

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2017-CP-08-1839

RECEIVED

JUN 25 2019

SC Court of Appeals

Thomas C. Shoemaker and Caleb M.
Shoemaker,

APPELLANT,

-V-

Sydney Bruce Shoemaker,

RESPONDENT.

FINAL REPLY BRIEF OF APPELLANT

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TABLE OF AUTHORITIES

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STATEMENT OF THE CASE

Appellants have reached their majority as of May 9, 2019. Their Conservator had properly filed this action pursuant to SCRCF 17 (c). Now the Appellants remain real parties in interest under SCRCF 17 (a), capable of pursuing this action and appeal individually, but the Conservator is no longer necessary to advance their interests. The caption should be changed to reflect this as is done in this filing.

ARGUMENT

In response to the Final Brief of Respondent, and incorporating the Final Brief of Appellant, Appellants state as follows.

Contrary to Respondent's assertion that he was sued in his capacity as Trustee of the Cameron Shoemaker Life Insurance Trust (sic), he was actually sued individually (R. p.8, line 11-13). Respondent continues to engage in the process of misdirection. He wants the Courts to believe that this is merely a case regarding the administration of an Idaho trust when it is an action in tort about a constructive trust that Respondent breached, by his own admission; conversion of the funds that were placed in his trust, by his own admission; and his continued contempt for the Courts of South Carolina, including, now, this Court. Under no Order did Respondent have the authority to steal the monies entrusted to him; grant money to a child who was not the subject of the divorce action that appointed him trustee; to set up alternate trustees; to expend any funds from the monies placed in his trust; to engage in retirement planning for himself and his wife with the trust funds; to subject the funds to waste or to withhold the funds from the Appellants upon their attaining the age of majority. Yet he chose to do all of it and has admitted to most of it in his pleadings, discovery and Final Brief. Compounding this is the fact

that he has chosen to ignore the pleadings themselves and has tried to define the matter as something of his own choosing.

SUBJECT MATTER JURISDICTION.

Respondent again points to the false matter of “issues related to an Idaho resident’s administration of an Idaho trust for the benefit of South Carolina beneficiaries”. This simply is not the case at bar. This action is in tort. This action is about monies placed in Respondent’s hands by South Carolina Courts, under South Carolina Orders, creating a South Carolina constructive trust. This action is based upon Respondent’s criminal acts and requests civil remedies for the results of those criminal acts. It is sheer contempt of this Court for Respondent to come before it and ask that the Orders of the Family Courts of South Carolina, the pleadings and his actions be ignored.

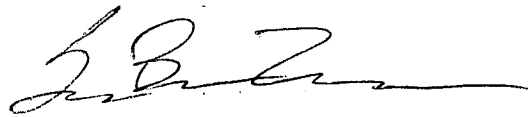
APPELLANTS’ MAJORITY/STANDING OF THE CONSERVATOR.

As was pointed out in the Statement of the Case, the Conservator had properly filed this action pursuant to SCRCF 17 (c). Now the Appellants remain real parties in interest under SCRCF 17 (a). The proper remedy is modifying the caption to reflect the Appellants acting in their own right without the need for the Conservator. If for some reason the caption is deemed defective, Appellants should be substituted under SCRCF Rule 25 as real parties in interest.

CONCLUSION

Appellants ask that the Appellate Court allow Appellants Thomas Colton Shoemaker and Caleb Mitchum Shoemaker to proceed on their own right; reverse the Circuit Court's dismissal for lack of subject matter; and remand the case for further proceedings not inconsistent with this Court's Order.

Respectfully submitted,



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June 22, 2019

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SC Court of Appeals

Amy M. Bannon Zenner,
Conservator for Thomas C. Shoemaker
and Caleb M. Shoemaker,

APPELLANT,

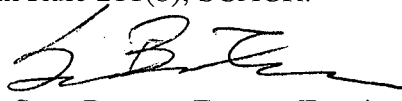
-v-

Sydney Bruce Shoemaker,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.


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