

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes, III Master in Equity and Special Circuit Judge

Case No.: 2016-CP-07-02274

Stephanie M. McDew a/k/a Stephanie McDew
Schoumacher..... Appellant,

v.

Frieda P. McDew a/k/a Frieda McDew Shorter..... Respondent

APPENDIX I

1 So I didn't feel, for those reasons -- because
2 there was not openness, because there was not
3 transparency, because we didn't just sort of lay
4 everything out on the table and say, okay, this is
5 the money that was taken out of the trust; these are
6 what the expenses are; this is what the money went
7 for to pay for these expenses or not; and this is
8 what you owe. I was willing to do that, but that
9 never happened.

10 Q So I take it you're willing to pay the
11 expenses; you just need some determination about your
12 fair share of what those expenses are?

13 A Exactly, what the fair share is. And I've
14 said that to her many times, that I'm willing to do
15 what's fair. I have always been willing to do what's
16 fair. The question for me has been, what is fair?
17 And it's hard to determine what's fair when you have
18 someone who's not providing you the information to
19 make that determination.

20 I mean, I hope I can say this, but even in
21 this case, with the tax returns, Frieda never let me
22 know about whether she took property tax deductions.
23 That was one of my questions. That's one of my
24 questions today.

25 And even with this case, in my opinion -- you

1 and I haven't talked about -- I haven't said this to
2 you, but I feel that she's stonewalled in that she
3 has not provided the schedules of -- that could be
4 redacted. There was a court order compelling her to
5 provide her tax returns during these years that are
6 affected, and she still hasn't given us those
7 schedules.

8 And she could redact them. I'm not trying it
9 to get into her life, but I do need the information
10 in order to make the determination of what's fair or
11 in order for us to make the determination of what's
12 fair, and in my opinion, she's still stonewalling on
13 something like that.

14 Q All right. So at the end of the day, what are
15 you asking this Court to do regarding the property,
16 the expenses, all of that?

17 A I would like for the Court to determine
18 ownership of the property; I'd like for the Court to
19 grant me equal and unfettered access to the house; I
20 would like for the Court to determine what Frieda's
21 damages are for having barred me from the home for so
22 many years; and I'd like for the Court to determine
23 what the fair and equitable expenses are for the
24 home.

25 MR. CONNOR: That's all the questions I have.

1 if you got in, if the key worked that time?

2 A I mean, if she hadn't made any changes, I
3 always had access to the code and the key, so I
4 wasn't worried about that. If she hadn't made any
5 changes, it wouldn't have been an issue.

6 Q So you went in 2009, you tried the key,
7 couldn't get in, and that was the end of that.

8 And then the next instance was 2010. You had
9 a conversation with your sister?

10 A Yes.

11 Q And then another one in 2012 or '14?

12 A '14.

13 Q And on both those occasions, you -- your
14 testimony is you got the same response from your
15 sister: that you can't use the home until you pay
16 the expenses?

17 A Until I pay her what she claimed I owed her,
18 yeah.

19 Q So up until 2014, you've never paid any of the
20 expenses on the home since your mother died. Is that
21 correct?

22 A That's correct.

23 Q Okay. Not anything? You're not claiming that
24 you paid anything relating to that house since 2007?

25 A Correct.

1 code; I went over and confirmed the fact that she had
2 changed the keys and the code.

3 We had numerous conversations -- well, we had
4 several conversations between 2009 and 2016 where I
5 continued to express my desire to use the house, and
6 she continued to refuse to allow me entry into the
7 house in no uncertain terms.

8 And then in 2016, we had a huge argument when
9 I wanted to come down with my daughter and
10 granddaughters, and she told me it wasn't my house,
11 among other things.

12 Q Right. But the only time you physically went
13 to the house was 2009?

14 A Yes, between -- and 2017, when the Court
15 granted me access to the house.

16 Q Right. And that was a consent order --

17 A Yes.

18 Q -- meaning you and your sister entered into an
19 agreement that the Court signed off on?

20 A That allowed me into the house. That was the
21 next time that I physically went to the house was
22 after the consent order was done where the Court said
23 you can get in. And I got the keys and the code at
24 that time.

25 Q Okay. And the code -- up until 2009, the

1 security code was the anniversary of your father's
2 death?

3 A Correct.

4 Q That's correct. Okay. What was the -- is
5 that the only significance of the numbers? Do you
6 know of any other --

7 A That's it.

8 Q Was your dad born in 1912?

9 A I think that's right.

10 Q Was your mom born in 1923?

11 A I think that's right.

12 Q So 1223, the birth year of your dad and the
13 birth year of your mom, which are the first four
14 digits of the code -- it's not that? It's the date
15 of his death is what your contention is, right?

16 A No. No. I said Mom -- when I got the new
17 code that I thought the new code represented my mom
18 and dad's anniversary. They got married on
19 December 23rd. So when I got the code, that's what
20 I thought it meant. I didn't know it meant Daddy's
21 birth year and Mom's birth year.

22 Q Okay. Do you have any evidence whatsoever
23 that that code was changed?

24 A Any evidence?

25 Q Yeah. You're saying the code was different

1 from the one you got after the consent order. Prior
2 to that, the code was a different code? It was your
3 dad's --

4 A What evidence would I have? I couldn't get
5 into the house. I was never given another code until
6 I got --

7 Q Your contention is that the code to get in up
8 until the time you were given a new code, that code
9 was based upon the date of your dad's death?

10 A Yes.

11 Q Do you remember what it was before that?

12 A It was -- that's the only code I ever had.
13 You know, when the house was built, we didn't have an
14 alarm system on it. So I think Mom must have put the
15 alarm system on shortly after Daddy died. I would
16 have to walk down memory lane to remember that, but
17 that's what makes sense to me, because Daddy was no
18 longer over there with us. But that's the only code
19 I ever had.

20 Q Okay. So you never took any steps to get into
21 the house by calling a locksmith or anything like
22 that?

23 A No.

24 Q Why didn't you simply -- if you owned half the
25 house, why didn't you make some effort to get into

1 did that on her own, and she knew that that was not
2 what was called for.

3 Q Right. So that's the only reason we're
4 bringing any of this up is to show that when you got
5 bills for the expenses on the property, you didn't
6 know if they were accurate or if you should pay them
7 or if they had already been paid or anything like
8 that?

9 A That's exactly right. What those matters
10 meant to me was I needed to verify what Frieda was
11 sending me in terms of what the expenses were. You
12 know, the expression "trust, but verify," that was
13 where I was. You know, I was trying to trust her,
14 but I needed to verify what was being sent to me,
15 because she had done some things that were
16 untrustworthy.

17 Q And we spent some time talking about whether
18 or not you were going to break into your own house.
19 Do you know if breaking into your own house is even
20 legal?

21 A I really don't know that for a fact, no.

22 Q Okay. And we talked about that you were
23 physically barred from the property in 2009, but you
24 didn't come back between then and 2017 to try your
25 key again, right?

1 switched and formed my own -- started my own company.
2 I've been doing that ever since.

3 Q What year did you start your own company?

4 A 1976.

5 Q And what's the name of your company?

6 A Then it was Edgar L. T. Gay Investment
7 Counseling, Inc. Now it's First Estate -- no, wait a
8 minute -- First City Capital Management.

9 Q Very good. And what do you do? Do you have
10 any certifications? What do you do for your clients?

11 A I have a certification of chartered financial
12 analyst, which is something for investment advisors.

13 Q And so that's what you do for your clients?
14 You help with their investments?

15 A Right.

16 Q How did you come to be involved with the McDew
17 family?

18 A Someone mentioned me to Dr. McDew, and so I
19 went over and met him. And he showed me -- he had a
20 portfolio, and we went over that and whatnot, and
21 felt like at the time there really wasn't any need to
22 make -- they were all good local companies and
23 whatnot -- to make any changes. So I just sort of
24 consulted with him after that, until -- I don't
25 believe I worked for him full-time or -- worked for

1 properties every six months to ensure that there are
2 no major problems; and if there are, we would attend
3 to them.

4 THE COURT: Your Honor, at this time, we'd
5 move to qualify Mr. Kirsten as an expert for the
6 purposes of rendering an opinion on current
7 reasonable market value for rental, long-term
8 rental, as well as past rental rates, for
9 properties.

10 THE COURT: Mr. Finn, any questions of this
11 witness with regard to --

12 MR. FINN: No, Your Honor.

13 THE COURT: Any objection to him being
14 qualified as an expert?

15 MR. FINN: No, Your Honor.

16 THE COURT: All right. He is an expert in
17 the grounds previously stated then.

18 Please go ahead.

19 BY MR. CONNOR:

20 Q Mr. Kirsten, have you had an opportunity to
21 inspect the property at 17 Bradley Beach Road?

22 A Yes, I did. I went together with Mr. Orville
23 on December 10th, and we gained access to the
24 property and walked the property and inspected it.

25 Q Walk me a little bit through your inspection.

1 place -- it's close to the beach -- he wants it, and
2 he'll do that. He'll say, don't worry about it; just
3 give it to me, and I'll fix the kitchen top, and I'll
4 do these small things for you.

5 We have cases like that where a contractor
6 type will come in and say, this, this, and this need
7 to be done, but I'll do it; I just want this house.

8 THE COURT: Okay. Thank you so much.

9 HENRI KIRSTEN: I'm sorry. I hope it answers
10 the question.

11 THE COURT: Yes, sir.

12 Any questions of this witness following up on
13 my question? No. Okay. Thank you so much. I
14 appreciate it.

15 HENRI KIRSTEN: Thank you, sir.

16 THE COURT: Any objection to this witness
17 leaving unless he'd like to stay?

18 MR. CONNOR: No, Your Honor.

19 THE COURT: Thank you so much, sir.

20 (Henri Kirsten exits the room.)

21 THE COURT: Did you have another witness or
22 was that --

23 MR. CONNOR: No more witnesses, Your Honor,
24 although at this time, we'd like the Court to take
25 judicial notice of the most recent pleadings filed

1 at, what, you know, Hilton Head PSD would cost,
2 different bills. I would have some knowledge of
3 that.

4 And then there's paperwork. You know, we get
5 paperwork every year that says, are you a rental; is
6 this a vacation home, or what have you, that has to
7 be filled out. Little things like that, she was
8 trying to get me to understand, because she could no
9 longer do that, but she could teach me.

10 And as I said, it was not my money at that
11 point. I was paying with her money.

12 Q Even though the property was deeded to you and
13 your sister in 1979; is that right?

14 A Right.

15 Q But your mom continued to pay the bills, let's
16 just say?

17 A Yes, she did.

18 Q And then when she lived with you, you
19 physically wrote the checks, but Mom was footing the
20 bills; is that accurate?

21 A Yes. Yes, that's very accurate. That's --
22 she had designated several accounts that she had, and
23 I knew what the Hilton Head account was, you know.
24 And my name was on the check along with her name, and
25 I would pay those Hilton Head bills from that bank.

1 Q And you certainly weren't occupying the house
2 full-time, correct?

3 A No, I was not.

4 Q With respect to the security code, why would
5 your sister need to ask you what the security code
6 was, do you think?

7 A I don't know why. She -- it hasn't been
8 changed. It's been the same. Maybe she just forgot
9 it. I don't know.

10 Q But if she punched in the same security code
11 that your mom had, that's it?

12 A That -- are you speaking of the 12231?

13 Q Yes.

14 A If she punched that in, she would be good to
15 go.

16 MR. FINN: Your Honor, we're going to
17 stipulate -- I'll let Andrew put his stipulation
18 on, but with respect to the amount of the expenses
19 that Mrs. Shorter has paid to carry the property,
20 they're all contained in this binder. The total
21 from two-thousand- -- we ran it from the mom's
22 death in 2007, March the 17th, through, really,
23 the end of '18. There's some miscellaneous for
24 2019, but I think that will -- we'll just -- we
25 stopped at 2018. The amount is \$151,918.54.

1 it was, was soon dropped; and in the later years, I
2 didn't pay that.

3 I hope I'm understanding your question. I
4 hope I'm answering correctly. Please, if I don't --

5 Q To be fair, I'm not sure I remember my
6 question at this point. Okay. So we've talked about
7 those. Would you qualify the telephone, ADT,
8 electric, and water as utilities?

9 A Yes, I would qualify that as utilities.

10 Q So you've been paying the expenses. At some
11 point Stephanie called you -- and we've talked about
12 this telephone call -- and asked for you to let her
13 into the house and give her the code, right?

14 A I don't recall her asking me to let her in the
15 house. I recall her saying that she was coming for
16 an event, and after today, I've been reminded it was
17 her 40th class reunion, and she wanted to stay on
18 Hilton Head.

19 And that degenerated into an argument, because
20 I was saying, you haven't paid anything; what do you
21 mean you want to stay? So that turned into an ugly
22 argument.

23 Q All right. So during the call, your testimony
24 is that she did not ask you to come let her in and
25 give her the code?

1 right?

2 A That -- why would he?

3 Q And you trust him?

4 A Yes, I do.

5 Q And this house has never been rented, has it?

6 A No, it hasn't.

7 Q And you don't have any idea what the rental
8 value of the property would be?

9 A My parents -- both of them -- Mary and
10 Stephen -- were set against renting the house. That
11 was something that they were dead-set against. So --

12 Q So you have no idea what the rental value of
13 the property would be?

14 A No, because we never even entertained that.

15 Q You've got no knowledge about the rental
16 market on Hilton Head Island?

17 A No.

18 Q And so you didn't make any decisions regarding
19 this property with its rental value in mind, have
20 you?

21 A No. The house was built as a vacation home
22 for family. It was not built to be rented out.

23 Q This property used to have a bathtub, didn't
24 it?

25 A Yes, it did, until my mother could no longer

1 A And go slowly.

2 Q All right.

3 A Because the 300-some-odd dollars that I
4 received was not because of the taxes. It had
5 nothing to do with the taxes.

6 Q Okay.

7 A Because I called and personally talked to
8 somebody. I said, why am I getting this money back?

9 Q So you pay the property taxes --

10 A Uh-huh.

11 Q -- for the Hilton Head property?

12 A Uh-huh. Yes, I do.

13 Q And at least in 2017, you wrote that off as a
14 deduction on your income taxes?

15 A Yes. My CPA did, and I explained to you,
16 prior to that, my husband took care of taxes. I
17 didn't do a thing other than sign my name. But when
18 he died, and I had to take over, then is when we had
19 the discussion about Hilton Head. And so that's why
20 it only occurred in 2017, and I think you talked to
21 Will Curry -- somebody did -- my CPA.

22 Q Do you know what the effect of claiming that
23 write-off is? Does it reduce your income tax burden?

24 A I can't say. I don't know. I'm learning. I
25 can tell you that: I'm learning. That's one

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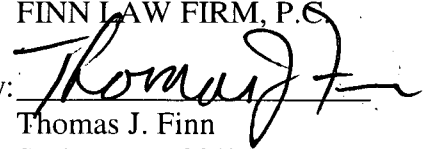
Stephanie M. McDew a/k/a Stephanie McDew
Schoumacher..... Appellant,

v.

Frieda P. McDew a/k/a Frieda McDew Shorter..... Respondent

CERTIFICATE OF SERVICE

This is to certify that Counsel for the Respondent has served a copy of Respondent's Supplemental Designation of Matter To be Included In The Record On Appeal and Appendix I on Appellant by placing same in the United States Mail, postage pre paid, on June 10, 2020 addressed to her attorney Andrew M. Connor, 151 Meeting Street Sixth Floor, Charleston, South Carolina 29401-2239.

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By: 
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Hilton Head Island, South Carolina
June 10, 2020

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SC Court of Appeals

June 10, 2020

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina
29211

RE: Stephanie M McDew a/ka Stephanie McDew Schoumacher v. Frieda P. McDew a/ka/ Frieda McDew Shorter
Appellate case No; 2019-002079

Dear Ms. Kitchings:

Enclosed for filing, please find an original and one copy of:

- (1) **Respondent's Supplemental Designation of Matter To Be Included In The Record On Appeal.**
- (2) **Appendix I**

Please file same and return a clocked in copy to me in the envelope provided.
By copy of this letter I have served same on opposing counsel.

Sincerely,



Thomas J. Finn

cc. Andrew M. Connor, Esquire

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