courts have jurisdiction over wrongful death actions and actions under the survival statute. S.C. Code Ann. § 62-1-302(b).

Analysis

On November 20, 2017, the Circuit Court acquired jurisdiction to determine two issues in this Estate:

1) Whether the Decedent's will should be admitted to probate;
2) Whether Mr. Fox should be appointed as personal representative of the Estate.

The Circuit Court acquired jurisdiction over these two limited and distinct issues when the Petition for Formal Testacy and Appointment was removed from the Probate Court on November 20, 2017.[7] All other matters relating to the Estate remained, and continue to remain, within the Probate Court's exclusive original jurisdiction.[8] In fact, the Probate Court, in its Order removing Mr. Fox's Petition for Formal Testacy and Appointment to the Circuit Court, specified that: "Jurisdiction is retained as to all other matters involving this case *except for issues previously or subsequently removed.* See Order for Removal, dated November 20, 2017, attached as **Exhibit 2** (italicized portion indicates language handwritten into order by Judge Blunt).[9]

Of note, the Circuit Court's jurisdiction to determine whether Mr. Fox should be ***appointed*** as personal representative is not limited or otherwise affected by any orders of the Probate Court that have been filed either before or after this Court's Order appointing Mr. Fox.

Likewise, the Probate Court's jurisdiction over all other matters relating to the Estate, including jurisdiction to restrain or remove the personal representative, is not limited by the Circuit Court's Order appointing Mr. Fox. This is because the Circuit Court's jurisdiction in this matter, after ordering that the Will be admitted to probate, extended only to the determination of whether or not Mr. Fox should be ***appointed*** as personal representative, and the Circuit Court's Order

---

[5] S.C. Code Ann. § 62-1-302(e) ("The removal to the circuit court of an action or proceeding within the exclusive jurisdiction of the probate court applies only to the particular action or proceeding removed, and the probate court otherwise retains continuing exclusive jurisdiction.").
[6] S.C. Code Ann. § 62-1-302(d), (f); S.C. Code Ann. § 62-1-308 (appeals from probate court).
[7] See fn. 2, supra.
[8] See fn. 3, supra.
[9] The only other matter in this case which has been removed from Probate Court to Circuit Court, and over which the Circuit Court continues to have jurisdiction, is the "Petition to Determine Heirs" which is an action brought to determine the applicability of the "Slayer Statute", S.C. Code Ann. § 62-2-803 (providing, generally, that one who "feloniously and intentionally" kills another may not inherit or otherwise benefit financially from the decedent's death).

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appointing Mr. Fox as personal representative concluded that limited proceeding before the Circuit Court. See S.C. Code Ann. § 62-3-107(4) ("a proceeding for appointment of a personal representative is concluded by an order making or declining the appointment"). There is no provision of the Probate Code, and no order of the Probate Court, granting to the Circuit Court jurisdiction to exercise continued oversight of Mr. Fox as personal representative.

Following this Court's Order appointing Mr. Fox as the personal representative, the Probate Court continues to have exclusive jurisdiction to restrain or remove the personal representative, which involves a distinct inquiry other than whether or not he should be appointed in the first instance.[10] It also has the jurisdiction to appoint one or more special administrators should it find it necessary to do so. For example, if it were determined that Mr. Fox, as personal representative, has a conflict of interest in pursuing some action on behalf of the Estate, the Probate Court would have the jurisdiction to restrain Mr. Fox as to that particular action and appoint a special administrator for the limited purpose of pursuing that action. While the Probate Court may have discretion to remove such issues to the Circuit Court, it has not done so, and there is no provision in the Probate Code or elsewhere granting the Circuit Court subject matter jurisdiction over such issues.[11] Again, the proceeding before the Circuit Court, i.e., whether or not Mr. Fox should be appointed as personal representative, concluded upon the Court's Order appointing Mr. Fox.[12]

The Probate Court's Order of February 13, 2019, restraining Mr. Fox acts only to restrain the exercise of his duties, it does not nullify the Circuit Court's Order appointing Mr. Fox as the personal representative, and Mr. Fox is still the appointed personal representative. It also does not restrict the Circuit Court's jurisdiction to reconsider or modify its Order appointing Mr. Fox as the personal representative upon motion by a party, pursuant to the applicable rules of civil procedure.

[SIGNATURE ON FOLLOWING PAGE]

[10] See S.C. Code Ann. § 62-3-607 (restraint of personal representative must be based on determination that "the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested party"); S.C. Code Ann. § 62-3-611(b) (setting forth what constitutes cause for removal of a personal representative).

[11] Compare Wilson, et. al. v. Dallas, et. al., 403 S.C. 411, 743 S.E2d 746 (2013), in which it is noted that the circuit court both appointed and removed fiduciaries (personal representatives and special administrators) of the James Brown Estate. However, in that matter, the probate court had, on its own motion, removed the ***entire*** estate to circuit court. Id. at 419, 743 S.E.2d at751; see also January 26, 2017, Order of Aiken County Probate Court and April 5, 2017, correspondence from Aiken County Probate Court (attached collectively as **Exhibit 3**).

[12] S.C. Code Ann. § 62-3-107(4).

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ROSEN HAGOOD, LLC

s/ Elizabeth J. Palmer
Elizabeth J. Palmer
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Charleston, South Carolina 29401
(843) 577-6726
epalmer@rrhlawfirm.com

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
March 20, 2019

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JAN 26 2007

FEB 06 2007

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF AIKEN	)	
	)	ORDER
	)	
IN RE: James Brown aka James Joseph Brown	)	
	)	
FILE NO. 2007-ES02-0056	)	

Pursuant to Code of Laws of South Carolina Section 62-1-302(d) as amended, upon this Court's Motion, this case is hereby transferred to the Court of Common Pleas by Order of this Court.

IT IS SO ORDERED THIS 26TH DAY OF JANUARY, 2007

Honorable Sue H. Roe, Judge of Probate
Aiken County, South Carolina

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EXHIBIT 3

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AIKEN COUNTY PROBATE COURT

SUE H ROE
Judge of Probate
109 Park Avenue, SE
Post Office Box 1576
Aiken, South Carolina 29802 1576
(803) 642 2001

ANGELA E. LITTLE
Associate Judge of Probate
(803) 642-2008

TONYA L. MARCHANT
Associate Judge of Probate
(803) 642 2002

April 5, 2007

Honorable Liz Godard
Clerk of Court for Aiken County
109 Park Avenue, SE
Aiken, South Carolina 29801

In Re Estate of James Brown
File No 2007-ES02-0056

Madam Clerk

In order to clarify instructions to all parties involved in the above-referenced estate, **JURISDICTION FOR ALL FILINGS AND JURISDICTION TO HEAR ANY AND ALL ISSUES IN THIS MATTER IS WITHIN THE CIRCUIT COURT**

Therefore, I am respectfully requesting that you advise all attorneys of record and interested persons unrepresented by counsel accordingly

Yours truly,

Sue H Roe

Sue H Roe
Judge of Probate

cc Honorable Doyet A Early, II
Judge of Second Judicial Circuit
Post Office Box 90
Bamberg, South Carolina 29003

FILED 4 5 7
Liz Godard
CLERK OF COURT
Aiken County, South Carolina
(As Pub) Clerk

ELECTRONICALLY FILED - 2019 Apr 04 11:55 AM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA COUNTY OF DORCHESTER	IN THE COURT OF COMMON PLEAS FIRST JUDICIAL CIRCUIT
In Re: **The Estate of Doris Duane Colucci,** **Michael C. Fox Personal Representative the Estate of Doris Duane Colucci,** Plaintiff, vs. **Andrew Chandler, in his capacity as Special Administrator of the Estate of Doris Duane Colucci, Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, Ivo Francesco Colucci, Michael Frederick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr,** Defendants.	№ 2017-CP-18-1816 **Supplemental Memorandum in Support of Plaintiff's Rule to Show Cause**

Upon further review of the relevant laws and facts, Plaintiff hereby supplements his Memorandum of Jurisdiction as follows:

1. Defendant Chandler, in his Memorandum, asserts that the February 13, 2019, Dorchester County Probate Court Order restrains Michael Fox from exercising his duties, thereby excusing Mr. Chandler's refusal to comply with this Court's Order. (Chandler Mem. 5.)

2. The Temporary Restraining Order of February 13, 2019 is expired.[1]

3. Pursuant to Rule 65(b), SCRCP: "Every temporary restraining order granted without notice...shall define the injury and state why it is irreparable and why the order was granted

[1] This is pursuant to S.C. Code Ann. § 62-1-304, which state that the full South Carolina Rules of Civil Procedure are in effect because this matter is a formal probate proceeding.

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without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period."

4. The Order Restraining General Personal Representative "restrain[ed] Mr. Fox, on a temporary basis until a hearing [could] be held, as general Personal Representative." A hearing was held on the matter on February 12, 2019.

5. Pursuant to Rule 65(b), SCRCP, Mr. Fox is no longer restrained from his duties as Personal Representative of the Estate. More than ten (10) days have passed since the Order was entered and more than ten (10) days have passed since the matter was heard. As of the date of this Memorandum, the Probate Court has not issued any further ruling that would extend the time of Mr. Fox's restraint.

6. Upon information and belief, the Special Administrator is attempting to settle the wrongful death suit (Case No. 2017-CP-10-5393) and the slayer action (Case No. 2017-18-1816) without any authority to do so. Mr. Chandler's authority to act expired upon the Temporary Restraining Order's expiration.

7. As of the date of this Memorandum, Mr. Chandler has failed to forward Mr. Fox all records of the Estate forthwith for Mr. Fox's review to ensure that there has been no waste, abuse, or fraud within the Estate and to fulfill the duties bestowed upon him by the Decedent. Nor has Mr. Chandler worked together the Personal Representative for the benefit of the Estate.

8. Mr. Chandler's conduct violates the Court's February 13, 2019 Order.

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9. The Affidavit of Michael C. Fox, filed with this Court on March 20, 2019 and incorporated by reference herein states that Mr. Fox has not received any funds nor records of the Estate from Mr. Chandler.

Wherefore, the Plaintiff supplements his motion and moves the Court to enter an order requiring Mr. Chandler to appear and show cause as to why he should not be held in contempt of court and for such other and further relief in favor of Mr. Fox as the Court deems just and appropriate.

s/ Ryan A. Love
Ryan A. Love
Gordon H. Garrett
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843.554.5515 (phone)
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Attorneys for the Plaintiff

Dated: April 4, 2018
North Charleston, South Carolina

ELECTRONICALLY FILED - 2019 Apr 08 10:29 AM - DORCHESTER - COMMON PLEAS - CASE#2017CP1801816

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-CP-18-1816
	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	
	)	
MICHAEL C. FOX, NAMED PERSONAL REPRESENTATIVE IN THE LAST WILL OF DORIS COLUCCI,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
ANDREW W. CHANDLER, ESQUIRE, IN HIS CAPACITY AS SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI, MICHAEL C. FOX, SUCCESSOR TRUSTEE OF THE COLUCCI LIVING TRUST, DATED FEBRUARY 24, 2005, IVO FRANCESCO COLUCCI, MICHAEL FREDERICK ANTONIO COLUCCI, JOHN MARTIN ANTONIO, HENRY BURKES, AND RICHARD M. HYMAN, JR.,	)	
	)	
Respondents.	)	

LIMITED RESPONSE TO PLAINTIFF'S "JURISDICTIONAL MEMO"

In response to a request from this Court that the parties provide it with an analysis of the respective subject matter jurisdiction of the Probate and Circuit Courts over the Estate of Doris Duane Colucci, Petitioner Fox filed a "'Jurisdictional Memorandum" in which he alleges: "[Temporary Special Administrator] Chandler has damaged the estate by billing hundreds of thousands of dollars for unnecessary work." Jur. Memo. p. 5. This allegation is false. Although this careless and unsupported accusation is unrelated to the Court's request, Respondent

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Chandler, as a respected member of the South Carolina Bar[1], is compelled to respond so that his denial will be publicly recorded.

Petitioner Fox first made this accusation in the Probate Court, which sanctioned Petitioner Fox and admonished his counsel, in light of the complete failure to present any evidence substantiating the claim, to be mindful of the obligation placed upon members of the Bar by Rule 11, SCRCP. See 2/7/19 Probate Court Order, pp. 16-17, fn. 6 (attached as **Exhibit 1**). The Probate Court, which reviews and approves Respondent Chandler's invoices in this Estate, further held that: "the fees paid to Respondent Chandler and his counsel are reasonable, the rate at which they are being compensated is reasonable, and that the work performed by Respondent Chandler and his counsel, which has involved novel and complex issues, has directly benefitted the Estate." Id., p. 9.

ROSEN HAGOOD, LLC

s/ Elizabeth J. Palmer
Elizabeth J. Palmer
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Charleston, South Carolina 29401
(843) 577-6726
epalmer@rosenhagood.com

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
April 8, 2019

[1] Mr. Chandler has been recognized as a Fellow of the American College of Trust and Estate Counsel and as a Certified Specialist in Estate Planning and Probate Law by the Supreme Court of South Carolina. He is also a member of S.C.'s Estate Planning and Probate Law Specialization Advisory Board and is the former chairman of the Probate, Estate Planning & Trust Section Council of the S.C. Bar.

ELECTRONICALLY FILED - 2019 Apr 18 5:28 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

THE STATE OF SOUTH CAROLINA
In the Circuit Court

APPEAL FROM DORCHESTER COUNTY
Probate Court

Mary L. Blunt
Probate Court Judge

Dorchester County Probate Case No. 2017-ES-18-0924

Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci ..... Appellants,

v.

Andrew W. Chandler, Esquire, in his capacity as Special Administrator of the Estate of Doris Dune Colucci, Michael C. Fox, Trustee of the Colucci Living Trust, Ivo Francesco Colucci, Michael Fredrick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr., Esquire ..... Respondents.

NOTICE OF APPEAL

Appellant Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci, appeals the orders of the Honorable Mary L. Blunt dated October 24, 2017, October 26, 2017, July 30, 2018, August 27, 2018, January 5, 2019, February 7, 2019, February 13, 2019 (1st), February 13, 2019 (2nd), and April 17, 2019. Appellant received written notice of the entry of the last order on April 17, 2019.

Dated: April 18, 2019

s/Gordon H. Garrett
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Attorneys for Appellant

Other counsel of record:

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Attorney for Christa M. Yantis, Conservator for Ivo F. Colucci and Ivo F. Colucci

Elizabeth J. Palmer
Rosen, Rosen & Hagood, LLC
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Attorney for Henry Burkes

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ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Probate Court

Mary L. Blunt, Probate Court Judge

Dorchester County Circuit Court Case No.: 2019-CP-10-0677
Dorchester County Probate Court Case No.: 2017-ES-18-00294

Michael C. Fox as Personal Representative
of the Estate of Doris Duane Colucci, ... Appellant,

v.

Andrew W. Chandler, Esquire, in his capacity as Temporary Special Administrator
Of the Estate of Doris Duane Colucci, Michael C. Fox, Trustee of the Colucci
Living Trust, Ivo Francesco Colucci, Michael Frederick Antonio Colucci,
John Martin Antonio Colucci, Henry Burkes,
and Richard M. Hyman, Jr., Esquire, ... Respondents.

MOTION TO DISMISS APPEAL

TO: APPELLANT MICHAEL C. FOX ABOVE-NAMED AND HIS LEGAL COUNSEL:

PLEASE TAKE NOTICE that the undersigned attorneys for Respondent Andrew W. Chandler, Esquire, Temporary Special Administrator of the Estate of Doris D. Colucci, will move before the Presiding Judge of the First Judicial Circuit at the Dorchester County Courthouse, 5200 E. Jim Bilton Blvd., St. George, SC 29477, or at such other office as the Court may direct, after ten (10) days from the date of service hereof or at such time and place as the Court may direct, for an Order dismissing Appellant Michael C. Fox's Notice of Appeal, filed on April 18, 2019, and served on Respondent Chandler on or about April 19, 2019. As set forth

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below, out of the nine orders of the probate court that Appellant Fox purports to appeal, not a single one is appealable and, therefore, this Court lacks subject matter jurisdiction.

APPLICABLE LAW

Appeals from orders of the probate court are governed exclusively by S.C. Code Ann. § 62-1-308. Dorn v. Cohen, 421 S.C. 53, 809 S.E.2d 53 (2017) (finding the lower court erred in applying S.C. Code Ann. § 14-3-330 to determine whether an order of the probate court was immediately appealable because appeals from probate court are governed by § 62-1-308); Fulmer v. Cain, 380 S.C. 466, 670 S.E.2d 652 (2008) ("Appeals from the probate court are governed by S.C. Code Ann. § 62-1-308."); Estate of Boyce v. Work, 305 S.C. 43, 44, 406 S.E.2d 184, 185 (Ct. App. 1991).

A notice of appeal from an order of the probate court must be served and filed on all parties not in default within ten days after receipt of written notice of the order appealed from. S.C. Code Ann. § 62-1-308(a). The timely service of the notice of appeal is a jurisdictional requirement, without which appellate courts lack the authority to hear and decide cases. Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC, 422 S.C. 211, 220, 810 S.E.2d 856, 861 (2018). An email providing written notice of entry of an order or judgment triggers the time to appeal as long as the email is received from the court, an attorney of record, or a party. Id. at 217, 810 S.E.2d at 859.

Only final orders from the probate court are appealable under S.C. Code Ann. § 62-1-308. See S.C. Code Ann. § 62-1-803(a) ("A person interested in a ***final*** order, sentence, or decree of a probate court may appeal to the circuit court. . .") (emphasis added); Dorn v. Cohen, 421 S.C. 517, 520, 809 S.E.2d 53, 54 (2017) ("Because the probate court's order adding a party to the action was not a final order, the order was not immediately appealable pursuant to section 62-1-

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308."); Fulmer v. Cain, 380 S.C. 466, 469, 670 S.E.2d 652, 654 (2008) (holding that only final orders are reviewable under S.C. Code Ann. § 62-1-308); Estate of Boyce v. Work, 305 S.C. 43, 44, 406 S.E.2d 184, 185 (Ct. App. 1991) (S.C. Code Ann. § 62-1-308(a) provides that only final orders of the probate court may be appealed, a probate court order that is clearly temporary cannot be appealed, circuit court lacks subject matter jurisdiction to entertain appeal of probate court's temporary order).

ARGUMENT

Appellant Fox's appeals of each of the nine orders listed in his Notice of Appeal are either untimely, not ripe, moot, improper attempts to appeal orders that are not final, or some combination of the above.

10/24/17 - Order Denying Informal Probate

This order denied the Application for Informal Probate, seeking informal probate of will and appointment, filed by Appellant Fox. The appeal of this order must be dismissed because:

- **Untimely:** Counsel for Fox received written notice of the entry of the order on October 24, 2017 (see Exhibit 1; 10/24/17 email from Court attaching order).
- **Not a final order:** This is evidenced by the fact that, following the Order Denying Informal Probate, Respondent Fox initiated a formal proceeding on his Petition for Testacy and Appointment. In re Estate of Pluhacek, 296 Neb. 528, 532, 894 N.W.2d 325, 328 (2017) (county court's order denying informal probate was not a final, appealable order, appeal dismissed for lack of jurisdiction).
- **Moot:** The Application denied by this order sought the informal probate of the Decedent's will and the appointment of Appellant Fox as personal representative of the Estate. This "relief" has since been granted by this Court (see 8/27/18 order admitting

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Decedent's will to probate and 2/13/19 order appointing Appellant Fox as personal representative of the Estate). Wallace v. City of York, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981) ("The function of appellate courts is not to give opinions on merely abstract or theoretical matters, but only to decide actual controversies injuriously affecting the rights of some party to the litigation. Accordingly, cases or issues which have become moot or academic in nature are not a proper subject of review.").

10/26/17 - Order to Sell Personal Property

This order granted the application filed by Respondent Chandler requesting the Probate Court's permission to sell items of personal property belonging to the Decedent, specifically, a ring and a watch. The appeal of this order must be dismissed because:

- **Untimely:** Counsel for Fox obviously received written notice of the entry of the order before November 9, 2017, as evidenced by his referenced thereto in his Petition to Restrain Special Administrator (see Exhibit 2; November 9, 2017, Petition to Restrain Special Administrator, ¶ 24).
- **Moot:** The ring and watch were both sold in 2018 in arms'-length transactions with an unrelated third-party buyer (see Settlement Statements, attached as Exhibit 3).

7/30/18 - Order Authorizing Sale of Real Estate

This order granted the petition filed by Respondent Chandler requesting the Probate Court's permission to sell real property in which was jointly owned by the Decedent and her husband at the time of her death, specifically, a beach house on Edisto Island. The appeal of this order must be dismissed because:

- **Untimely:** Although Appellant Fox failed in his Notice of Appeal to indicate when he received written notice of this order, it is believed that he received such notice far in

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excess of 10 days prior to the filing and service of his Notice of Appeal. Specifically, Appellant Fox has represented in pleadings that, following the admission of the Decedent's will to probate (which was ordered by this Court on August 27, 2018), Appellant Fox obtained a copy of the probate court's entire file, over 700 pages, which certainly included a copy of this particular order (see Motion to Restrain Special Administrator, filed 11/26/18, p. 8 - "Events following Probate of the Last Will", p. 9, ¶ 38, attached as Exhibit 4).

8/27/18 - Modified Order for the Appointment of a Special Administrator

This order was entered by the probate court *sua sponte* and confirmed Respondent Chandler's position, responsibilities, and duties as special administrator of the Estate following this Court's 8/27/18 order admitting the Decedent's will to probate. The appeal of this order must be dismissed because:

- **Untimely:** Counsel for Fox received written notice of the entry of the order on August 27, 2018 (see Exhibit 5; two 8/27/18 emails from the undersigned attaching order).

1/15/19 - Order (Authorizing Distribution from Estate)

This order granted the Application to Approve Distribution filed by Respondent Chandler, seeking the probate court's approval to distribute $10,000.00 to the Colucci Living Trust, which is the sole devisee of the Estate (and, of which, Appellant Fox is the trustee). The appeal of this order must be dismissed because:

- **Untimely:** Counsel for Fox received written notice of the entry of the order on January 16, 2019 (see Exhibit 6; 1/16/19 email from the probate court attaching order).

2/7/19 - Order

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This order denied Appellant's Fox's Petition for Removal of Special Administrator. It also ordered that Appellant Fox pay the Estate's costs and expenses, including reasonable attorney's fees, incurred in responding to his Petition. The appeal of this order must be dismissed because:

- **Not Ripe:** Appellant Fox filed a "Motion to Alter or Amend and Relief from Judgment or Order Pursuant to SRCP 52(b), 59(e), & 60(b)(4) & (5)" in the probate court on February 19, 2019, which has not yet been ruled upon (attached as Exhibit 7). As such, to the extent Appellant Fox has not withdrawn his motion, an appeal from this order is not ripe. See Rule 59(f), SCRCP ("The time for appeal for all parties shall be stayed by a timely motion under this Rule..."); see also Notes to Rule 59, SCRCP ("Rule 59(f) is added to provide that departure from the circuit court does not deprive the trial judge of jurisdiction to rule on motions under this Rule and Rules 50, 52 and 60.").
- **Untimely:** Alternatively, if Appellant Fox has withdrawn his motion, his appeal is untimely. Counsel for Fox received written notice of the entry of the order on February 7, 2019 (see Exhibit 8; 2/7/19 email from the probate court attaching order). See Vanderwerf v. SnithKline Beecham Corp., 603 F.3d 842 (10th Cir. 2010) (appellant's voluntary withdrawal of their Rule 59(e) motion "[left] the record as if they had never filed the motion in the first place", resulting in dismissal of the appeal as untimely as time to appeal never tolled).
- **Not a Final Order:** This order, insofar as relating to the probate court's refusal to restrain Respondent Chandler, as special administrator of the Estate, is not a final order.

2/13/19 - Temporary Order Restraining General Personal Representative

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This order temporarily restrained Appellant Fox in his capacity as general personal representative pending a hearing on the Emergency Application to Restrain Personal Representative. The appeal of this order must be dismissed because:

- **Not a Final Order:** This order was temporary and, thus, not a "final order" subject to appeal. See Estate of Boyce v. Work, 305 S.C. 43, 44, 406 S.E.2d 184, 185 (Ct. App. 1991) (S.C. Code Ann. § 62-1-308(a) provides that only final orders of the probate court may be appealed, a probate court order that is clearly temporary cannot be appealed, circuit court lacks subject matter jurisdiction to entertain appeal of probate court's temporary order).
- **Not Ripe:** Appellant Fox filed a "Motion to Amend Findings by the Court and Motion for Relief from Order or Judgment" in the probate court on February 22, 2019, which has not yet been ruled upon (attached as Exhibit 9).
- **Untimely:** Alternatively, if Appellant Fox has withdrawn his motion, his appeal is untimely. Counsel for Fox received written notice of the entry of the order on February 13, 2019 (see Exhibit 10; 2/13/19 email from the probate court attaching order).
- **Moot:** The appeal of this order is moot given the probate court's later order, entered April 17, 2019, restraining Appellant Fox, as general personal representative, for a period of six months.

2/13/19 - Order for Appointment of Temporary Special Administrator

This order appointed Respondent Chandler as temporary special administrator of the Estate. The appeal of this order must be dismissed because:

- **Not a Final Order:** This order is temporary and, thus, not a "final order" subject to appeal.

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- **Not Ripe:** Appellant Fox filed a "Motion to Amend Findings by the Court and Motion for Relief from Order or Judgment" in the probate court on February 22, 2019, which has not yet been ruled upon (attached as Exhibit 11).
- **Untimely:** Alternatively, if Appellant Fox has withdrawn his motion, his appeal is untimely. Counsel for Fox received written notice of the entry of the order on February 13, 2019 (see Exhibit 10; 2/13/19 email from the probate court attaching order).

4/17/19 - Order for Temporary Restraint of General Personal Representative

This order was entered after a hearing on the Emergency Application to Restrain Personal Representative and restrains Appellant Fox, as general personal representative, for a period of six months. The appeal of this order must be dismissed because:

- **Not a Final Order:** This order is temporary and, thus, not a "final order" subject to appeal.

WHEREFORE, for the reasons set forth above, Respondent Andrew W. Chandler, Esquire, Temporary Special Administrator of the Estate of Doris Duane Colucci, respectfully requests that the Court dismiss Appellant Fox's appeal.

[SIGNATURE ON FOLLOWING PAGE]

ROSEN HAGOOD, LLC

s/ Elizabeth J. Palmer
H. Brewton Hagood
Andrew D. Gowdown
Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
April 30, 2019

ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

EXHIBIT
1

ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

Taylor Davis

From: Andrew W. Chandler <Chandler@eckb.com>
Sent: Tuesday, October 24, 2017 5:06 PM
To: Elizabeth Palmer
Subject: FW: Informal Application for Probate of Will and Appointment
Attachments: 10.24.17 Doris Colucci 300ES.pdf

Andrew W. Chandler
Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, South Carolina 29401
843.577.2300 (ph)
843.577.2055 (fax)
Confidentiality Notice:
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From: Devan N. Kociuruba [mailto:DKociuruba@dorchestercountysc.gov]
Sent: Tuesday, October 24, 2017 4:49 PM
To: 'Gordon H. Garrett' ; Andrew W. Chandler ; 'Glenn Churchill' ; 'Dan M. David' ; 'Angus Lawton' ; 'David K. Haller' ; 'Stefan Colucci' ; 'Christopher Lizzi' ; 'Andrew T. Cash'
Cc: Mary Blunt
Subject: Informal Application for Probate of Will and Appointment

Dear All,
Attached is the Informal Application for Probate of Will and Appointment filed October 24, 2017. Please take notice of the Order denying informal Probate of the Will and Appointment on page 6. If you would like a certified copy of the Order, please let me know.
Sincerely,

Devan Kociuruba
Estate Clerk
DORCHESTER COUNTY PROBATE COURT
5200 East Jim Bilton Boulevard
St. George, SC 29477
P: (843) 832-0282
F: (843) 832-0222
E: DKociuruba@DorchesterCountySC.gov
www.DorchesterCountySC.gov/Probate

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November 9, 2017

Dorchester County Probate Clerk of Court
Dorchester County Probate Court
5200 E Jim Bilton Blvd
St George, SC 29477

Andrew W. Chandler, Esquire
Evan, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, SC 29402

Re: Estate of Doris Colucci, Case No.: 2017-ES-18-00294

Madame Clerk,

Enclosed, please find a check for $25.00, one original and one copy of the Petition to Restrain Special Administrator (Regarding Application for Sale of Personal Property and disposition of other personal property). We are sending a copy of this petition simultaneously via First Class Mail to the Special Administrator, Andrew Chandler, via his attorney, Elizabeth Palmer, Esquire. Please file the original copy of this motion and return a stamped copy to my office in the enclosed self-addressed stamped envelope.

Kind Regards,

Gordon Garrett

cc: Elizabeth Palmer, Esq.
Glenn P. Churchill, Esquire
David K. Haller, Esquire
Angus Lawton, Esquire
Dan M. David, Esquire
P. Brandt Shelbourne, Esquire
Christa M. Yantis, CPA
Stefan Colucci

EXHIBIT 2

ELECTRONICALLY FILED - 2019 Apr 30 3:42 PM - DORCHESTER - COMMON PLEAS - CASE#2019CP1800677

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	FIRST JUDICIAL CIRCUIT
In Re:	)	№ 2017-ES-18-00294
The Estate of Doris Duane Colucci	)	**PETITION TO RESTRAIN SPECIAL ADMINISTRATOR**
	)	**(Regarding Application for Sale of Personal Property and disposition of other personal property)**

That Michael C. Fox, Successor Trustee of the Colucci Living Trust, dated February 24, 2005, hereby requests a Temporary Order of Restraint of Andrew Chandler, Special Administrator in this Estate because:

1) On February 24, 2005, the Decedent, Doris Duane Colucci, executed documents creating the Colucci Living Trust. (See *Colucci Living Trust, on file at the Dorchester County Probate Court*)
2) To effect the creation of the Living Trust, the Decedent assigned her Personal Effects, Furniture, Furnishings, Appliances, and Jewelry to the Colucci Family Trust to serve as the initial trust corpus pursuant to South Carolina Code §62-7-401. The last two pages of the trust documents contained an assignment indicating such transfer of personal property, including Personal Effects, Furniture, Furnishings, Appliances, and Jewelry. (See Exhibit A, *Assignment of Personal Property*)
3) On June 18, 2013, the Decedent executed a First Amendment of the Colucci Living Trust that read in part:

   Section 2. "*Trustors and Trustees entered into a Trust Agreement dated February 24, 2005.*" and

   Section 3. (A) (6) "*We hereby ratify and reaffirm all other provisions of our Trust Agreement.*"

   (See *First Amendment of the Colucci Living Trust, on file at the Dorchester County Probate Court*)
4) The Decedent passed away on April 14, 2017.

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5) On May 3, 2017, multiple applications for administration were filed, including a Petition for Appointment of a Personal Representative and Appointment of a Special Administrator.
6) On or about May 3, 2017, an unexecuted copy of Decedent's Last Will ("Last Will") was filed with the Court that nominated Michael C. Fox as Personal Administrator and the Colucci Living Trust as the sole beneficiary of the Decedent.
7) Michael C. Fox was not notified at this time of his status as the potential Personal Administrator in the Decedent's Last Will.
8) On August 18, 2017, the Dorchester County Probate Court issued an Order appointing Andrew Chandler, Esquire to serve as Emergency Special Administrator.
9) To the Petitioner's best belief, the Emergency Special Administrator proceeded to take possession of all of Decedent's personal property.
10) Prior to September 13, 2017, an executed copy of the Last Will of Doris Colucci was filed with this Court.
11) On September 13, 2017, the Dorchester County Probate Court sent a letter via US Postal Service notifying Michael C. Fox that the Last Will of Doris Colucci had been discovered and filed with this Court.
12) After September 13, 2017, the Special Administrator was on notice that the Colucci Living Trust was the sole beneficiary and that the estate was likely testate.
13) At no time before September 13, 2017, did Michael C. Fox receive notice that he was the nominated Personal Representative in a valid testamentary instrument.
14) On October 6, 2017, Michael C. Fox retained counsel and received a copy of the estate file of Doris Colucci.
15) The Estate File contained copies of an unsigned version of the Colucci Living Trust and a fully executed copy of the First Amendment to the Colucci Living Trust, both of which are of record with this Court.
16) Both the original trust document and the First Amendment appointed Michael C. Fox as the Successor Trustee of the Colucci Living Trust.
17) Prior to October 6, 2017, Michael C. Fox did not have notice that he was appointed the Successor Trustee of the Colucci Living Trust.

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18) Further, the original trust document and assignment was of record with Probate Court prior to the Special Administrator's filing of the Petition for Sale of Personal Property.

19) On October 16, 2017, the Special Administrator filed an Application for Sale of Personal Property that includes two items of jewelry.

20) This Application for Sale of Personal Property required 10 day notice to interested parties.

21) On October 24, 2017, Michael C. Fox appeared, along with his attorney, pursuant to South Carolina Code §62-1-401 by filing for appointment via informal probate.

22) Such application was forwarded by the Dorchester County Probate Court to the Special Administrator that same day on October 24, 2017.

23) Michael C. Fox was not notified by the Court or the Personal Representative that the Application for Sale of Personal Property had been filed with the Court.

24) On October 26, 2017, the Court granted the Application for Sale of Personal Property without a hearing.

25) Michael C. Fox was not notified by the Court or the Personal Representative that the Application for Sale of Personal Property had been granted.

26) On October 27, 2017, Michael C. Fox accepted appointment as Successor Trustee of the Colucci Living Trust.

27) On October 30, 2017, Michael C. Fox, Successor Trustee of the Colucci Living Trust, and the named personal representative in the Last Will of Doris Duane Colucci filed a formal petition for testacy and appointment.

28) Any personal property, including the jewelry and watch in question, that belonged to the Decedent prior to June 18, 2013 (including any jewelry at issue in the Application for Sale of Personal Property) was assigned to the Colucci Living Trust.

29) The Special Administrator and the Estate of Doris Colucci do not have title to the ring or watch in question and must be restrained from liquidating the asset as such sale is unauthorized by the Trust and would cause irreparable harm and jeopardize unreasonably the interests of the Colucci Living Trust.

30) The Special Administrator and the Estate of Doris Colucci do not have title to the Personal Effects, Furniture, Furnishings, Appliances, or Jewelry (listed as "collection of jewelry pieces" on Inventory and Appraisement of October 4, 2017) and must be

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restrained from liquidating or otherwise interfering in the trust's assets. Any further sales are unauthorized by the Trust and would cause irreparable harm and jeopardize unreasonably the interests of the Colucci Living Trust.

WHEREFORE,

Michael C. Fox, as Trustee of the Colucci Living Trust, hereby moves and requests this Court set this matter for a hearing within 10 days from the date of this petition pursuant to §62-3-607(b) and to restrain the Special Administrator Andrew Chandler, Esquire from selling the jewelry described in the Application for Sale of Personal Property filed October 16, 2017, and to restrain the Special Administrator from disposing of any Personal Effects, Furniture, Furnishings, Appliances, or Jewelry described in the Colucci Family Trust, and for such other and further relief as the Court may deem proper.

Respectfully Submitted,

Gordon Hughes Garrett
Attorney for Michael C. Fox
Garrett Law Offices
1075 East Montague Avenue
North Charleston, SC 29405
Tel.:843-554-5515
Fax: 843-747-3198
Email: ggarrett@garrettlawsc.com

This 9th Day of November, 2017

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Assignment of Personal Property

IVO F. COLUCCI and DORIS D. COLUCCI hereby transfer and assign, without consideration, all right, title and interest which they now have in those Personal Property Items listed below, to IVO F. COLUCCI and DORIS D. COLUCCI, Trustees, or their successors in trust, under the COLUCCI LIVING TRUST, dated February 24, 2005 and any amendments thereto.

Personal Property Assigned

Personal Effects
Furniture, Furnishings and Appliances
Jewelry

This assignment was executed on February 24, 2005.

IVO F. COLUCCI

DORIS D. COLUCCI

STATE OF SOUTH CAROLINA)
SS
COUNTY OF CHARLESTON)

PERSONALLY appeared the undersigned witness and made oath that he/she saw the within named IVO F. COLUCCI and DORIS D. COLUCCI, Trustors, sign, seal and as their act and deed deliver the within instrument and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.

WITNESS

Sworn to before me this February 24, 2005 by IVO F. COLUCCI and DORIS D. COLUCCI, , and the above named witness.

Notary Public for South Carolina

My Commission Expires: _____

Trustees accept the above listed property as the Separate Property of the Wife Trustor.

EXHIBIT
3

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DOYLE

Settlement Statement (Preliminary)

18JL01 Fine Jewelry
Sale Date: 02/21/2018 10:00 AM

Estate of Doris Colucci
c/o Andrew Chandler
115 Church Street
Charleston SC 29401

843-577-2300

Contract # 78441 02/22/2018
Client # 365761
Terms: 12.00% commission
No minimum commission, insurance waived
Withdrawal fee is commission plus buyer's premium
No BI charge on unsold lots.

Lot No.		Result	Commission	Insurance	Internet Fee	Photo & Misc	Net
193	(1) Gold and Diamond 'Oyster Perpetual DateJust' Wristwatch, Rolex, Ref. 69000A	$5,000.00	600.00 12.00%				4,400.00
	Totals:	**$5,000.00**	**600.00**				**$4,400.00**

*** Lots Pending:**	**$0.00**
Paid To Date:	**$0.00**
Balance Payable:	**$4,400.00**

DOYLE NEW YORK | WILLIAM DOYLE GALLERIES Inc. AUCTIONEERS & APPRAISERS | 175 East 87th Street, NY, NY 10128

WELLS FARGO BANK, N.A.
1-1288/260

647285
647285

PAY FOUR THOUSAND FOUR HUNDRED DOLLARS

DATE 03/28/2018

AMOUNT 4,400.00

TO THE ORDER OF: Estate of Doris Colucci
c/o Andrew Chandler
115 Church Street
Charleston SC 29401

NOT VALID AFTER 90 DAYS

AUTHORIZED SIGNATURE

⑈647285⑈ ⑆026012881⑆ 2000039485199⑈

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DOYLE

Settlement Statement (Settlement)

/18JL02 Important Jewelry
Sale Date: **04/24/2018 10:00 AM**

Estate of Doris Colucci
c/o Andrew Chandler
115 Church Street
Charleston SC 29401

843-577-2300

Contract # 78441 05/29/2018
Client # 365761

Terms: 12.00% commission
No minimum commission, insurance waived
Withdrawal fee is commission plus buyer's premium
No BI charge on unsold lots.

Lot No.		Result	Commission	Insurance	Internet Fee	Photo & Misc	Net
301	(2) Platinum and Diamond Ring						
		$65,000.00	7,800.00 12.00%				57,200.00
Miscellaneous Charges							
	Authenticity Charges/GIA					664.80	-664.80
	Restoration Charges					78.00	-78.00
	Totals:	**$65,000.00**	**7,800.00**			**742.80**	**$56,457.20**
						*** Lots Pending:**	**$0.00**
						Paid To Date:	**$-56,457.20**
						Balance Payable:	**$0.00**

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Taylor Davis

From: Taylor Davis
Sent: Monday, August 27, 2018 2:46 PM
To: gpclawfirm@gmail.com; David Haller; angus@lawtonlawfirm.net; sinclairelawfirm@gmail.com; ggarrett@garrettlawsc.com; Brandt Shelbourne; currylawfirm@bellsouth.net; adam@kmlawsc.com
Cc: Andrew D. Gowdown; Elizabeth Palmer; Ensley Mahoney; karen@hallerlawfirm.com; Jessica Bauman; Andrew W. Chandler; Amy Neilson
Subject: Estate of Doris Colucci
Attachments: 2018_08_27 Colucci, Doris.pdf

Good Afternoon,

Per the Probate Court's request, please find attached a copy of the Modified Order for the Appointment of a Special Administrator in connection with the above referenced estate.

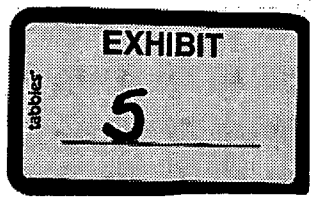
Thank you!

Taylor Davis
|*Legal Assistant to Andrew Gowdown*|
151 Meeting St., Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8125
|direct fax|
tdavis@rrhlawfirm.com
V-Card
www.rrhlawfirm.com

ROSEN | HAGOOD

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Taylor Davis

From: Taylor Davis
Sent: Monday, August 27, 2018 3:39 PM
To: edicksonj@sccourts.org; edicksonlc@sccourts.org; edicksonsc@sccourts.org
Cc: Elizabeth Palmer; ggarrett@garrettlawsc.com; David Haller; angus@lawtonlawfirm.net
Subject: Estate of Doris Colucci/Case#: 2017-CP-18-1816
Attachments: 364857.pdf

Good Afternoon Judge Dickson,

Please see attached correspondence from Attorney Beth Palmer in connection with the above referenced matter. A hard copy has also been placed in today's mail.

Thank you.

Taylor Davis
|*Legal Assistant to Andrew Gowdown*|
151 Meeting St., Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8125
|direct fax|
tdavis@rrhlawfirm.com
V-Card
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Taylor Davis

From: Molly Edwards <MEdwards@dorchestercountysc.gov>
Sent: Wednesday, January 16, 2019 10:25 AM
To: 'chandler@eckb.com'; Elizabeth Palmer; 'ggarrett@garrettlawsc.com'; 'dhaller@hallerlawfirm.com'; 'angus@lawtonlawfirm.net'; 'currylawfirm@bellsouth.net'; 'gpclawfirm@gmail.com'; 'Brandt Shelbourne (brandt@shelbournelaw.com)'
Subject: 2019_01_16 Colucci, Doris.pdf
Attachments: 2019_01_16 Colucci, Doris.pdf

Dear All:
Attached is the Order authorizing distributions from the Estate of Doris Colucci to the Colucci Living Trust. If you would like to receive a certified copy of the Order by mail, please let me know.
Kind Regards,
Molly Edwards

Molly D. Edwards
Associate Probate Judge
DORCHESTER COUNTY PROBATE COURT
5200 East Jim Bilton Boulevard
St. George, SC 29477
P: (843) 832-0309
F: (843) 832-0222
E: medwards@dorchestercountysc.gov
www.dorchestercountysc.gov/probate

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EXHIBIT
6

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Taylor Davis

From: Molly Edwards <MEdwards@dorchestercountysc.gov>
Sent: Thursday, February 7, 2019 3:59 PM
To: Elizabeth Palmer; chandler@eckb.com; 'ggarrett@garrettlawsc.com'; dhaller@hallerlawfirm.com; 'currylawfirm@bellsouth.net'; Brandt Shelbourne (brandt@shelbournelaw.com); 'angus@lawtonlawfirm.net'
Subject: Estate of Doris Colucci
Attachments: 2019_02_07 Colucci, Doris.pdf

Dear All:
Please find attached the Order from the January 9, 2019 hearing. If you would like to receive a certified copy of the Order by mail, please let me know.
Kind Regards,
Molly Edwards

Molly D. Edwards
Associate Probate Judge
DORCHESTER COUNTY PROBATE COURT
5200 East Jim Bilton Boulevard
St. George, SC 29477
P: (843) 832-0309
F: (843) 832-0222
E: medwards@dorchestercountysc.gov
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EXHIBIT 8

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Taylor Davis

From: Molly Edwards <MEdwards@dorchestercountysc.gov>
Sent: Wednesday, February 13, 2019 2:38 PM
To: Elizabeth Palmer; chandler@eckb.com; 'ggarrett@garrettlawsc.com'; dhaller@hallerlawfirm.com; 'currylawfirm@bellsouth.net'; Brandt Shelbourne (brandt@shelbournelaw.com); 'angus@lawtonlawfirm.net'
Subject: Estate of Doris Duane Colucci
Attachments: 2019_02_13 Colucci, Order for Appointment of Temporary Special Administrator.pdf; 2019_02_13 Colucci, Temporary Order Restraining General Personal Representative.pdf

Dear All:
Please find attached the Temporary Order Restraining the General Personal Representative and the Order for Appointment of Temporary Special Administrator in the above referenced matter. If you would like to receive a certified copy of the Order by mail, please let me know.
Kind Regards,
Molly Edwards

Molly D. Edwards
Associate Probate Judge
DORCHESTER COUNTY PROBATE COURT
5200 East Jim Bilton Boulevard
St. George, SC 29477
P: (843) 832-0309
F: (843) 832-0222
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EXHIBIT 10

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	CASE NO: 2017-ES-18-00294
IN RE: THE ESTATE OF DORIS DUANE COLUCCI	)	
ANREW W. CHANDLER, AS TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI,	)	
Movant,	)	
v.	)	
MICHAEL C. FOX, AS PESRONAL REPRESENTATIVE OF THE ESTATE OF DORIS DUANE COLUCCI,	)	
Respondent.	)	

MOTION TO LIFT STAY

TO: GORDON GARRETT, ESQUIRE, ATTORNEY FOR RESPONDENT MICHAEL FOX

PLEASE TAKE NOTICE THAT Movant Chandler, pursuant to Rule 241(c) of the South Carolina Appellate Court Rules, hereby moves for an order lifting any automatic stay of certain orders, described more fully below, resulting from Respondent Fox's Notice of Appeal, filed on April 18, 2019, and served on or about April 19, 2019. Respondent Fox's Notice of Appeal purports to appeal nine separate orders of this Court, dating as far back as October 2017. A copy of the Notice of Appeal, as well as the orders appealed from, are attached hereto collectively as Exhibit 1. To the extent Respondent Fox's Notice of Appeal has resulted in an automatic stay of the matters decided in these nine orders, Movant Chandler respectfully requests that the stay be lifted so that continued administration of the Estate may proceed without interruption which, at this juncture, will cause extreme hardship on the Estate and those interested in it.

This Court has the power to lift the automatic stay. Rule 241(a), SCACR. As a procedural matter, the motion for an order to lift an automatic stay must be made to the lower court which entered the order. Rule 241(d)(1), SCACR.

FACTUAL BACKGROUND

On April 14, 2017, the Decedent was shot and killed by her husband, Ivo Francesco Colucci. Movant Chandler was appointed Special Administrator of the Estate by this Court on June 9, 2017, on a temporary basis and then, by Consent Order dated July 10, 2017, on a permanent basis. In October 2017, Movant Chandler, through his undersigned attorneys, commenced two lawsuits: (1) a wrongful death action pending in Charleston County Court of Common Pleas; and (2) a Petition to Determine Heirs, which was brought pursuant to the "Slayer's Act" and is pending in Dorchester County Court of Common Pleas.

In August 2017, Decedent's purported Last Will and Testament, dated June 18, 2013, was filed with this Court. It was not until October 30, 2017, that Respondent Fox, who is named as a successor personal representative in the Will, filed a Petition for Formal Testacy and Appointment, seeking to have the Will admitted to probate and to have himself admitted as personal representative of the Estate.

A hearing on the Petition was held on August 13, 2018, and, by Order filed August 27, 2018, the Dorchester County Court of Common Pleas ordered that the Will be admitted to probate. A decision concerning the appointment of Respondent Fox as personal representative was taken under advisement.

Following the admission of the Will to probate, and with full knowledge of the fact that Respondent Fox was named as a successor personal representative of the Estate, this Court entered a Modified Order for the Appointment of a Special Administrator, dated August 27,

2018, which found that "[t]he continued appointment and service of Andrew W. Chandler as the Special Administrator for the Decedent's Estate is necessary to preserve the estate, to secure its proper administration, to avoid actual and potential conflicts of interest, and to protect its assets."

On February 13, 2019, the Dorchester County Court of Common Pleas issued its Order concerning the appointment of Respondent Fox, ordering that Respondent Fox be appointed as personal representative. The appointment of Respondent Fox terminated Petitioner Chandler's appointment as Special Administrator pursuant to S.C. Code Ann. § 62-3-618. However, following its receipt of notice of the Circuit Court's order, and upon the applications of Rosen Hagood, LLC, as a creditor of the Estate, this Court entered a Temporary Order Restraining Personal Representative and Order for Appointment of Temporary Special Administrator (both filed February 13, 2019).

A Review Hearing on the Temporary Order Restraining General Personal Representative was held on February 22, 2019. Following that hearing, this Court entered an Order for Temporary Restraint of General Personal Representative on April 17, 2019.

By Notice of Appeal filed April 18, 2019, and served on Movant Chandler on April 19, 2019, Respondent Fox has appealed the following orders of this Court:

Date	Order
10/24/17	Order Denying Informal Probate (Petition filed by Fox)
10/26/17	Order to Sell Personal Property (Application filed by Chandler)
7/30/18	Order Authorizing Sale of Real Estate (Petition filed by Chandler)
8/27/18	Modified Order for the Appointment of a Special Administrator
1/15/19	Order (Authorizing Distribution from Estate) (Application filed by Chandler)
2/7/19	Order (denying Fox Petition for Removal of Special Admin.)
2/13/19	Temporary Order Restraining General Personal Representative
2/13/19	Order for Appointment of Temporary Special Administrator
4/17/19	Order for Temporary Restraint of General Personal Representative

ARGUMENT

Respondent Fox has demonstrated time and again that his primary intent is to disrupt the administration of this Estate. In furtherance of this intent, he has gone so far as to make completely false accusations of ethical and professional misconduct against Movant Chandler and his counsel, for which he was sanctioned by this Court and ordered to compensate the Estate for its fees and costs in responding to those accusations. An inordinate amount of time has been spent by Movant Chandler and his counsel in responding to the many vexatious and unfounded pleadings filed by Respondent Fox, time which could have been spent bringing this Estate to closure and, in turn, providing closure to those that are interested in it. His Notice of Appeal is *prima facie* evidence of his bad faith as not one of the nine orders from which he purports to appeal is capable of being appealed for various reasons as set forth in the Motion to Dismiss filed in Dorchester County Circuit Court on April 30, 2019 (attached as Exhibit 2).

Until a hearing can be held by the Circuit Court on Movant Chandler's Motion to Dismiss, absent an order from this Court lifting any stay that may be in place as a result of the filing of the Notice of Appeal, Movant Chandler, and those with whom he is dealing, will be uncertain as to the extent of Movant Chandler's authority, responsibilities, and duties. For example, following two days of mediation and nearly of month of post-mediation negotiations, agreements have been reached as to the settlement of both the wrongful death lawsuit and the Slayer's Act lawsuit. Counsel for many interested parties, including primarily the undersigned and David Haller, Esquire, attorney for Ivo Colucci, his conservator, and his guardian, have spent considerable time drafting settlement documents and related pleadings in an attempt to get these settlements approved and finalized by the appropriate courts and parties. However, any

stay effectuated by Respondent Fox's frivolous appeals puts both of these settlements in jeopardy and will likely result in causing the Estate to incur increased costs.

Also jeopardized is the sale of the "Edisto House," which was jointly titled in the Decedent and her husband's name (with rights of survivorship) at the time of the Decedent's death. After sitting on the market for nearly a year, it has finally gone under contract. However, if there is a stay preventing Movant Chandler from acting on behalf of the Estate in consummating this sale, it is likely that the sale will fall through.

Given the harm that will be caused to the Estate, and further considering the frivolous nature of the appeals, Movant Chandler respectfully requests that this Court enter an Order lifting any automatic stay that may have resulted from Respondent Fox's filing and service of the Notice of Appeal.

ROSEN HAGOOD, LLC



Elizabeth J. Palmer
151 Meeting Street, Suite 400
Charleston, South Carolina 29401
(843) 577-6726

ATTORNEYS FOR RESPONDENT ANDREW W. CHANDLER, ESQUIRE, TEMPORARY SPECIAL ADMINISTRATOR OF THE ESTATE OF DORIS DUANE COLUCCI

Charleston, South Carolina
April 30, 2019

THE STATE OF SOUTH CAROLINA
In the Circuit Court

APPEAL FROM DORCHESTER COUNTY
Probate Court

Mary L. Blunt
Probate Court Judge

Case No. 2019-CP-18-0677
Dorchester County Probate Case No. 2017-ES-18-0294

Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci ..... Appellants,

v.

Andrew W. Chandler, Esquire, in his capacity as Special Administrator of the Estate of Doris Dune Colucci, Michael C. Fox, Trustee of the Colucci Living Trust, Ivo Francesco Colucci, Michael Fredrick Antonio Colucci, John Martin Antonio, Henry Burkes, and Richard M. Hyman, Jr., Esquire ..... Respondents.

RETURN TO RESPONDENT CHANDLERS MOTION TO LIFT STAY

Appellant Michael C. Fox, as Personal Representative of the Estate of Doris Duane Colucci respectfully requests that the Court deny Andrew Chandler's Motion to Lift Stay as a matter of law. The grounds for denying this Motion are that 1) this Court lacks subject matter jurisdiction to issue an order lifting an automatic stay under Rule 241, SCACR because it is inapplicable; 2) if Rule 241, SCACR is applicable, the motion is fatally deficient and fails to conform to the

requirements of Rule 241, SCACR; and 3) the motion lacks the mandatory affidavits or other sworn statements.

I. The Court lacks subject matter jurisdiction to lift the stay.

Appeals from the probate court to the circuit court are governed by S.C. Code Ann. § 62-1-308. When appealing an order from the probate court the Probate Code requires compliance only with portions of Appellate Court Rules 208, 209, and 210, otherwise "no party is required to comply with any other requirements of the South Carolina Appellate Court Rules." S.C. Code Ann. § 62-1-308(g). Here, the Respondent asking for relief under a rule of appellate procedure that does not apply in probate appeals. As a matter of law, the Respondents Motion must be denied.

II. If Rule 241(d)(3), SCACR is applicable, Respondent's Motion is fatally deficient.

Rule 241(d)(3), SCACR reads in pertinent part:

> "A person seeking an order lifting an automatic stay or granting a writ of supersedeas must file a written petition verified by the client. The petition shall be captioned the same as the appeal. In addition to the petition and verification, the moving party must contemporaneously file a certified copy of the order, judgment, decree or decision of the lower court or administrative tribunal and a copy of the notice of appeal with its proof of service."

Mr. Chandler's motion fails to confirm to the mandatory language required by this rule. The Motion is not verified by the client. Further, the petition is captioned under the probate caption, not under the appellate caption as required by the rule. Additionally, upon information and belief, the Respondent has failed to file certified copies of the lower court. Finally, the Respondent failed to file the notice of appeal with its proof of service. The Respondent filed the notice of appeal but failed to include its certificate of service with its motion. Therefore, the Respondent's motion must be dismissed as a matter of law.

III. The facts alleged in Respondent's motion are in dispute and must be supported by affidavit or other sworn statements.

The Appellant denies and contests each and every allegation set forth in Respondent's Motion. Therefore, the material facts of the Motion are subject to dispute. "If the facts are subject to dispute, the petition shall be supported by affidavits or other sworn statements." Rule 241(d)(4)(A), SCACR. The Respondent has once again failed to comply with the mandatory language of this rule. The Respondent's motion is devoid of any affidavits or sworn statements that support their position. Further, the Respondent is required to state, "the grounds for the petition, and legal arguments with supporting points and authority." Rule 241(d)(4)(B), SCACR. The Respondent's motion does not state any authority to grant their requested relief. Instead, the Respondent repeats the same argument that it brought to the circuit court's attention regarding the appointment of the Appellant as Personal Representative of the Estate. Despite being fully aware of Respondent's arguments, the Court appointed the Appellant as personal representative. The Court did not find an immediate and irreparable injury then, and there certainly is not one now.

For theses reasons, this Court should deny the Respondent's Motion to lift stay. S.C. Code Ann. § 62-1-308(h) and (g) devests this court of the jurisdiction to issue such an order. If S.C. Code Ann. § 62-1-308(h) and (g) does not devest this Court of the jurisdiction to issue such an order, the Respondent's motion is fatally deficient under Rule 241(d)(3), SCACR and must be dismissed as a matter of law.

Dated: May 1, 2019

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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF DORCHESTER	)	
IN RE: THE ESTATE OF DORIS DUANE COLUCCI, AKA DORIS D. COLUCCI,	)	CASE NO: 2017-ES-18-00294

PETITION FOR APPROVAL OF SETTLEMENT OF LITIGATION

1. Petitioner Andrew W. Chandler, Esquire, is the Temporary Special Administrator of the Estate of Doris Duane Colucci, a deceased person, having been duly appointed on the 13th day of February, 2019, by the Probate Court of Dorchester County, South Carolina.[1] A copy of the Order appointing Petitioner Chandler and conferring upon him "all the powers of a general Personal Representative" is attached hereto as Exhibit 1.

2. The Decedent died on April 14, 2017, after being shot in the head by her husband, Ivo Francesco Colucci.

3. Petitioner Chandler initiated an action in the Dorchester County Probate Court by filing a "Petition to Determine Heirs" on October 4, 2017, and titled Andrew W. Chandler, Esquire, as Special Administrator v. Ivo Francesco Colucci, AKA Ivo Colucci, AKA Ivo F. Colucci, Christa M. Yantis, as Conservator for Ivo Francesco Colucci, Alice M. Norton, as Guardian for Ivo Francesco Colucci, John Martin Antonio, and Michael Frederick Antonio Colucci; Case No: 2017-ES-18-00294 (the "Lawsuit"). The Lawsuit, which was subsequently

[1] Petitioner Chandler was first appointed as Temporary Special Administrator by the Dorchester County Probate Court on June 9, 2017, and then, on a permanent basis, on July 10, 2017. By Order filed the morning of February 13, 2019, the Dorchester County Circuit Court appointed Michael C. Fox as Personal Representative of the Estate of Doris Duane Colucci, which appointment terminated the appointment of Petitioner Chandler. However, by Orders filed the afternoon of February 13, 2019, the Dorchester County Probate Court restrained Mr. Fox from exercising any powers or discharging any duties of his office and re-appointed Petitioner Chandler as Temporary Special Administrator of the Estate of Doris Duane Colucci with all the powers of a general Personal Representative. Although Mr. Fox subsequently filed a Notice of Intent to Appeal those orders, any stay that would result from such an appeal has been lifted by Order of this Court filed May 10, 2019.

removed to the Dorchester County Court of Common Pleas on October 5, 2017, and assigned Case No: 2017-CP-18-1816, was filed pursuant to S.C. Code Ann. § 62-2-803 (the "Slayer Act") and seeks a determination that the Decedent's husband, Ivo Francesco Colucci, is not entitled to benefit from the Estate of Doris Duane Colucci, or from any assets that would otherwise pass to Mr. Colucci outside the Estate of Doris Duane Colucci upon Decedent's death, because he "feloniously and intentionally" killed the Decedent.

4. Ivo Francesco Colucci, his conservator (Christa M. Yantis), and his guardian (Alice M. Norton) have denied that Mr. Colucci "feloniously and intentionally" killed the Decedent and contend that, at the time of the shooting, Mr. Colucci was unable to form the requisite intent as a result of his progressively debilitating dementia.

5. On August 27, 2018, the Decedent's Last Will and Testament, dated June 18, 2013 (the "Will"), was admitted to probate. The sole devisee of the Will is the Colucci Living Trust, dated February 24, 2005, and any amendments thereto (the "Trust").

6. The Petitioner is informed and believes that the remaining assets and interests which are at issue in, and whose ownership is to be determined by, the Lawsuit are as follows:

a. Ivo Francesco Colucci's Interest in the Trust:

Mr. Colucci is a beneficiary of the Trust. For example, during his lifetime, the Trust provides that Mr. Colucci is to receive the "entire net income" of the Trust as well as the ability to withdraw from the principal "an amount that shall not exceed the greater of five thousand dollars ($5,000) or five percent (5%)" of the principal.

Mr. Colucci also has the right to receive payments, in the Trustee's discretion, from the principal for his "health, education, maintenance, or support." Additionally, the Trust provides Mr. Colucci with a Limited Power of Appointment, giving him the ability to appoint "some or all of the principal" of the Trust to the Decedent's descendants upon Mr. Colucci's death.

To date, no funds from the Trust have been distributed to Mr. Colucci or any other beneficiary and Petitioner is not aware of any prior exercise of the Limited

Power of Appointment by Mr. Colucci. As a material terms of the settlement, Ms. Yantis, conservator for Mr. Colucci, will warrant that she has made reasonable inquiry and is not aware of any prior exercise of the Limited Power of Appointment and agrees that, should such an exercise be discovered, it shall be deemed void.

b. Ownership of 50% of the "Edisto House":

The "Edisto House" is a residential dwelling located at 7674 Legare Road, Edisto Island, SC, 29438, and was titled in the Decedent's name and Ivo Francesco Colucci's name as joint tenants with right of survivorship. It is currently under contract for $470,500.00.

c. Ownership of the Decedent's IRA:

Following the Decedent's death, a Genworth Financial Individual Retirement Annuity Contract (Acct. # 424767476) was located that was titled in the name of "Doris Colucci" and which named Ivo Francesco Colucci as the beneficiary. It was valued at approx. $ 54,950.43 as of 4/2/19.

d. Ownership of 25% of the "NY Property":

The "NY Property" is real property located at 3590 SR 145, Rensselaerville, NY. The Decedent and Mr. Colucci owned a 50% interest in that property. Under New York law, title to that 50% interest in the NY Property passed to Mr. Colucci upon the Decedent's death. At issue in the Lawsuit is whether, by operation of the Slayer Act, the Estate of Doris Duane Colucci is entitled to retain ownership of a 25% interest in the NY Property. The appraised value of the entire parcel, obtained from two independent appraisers, as of March 2018 and June 2018, respectively, is $ 50,000.00, making the appraised value of the 25% interest at issue approximately $12,500.00.

e. Ownership of the "Slayer Bank Account":

At the time of Decedent's death, there was a small amount of cash in a joint bank account and there were a number of items of real and personal property which were titled or" (joint tenants with right of survivorship) and one titled "and" (tenants in common). Upon the sale of these items, 50% of the sales proceeds of the "or" property and 50% of the cash from the joint bank account were placed into a bank account at South State Bank (Acct. # 8010000301072) pending resolution of the Lawsuit. The balance of this account, as of 5/13/19, is $ 14,310.64. Petitioner is unaware of any circumstance which would result in the balance of this account increasing or decreasing.

7. If the Lawsuit were to result in a determination that Mr. Colucci "feloniously and intentionally" killed the Decedent, he would be treated as if he had predeceased the Decedent (S.C. Code Ann. § 62-2-803(a)), thereby losing all interest in the Trust, and the assets described in ¶ 8(b)-(e) would be deemed to be assets of the Estate of Doris Duane Colucci (to be distributed to the Trust, the Estate of Doris Duane Colucci's sole devisee). Conversely, if the Lawsuit resulted in a determination that Mr. Colucci did not "feloniously and intentionally" kill the Decedent, he would be entitled to the assets and interests described in ¶ 8(a)-(e).

8. Petitioner has agreed to resolve the Lawsuit upon terms appearing fair and reasonable in light of all attending circumstances.

9. Petitioner submits this Petition for Approval of Settlement and requests that this Court authorize Petitioner to execute those documents necessary to effectuate the settlement and dismiss the Lawsuit.

10. The terms of the proposed settlement are as follows:

a. In exchange for receiving/retaining ownership of the assets listed in ¶ 8(b)-(e), and for Petitioner Chandler's agreement to take those actions necessary to effectuate the intent of the settlement, Ivo Francesco Colucci, by and through his legal representatives, Ms. Yantis and Mrs. Norton, has agreed to disclaim any interest or right Mr. Colucci has to the Trust, including his limited power of appointment. Mr. Colucci shall be treated as if he predeceased the Decedent, and Mrs. Yantis shall execute the documentation necessary, such as a Disclaimer of Trust Interest, to effectuate the intent of this agreement. As part of the settlement, Ms. Yantis has warranted that she has made a reasonable inquiry and is not aware of any prior exercise of the limited power of appointment by Mr. Colucci and

agree that, should such an exercise be discovered at a later date, it shall be deemed void.

b. In exchange for Mr. Colucci's disclaimer of any interest in the Trust, and the agreement by Ms. Yantis and Mrs. Norton to take those actions necessary to effectuate the intent of the settlement, Petitioner Chandler has agreed to disclaim any interest or right the Estate of Doris Duane Colucci may have to the assets listed in ¶ 8(b)-(e).

11. The proposed settlement is conditioned upon the complete discharge of all possible claims and defenses brought by Petitioners, or those that could have been brought by Petitioners, pursuant to the Slayer Act, S.C. Code Ann. § 62-2-803. This settlement does not contemplate the settlement of any other matter.

12. The proposed settlement has been negotiated through Petitioners' attorneys and Petitioners believe that the effect of the settlement is just and reasonable and in the best interests of the respective Estates and those interested in them.

WHEREFORE, Petitioner prays that the proposed settlement be approved and that he be authorized and empowered to execute and deliver such documents as necessary to fully effectuate the settlement and to discharge any and all claims, defenses, or causes of action of whatsoever kind or nature that were brought or that could have been brought in the Lawsuit.

Andrew W. Chandler, Esquire, as Temporary Special Administrator of the Estate of Doris Duane Colucci

Charleston, South Carolina

May 14, 2019