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**May 28 2020**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

**APPEAL FROM CHARLESTON COUNTY  
Jennifer B. McCoy, Circuit Court Judge**

**SC Court of Appeals**

**In Re: Estate of Stephen Day Ward, Jr. ,**

**Mary K. Ward a/k/a Mary Kimberly Ward ..... Respondent,**

**v.**

**Stephanie Ward Cibinic, David D. Ward,  
and Brian C. Ward, Co-Personal Representatives ..... Appellants.**

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**MOTION FOR EXTENSION OF TIME**

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The undersigned would respectfully state unto this Honorable Court:

1. That the undersigned has represented the Respondent Mary K. Ward from the initial filing of her Petition for Omitted Spouse Share in the Charleston County Probate Court on January 28, 2017; further, that Ann Noble-Kiley, previously appointed by said Court as conservator for Mary K. , has served as the proper legal party of interest for Mary K. Ward throughout these proceedings.
2. That Mary K. Ward died on February 9, 2020, while residing in the Commonwealth of Massachusetts, and a Petition for Formal Probate of Will and Appointment of a Personal Representative was filed in the Essex (County, Massachusetts) Probate and Family Court on May 12, 2020. (See Exhibit A, attached).
3. That, due to the Covid-19 pandemic, and resulting disruption in court schedules and procedures in both Massachusetts and South , Probate Court appointment of a Personal

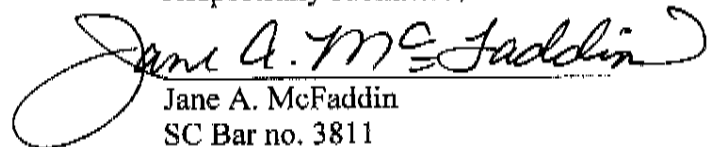
Representative for the Estate of Mary K. Ward is not likely to occur before early July 2020.

4. That S.C. Rules of Court provide that, upon the death of a party, the Court in which an action is pending may order the substitution "of the proper parties" for the necessary continuation of the action (Rule 25(a)(1), SCRCF and Rule 265(b) SCACR).
5. That the undersigned received on May 4, 2020, by email dated Friday, May 1, 2020 at 4:51:48 p.m, the initial Brief of Appellants and Designation of Matter to be Included in the Record on Appeal.
6. That, until the Probate court appointment of a Personal Representative of the Estate of Mary K. Ward is effected, the undersigned is not able to move for a necessary substitution of party for Respondent, now deceased, and unable to properly file any further pleadings, briefs, or other required filings on Respondent's behalf.

Therefore, the undersigned moves and requests this Court to grant an extension of time to file Respondent's initial Brief and Designation of Matter to be Included in the Record on Appeal, and any other appropriate or required filings, until July 15, 2020 , or 15 days after appointment of a Personal Representative for the Estate of Mary Ward, and the necessary substitution of the proper party for Respondent's interests in this appeal, whichever occurs later.

28<sup>th</sup> day of June, 2020

Respectfully submitted,

  
Jane A. McFaddin  
SC Bar no. 3811

P.O. Box 1124  
Charleston, South Carolina 29402  
[jamefaddin@bellsouth.net](mailto:jamefaddin@bellsouth.net)  
(843) 556-3333

In re: Estate of Stephen Day Ward, Jr.  
Ward v. Ward

EXHIBIT A (ps-1)

<b>CITATION ON PETITION FOR FORMAL ADJUDICATION</b>	Docket No. ES20P1082EA	Commonwealth of Massachusetts The Trial Court Probate and Family Court
Estate of: Mary K Ward Also known as: Mary K Walker  Date of Death: <u>02/09/2020</u>	Essex Probate and Family Court 36 Federal Street Salem, MA 01970 (978)744-1020	

To all interested persons:

A Petition for Formal Probate of Will with Appointment of Personal Representative has been filed by  
Ann Noble Kiley of Manchester MA

requesting that the Court enter a formal Decree and Order and for such other relief as requested in the Petition.

The Petitioner requests that:

Ann Noble Kiley of Manchester MA

be appointed as Personal Representative(s) of said estate to serve **Without Surety** on the bond in an unsupervised administration.

**IMPORTANT NOTICE**

You have the right to obtain a copy of the Petition from the Petitioner or at the Court. You have a right to object to this proceeding. To do so, you or your attorney must file a written appearance and objection at this Court before: **10:00 a.m. on the return day of 06/15/2020 .**

This is NOT a hearing date, but a deadline by which you must file a written appearance and objection if you object to this proceeding. If you fail to file a timely written appearance and objection followed by an affidavit of objections within thirty (30) days of the return day, action may be taken without further notice to you.

**UNSUPERVISED ADMINISTRATION UNDER THE MASSACHUSETTS UNIFORM PROBATE CODE (MUPC)**

A Personal Representative appointed under the MUPC in an unsupervised administration is not required to file an inventory or annual accounts with the Court. Persons interested in the estate are entitled to notice regarding the administration directly from the Personal Representative and may petition the Court in any matter relating to the estate, including the distribution of assets and expenses of administration.

WITNESS, Jennifer M R Ulwick, First Justice of this Court.

Date: May 12, 2020

Pamela A Casey O'Brien, Register of Probate



PUBLISH ONLY THE CITATION ABOVE



Jessica A Wistran, Esq  
Glovsky & Glovsky  
8 Washington St  
Beverly, MA 01915



4. Venue for this proceeding is proper in this county because on the date of death, the Decedent:
- was domiciled in this county.  was not domiciled in Massachusetts, but had property located in this county at:

\_\_\_\_\_  
(Address) (Apt. Unit, No. etc.) (City/Town) (State) (Zip)

5.  The Petitioner shall give notice once by citation to the Division of Medical Assistance. To do so, the Petitioner shall send a copy of the citation when issued by the court together with a copy of this Petition and death certificate by certified mail at least fourteen (14) days before the return day to the Division of Medical Assistance, Estate Recovery Unit, P.O. Box 15205, Worcester, MA 01615-0205. For specific details, see the citation's Order of Notice.

**II. PERSONS INTERESTED IN THE ESTATE**

6. The Decedent's surviving spouse, children, heirs at law and devisees (if any), so far as known or ascertainable with reasonable diligence by the Petitioner are as stated in form MPC 162 Surviving Spouse, Children, Heirs at Law AND if the Decedent died with a will, form MPC 163 Devisees incorporated herein.

There are additional heirs at law who are not known to the Petitioner.

**FORM ALERT:** Failure to submit this information will result in a delay in processing your case.

**III. TESTACY STATUS**

7. The Decedent died (select one):

Intestate (without a will)

After the exercise of reasonable diligence, the Petitioner is unaware of any unrevoked testamentary instrument relating to property in Massachusetts, or  see attached statement of why such an instrument is not being probated.

Testate (with a will)

The date of the Decedent's last will is March 29, 2004

The dates of all codicils are \_\_\_\_\_

(select one of the following):

The original will is in the possession of the court or accompanies this Petition.

The original will is lost, destroyed or otherwise unavailable and

a copy of the original will accompanies this Petition OR

a statement of its contents is attached and incorporated herein.

The will has been probated in the state or country of \_\_\_\_\_

An authenticated copy of the will and proof of its probate are filed with this Petition.

The will and any codicils are referred to as the will. The Petitioner, to the best of his or her knowledge, believes the will was validly executed. After the exercise of reasonable diligence, the Petitioner is unaware of any instrument revoking the will and believes that the will is the Decedent's last will.

**IV. APPOINTMENT OF PERSONAL REPRESENTATIVE**

(if requested)

8.  The Petitioner requests that the following qualified person, who is 18 years of age or older, be appointed Personal Representative:  Self only.  Self and other(s):  Other(s):

Name of other(s):

\_\_\_\_\_  
First Name M.I. Last Name

\_\_\_\_\_  
(Address) (Apt. Unit, No. etc.) (City/Town) (State) (Zip)

Mailing Address, if different:

\_\_\_\_\_  
(Address) (Apt. Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: \_\_\_\_\_

Exhibit A (pg. 4)

Essex Probate and Family Court

Date Filed: 5/12/2020 11:43 AM

Case Number:

9. Select all that apply:

All or some of the nominees have priority for appointment:

by statute, See G. L. c. 190B, § 3-203.

by renunciation and/or nomination. Persons with higher or equal rights to appointment are:

\_\_\_\_\_  
First Name M.I. Last Name

**FORM ALERT:** Any required renunciations/nominations using form MPC 455 must accompany this Petition.

The nominee(s) without priority for appointment are:

\_\_\_\_\_  
First Name M.I. Last Name

Persons with priority have failed to request appointment or to nominate the above nominee and administration is necessary.

10. Select one of the following:

No court has appointed a Personal Representative and no such appointment proceeding is pending in Massachusetts or elsewhere.

A court has appointed a Personal Representative, whose appointment has not been terminated, or an appointment proceeding is pending in the State of \_\_\_\_\_ and the Personal Representative's name and address is:

\_\_\_\_\_  
First Name M.I. Last Name  
\_\_\_\_\_  
(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

11. Select one of the following:

A bond with sureties in the penal sum amount of \$ \_\_\_\_\_ has been or will be filed.

A bond without sureties has been or will be filed and is permissible because:

The will waives sureties on the bond and no interested person has demanded that a bond with sureties be filed.

All devisees (if a will is filed) or heirs (if no will is filed) have waived sureties in writing using form MPC 455 and all waivers are filed with this Petition or are in the possession of the court.

**FORM ALERT:** All persons seeking appointment must file a bond using form MPC 801.

12. The Petitioner requests (Select one of the following):

Unsupervised administration

The Decedent died intestate (without a will).

The will directs unsupervised administration or is silent on the issue.

The will directs supervised administration, but circumstances have changed since the execution of the will and there is no necessity for supervised administration because:

Supervised administration

The will directs supervised administration.

The will directs unsupervised administration, but it is necessary for protection of persons interested in the estate

Exhibit A (pg. 5)

Essex Probate and Family Court

Date Filed: 5/12/2020 11:43 AM

Case Number:

because:

No will directs supervised administration but it is necessary under the circumstances, specifically:

13.  The appointment of a Special Personal Representative is necessary pursuant to G. L. c. 190B, § 3-814 (See separate motion and affidavit filed with this Petition).

**V. RELIEF REQUESTED**

Wherefore the Petitioner requests that the court:

- Admit the Decedent's will to formal probate and determine the heirs.
- Determine that the Decedent died without a will and determine the heirs.
- Determine the heirs of the Decedent.
- Appoint the nominee(s) as Personal Representative of the estate in a(n)  unsupervised  supervised administration to serve  without  with sureties on the bond and that Letters be issued.

The Petitioner also requests:

- A setting aside of prior informal findings as to testacy.
- A setting aside of prior informal appointment of Personal Representative.
- Other:

**SIGNED UNDER THE PENALTIES OF PERJURY**

I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.

Date: 5/8/20

Ann Noble Kelly  
Signature of Petitioner

Information on Attorney for Petitioner, if any

Jessica A. Wisran  
Signature of Attorney  
**Jessica A. Wisran**  
(Print name)

8 Washington Street  
(Address)

(Apt. Unit, No. etc.)

Beverly  
(City/Town)

MA  
(State)

01915  
(Zip)

Primary Phone #: (978) 922-5000

B.B.O. # 657628

Email: jwisran@glovsky.com

Exhibit A (pg. 6)

Essex Probate and Family Court

Date Filed: 5/12/2020 11:43 AM

Case Number:

<b>BOND</b>	Docket No.	Commonwealth of Massachusetts The Trial Court Probate and Family Court
<input checked="" type="checkbox"/> Without sureties <input type="checkbox"/> With personal sureties <input type="checkbox"/> With corporate surety Bond #: _____		
In the interests of:	Essex	Division
<u>Mary</u> <u>K.</u> <u>Ward</u> <small>First Name                      Middle Name                      Last Name</small>		
Incapacitated Person/Protected Person/Ward/Decedent/Trust		

The condition of this bond is the faithful discharge by the fiduciary of all duties according to law (for Public Administrators see G. L. c. 194, § 2). By executing this bond, a Personal Representative or Trustee submits personally to the jurisdiction of any court of the Commonwealth in any proceeding pertaining to the estate that may be instituted by any interested person. By executing this Bond, any other fiduciary submits personally to the jurisdiction of the Court which issued the Letters of Appointment. This bond is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

Estimated Value of Real Estate \$0.00                      Estimated Value of Personal Estate \$500.00

Penal Sum of Bond (if applicable) \_\_\_\_\_

1. Fiduciary Name: Ann                      Noble                      Kiley  
First Name                      M.I.                      Last Name  
8 Church Street                      Manchester                      MA                      01944  
(Address)                      (Apt. Unit, No. etc.)                      (City/Town)                      (State)                      (Zip)  
 Primary Phone #: (617) 817-1308

2. Fiduciary Name: \_\_\_\_\_  
First Name                      M.I.                      Last Name  
 \_\_\_\_\_  
(Address)                      (Apt. Unit, No. etc.)                      (City/Town)                      (State)                      (Zip)  
 Primary Phone #: \_\_\_\_\_

The undersigned fiduciary accepts appointment as Personal Representative and stand(s) personally bound to the First Justice of said Court and his or her successors as obligee for the benefit of the persons interested in the estate and declare(s) the above estimates to be true and accurate to the best of his/her knowledge and belief.

Date 5/8/20

Ann Noble Kiley  
 Signature of Fiduciary 1.

Date \_\_\_\_\_

\_\_\_\_\_  
 Signature of Fiduciary 2.

Exhibit A (pg. 7)

Essex Probate and Family Court

Date Filed: 5/12/2020 11:43 AM

Docket No. Case Number:

In the interests of:	<u>Mary</u> First Name	<u>K.</u> Middle Name	<u>Ward</u> Last Name
----------------------	---------------------------	--------------------------	--------------------------

Persons who sign as sureties may be individually or collectively liable in the amount of the penal sum listed on page 1 for losses caused by improper administration of the estate by the fiduciary. By executing this Bond, we, the sureties, consent personally to the jurisdiction of this Court in any proceedings pertaining to fiduciary duties and naming the surety as a party.

Complete the following section if the bond is with personal surety.

Name: \_\_\_\_\_  
First Name Middle Name Last Name

\_\_\_\_\_  
(Address Line)

\_\_\_\_\_  
(City/Town), Massachusetts (Zip) Primary Phone #: \_\_\_\_\_

By signing this document I hereby certify under the penalties of perjury that I am a Massachusetts resident and that I possess sufficient unencumbered assets located in Massachusetts in excess of the penal sum.

Date \_\_\_\_\_  
 \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
First Name Middle Name Last Name

\_\_\_\_\_  
(Address Line)

\_\_\_\_\_  
(City/Town), Massachusetts (Zip) Primary Phone #: \_\_\_\_\_

By signing this document I hereby certify under the penalties of perjury that I am a Massachusetts resident and that I possess sufficient unencumbered assets located in Massachusetts in excess of the penal sum.

Date \_\_\_\_\_  
 \_\_\_\_\_  
Signature

Complete the following section if the bond is with corporate surety.

Bond #: \_\_\_\_\_ Penal Sum of Bond: \_\_\_\_\_

We, the undersigned surety company, a corporation duly organized by law under the state of \_\_\_\_\_ and having a usual place of business in Massachusetts at: \_\_\_\_\_

\_\_\_\_\_ stand bound as surety in the aforesaid penal sum.

\_\_\_\_\_ by \_\_\_\_\_  
Corporate Surety (name) Signature and Title

FOR COURT USE ONLY

\_\_\_\_\_, ss \_\_\_\_\_ examined and \_\_\_\_\_ approved  
Date

Justice-Assistant-Judicial Case Manager-Assistant Register-Magistrate of the Probate and Family Court

*Jane A. McFaddin*  
*Attorney and Counselor at Law*

*P.O. Box 1124*  
*Charleston, S.C. 29402*  
*(843) 556-3333*

May 28, 2020

*665 St. Andrews Boulevard*  
*Charleston, S.C. 29407*  
*Fax (843) 556-4150*

Hon. Jenny Abbott Kitchings  
Clerk, The South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, S. C. 29211

By Fax: (803) 734-1839

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**May 28 2020**

**SC Court of Appeals**

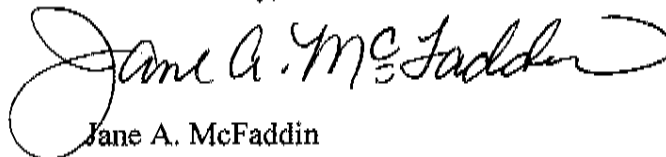
In re: Estate of Stephen Day Ward, Jr.  
(Ward v. Ward)  
Appellate Case No. 2019-002124

Dear Ms. Kitchings:

Please find enclosed, for filing in the above-referenced appeal, Motion for Extension of Time, with Exhibits, submitted on behalf of Respondent Mary K. Ward.

Thank you for your assistance in this matter.

Yours sincerely,



Jane A. McFaddin  
Attorney for Respondent Mary K. Ward

Enclosures

cc: Amanda A. Bailey, Esq.  
George E. Morrison, Esq.  
Burr & Forman LLP  
(by email)

*Jane A. McFaddin  
Attorney and Counselor at Law*

P.O. Box 1124  
Charleston, S.C. 29402  
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**May 28 2020**

665 St. Andrews Boulevard  
Charleston, S.C. 29407  
Tax (843) 556-4150

**SC Court of Appeals**

TO: S.C. Court of Appeals FROM: Jane A. McFaddin, Esq.  
FAX NUMBER: 803 734-1839 FAX NUMBER: \_\_\_\_\_  
PHONE: \_\_\_\_\_ PAGES: 11 includes cover page  
In Re: Estate of Stephen Day Ward, Jr. DATE: May 28, 2020  
Ward v. Ward CC: \_\_\_\_\_

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