

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Alison Renee Lee, Chief Administrative Circuit Court Judge
Case No. 2016-CP-19-00141

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SC Court of Appeals

Appellate Case No. 2019-001428

Rufus Lyndell Griffin

Appellant

v.

Thomas Mosley, Quinnie Mosley, Walter Mosley,
Timothy Mosley, and Paquita Mosley, Individually and
as Personal Representative of the Estate of Ellec Mosley

Respondents

RECORD ON APPEAL

Rufus L. Griffin
313 Fifth Avenue
McCormick, SC 29835
(864) 852-2163
(Appellant pro se)

Rachael A. Dain, 810 Dutch Square Blvd., Ste 215, Columbia, SC 29210 (803-602-6716)
Palmer Freeman, Jr., PO Box 8086, Columbia, SC 29202-8086 (803-799-9400)
Thomas Mosley, pro se, 1018 Price Ave., Columbia, SC 29201 (803-929-0969)
Randall D. Williams, PO Box 70, Edgefield, SC 29824 (803-637-4902)
Eydie J. Tillman, P.O. Box 71, Edgefield, SC 29824 (803-637-1220)
Eleazer R. Carter, P.O. Box 187, Manning, SC 29102 (803-435-0550)
(Attorneys for Respondents)

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STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Rufus Lyndell Griffin,

Plaintiff,

C/A NO: 2016-CP-19-00141

vs.

ORDER

Thomas Mosley, Quinnie Mosley, Walter
Mosley, Timothy Mosley, and Paquita
Mosley, Individually and as Personal
Representative for the Estate of Ellec Mosley,
Defendants.

This matter is before this Court on a Motion to Dismiss filed on February 18, 2019 by Defendant Paquita Mosley ("Defendant"). Rufus Griffin ("Plaintiff"), Pro Se and Palmer Freeman, Jr., Esq., counsel for Defendant, were present for the hearing conducted at the Edgefield County Courthouse on March 18, 2019.

BACKGROUND

At the hearing, Defendant sought dismissal of the complaint on two grounds:

First, Defendant averred dismissal is a proper remedy for Plaintiff's lack of compliance with Defendant's discovery requests under Rule 37(b)(2)(C), SCRCP. Defendant stated that Plaintiff had not answered the interrogatories that were sent following the previous hearing in July 2018. Plaintiff asserted that he never received any interrogatories. Following the hearing in March, this Court ordered Defendant to provide Plaintiff with an additional copy of the interrogatories. Plaintiff was ordered to respond to those interrogatories within fifteen days of receiving them. Plaintiff was also ordered to produce any documents responsive to Defendant's request for production within sixty days of the hearing. Defendant's motion for dismissal on the basis of noncompliance with discovery is now moot. See Order dated March 20, 2019.

Defendant also sought dismissal of Plaintiff's complaint on the basis that another action between the parties is pending in probate court. See Rule 12 (b)(8), SCRCP. Plaintiff stipulated there was a pending probate action, but he contends that the instant action involves a dispute over non-probate assets that is properly before this Court. At the hearing this motion was taken under advisement.

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LEGAL STANDARD

A defendant may move for dismissal of an action pursuant to Rule 12(b)(8), SCRCP when another action is pending between the same parties for the same claim. *Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312, 322, 701 S.E.2d 39, 44 (Ct. App. 2010); *Capital City Ins. Co v. BP Staff, Inc.*, 382 S.C. 92, 105-106, 674 S.E.2d 524, 531-532 (Ct. App. 2009) (noting that the claim must either be substantially or precisely the same as in the other action).

DISCUSSION

Plaintiff asserted during the hearing that this case is different from the underlying probate action in that it involves funds which are/were not probate assets. However, a review of the record in this case offers insufficient evidence to draw such a conclusion. The complaint seeks damages for estate assets wrongfully converted by Defendant as well as claims for assets which were purportedly jointly owned by Plaintiff and Ellec Mosley ("the Decedent").

The underlying probate case was appealed to the circuit court following a determination that Plaintiff had failed to prove paternity beyond a reasonable doubt.¹ The circuit court found error in this decision, noting that Plaintiff's burden of proof under the statute was "clear and convincing" evidence. Order of J. McMahon dated Nov. 12, 2015, Docket No. 2014CP1900324. The Order of the Probate Court was reversed and remanded for further proceedings to determine paternity consistent with the statutory requirements of S.C. Code Ann. § 62-2-109(2)(ii).

This case, like the underlying probate action, involves a dispute over assets originally in the possession of the Decedent that were distributed to Defendant and other parties following Decedent's death in December 2, 2012. See Complaint ¶¶ 24-25, 33-34. Defendant is also the named defendant in the underlying probate action. The complaint asserts, in part, that Plaintiff is a lawful heir to the Decedent's estate and is therefore entitled to a share of the assets. Whether Plaintiff actually is an heir or entitled to those assets is a question that falls within the exclusive jurisdiction of the probate court. S.C. Code Ann. § 62-1-302 (2019). Section 62-1-302 provides in part that the probate court has exclusive original jurisdiction over paternity matters. S.C. Code Ann. § 62-1-302(c) (2019). The probate court may, in its discretion, remove certain matters to

¹ Originally filed in Edgefield County as Probate Case No. 2013-ES-19-0001, the case was subsequently transferred to Lexington County. The Lexington County Probate Court assigned case number 2016-ES-32-262 to the file and Judge Eckstrom was appointed special probate judge by order of the Supreme Court on January 27, 2016. Judge Eckstrom later recused himself and Judge Travis Moore of Greenwood County was appointed special probate judge on February 15, 2018. The Greenwood County Probate Court received the file in March 2018 and it retains the original Edgefield case number.

circuit court including, inter alia, issues triable before a jury and involving amounts in controversy of five thousand dollars or more. S.C. Code Ann. § 62-1-302(d)(5) (2019). An interested party may accomplish the same by filing a motion. *Id.* However, that is not the procedural posture of this case. Plaintiff initiated this action through the filing of a summons and complaint in circuit court rather than a motion for removal of the probate action to circuit court.² Accordingly, the issues raised in Plaintiff's complaint are proper for the probate court to consider as a matter of first impression.

ORDER

Therefore, based upon the foregoing, **IT IS ORDERED**, Defendant's Motion to Dismiss is **GRANTED**.

AND IT IS SO ORDERED.

² Plaintiff initially filed this action in Richland County on December 10, 2015 (Docket No. 2015CP4007354) after the probate matter was filed in Edgefield in 2013. Venue was transferred to Edgefield County by Order dated May 3, 2016.



Edgefield Common Pleas

Case Caption: Rufus Lyndell Griffin VS Thomas Et Al Mosley , defendant, et al.
Case Number: 2016CP1900141
Type: Order/Dismissal

IT IS SO ORDERED!

s/ Alison Renee Lee, Chief Administrative Judge

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS)
FOR THE FIFTH)
JUDICIAL CIRCUIT)

2015-1354
(CM)

RUFUS LYNDELL GRIFFIN,)

Plaintiff,)

vs.)

AMENDED COMPLAINT)

THOMAS MOSLEY, Individual;)
PAQUITA MOSLEY, Individual;)
TIMOTHY MOSLEY, Individual;)
QUINNIE MOSLEY, Individual;)
WALTER MOSLEY, Individual;)
BETTY MOSLEY, Individual;)
Paquita Mosley, as Personal Representative of)
The ESTATE OF ELLEC MOSLEY;)

Defendants.)

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Plaintiff, by and through undersigned counsel, submits this complaint against the Defendants:

1. Rufus Lyndell Griffin ("Mr. Griffin") is a South Carolina citizen and subjects himself to the jurisdiction of this Court.
2. Thomas Mosley is an individual who is subject to the jurisdiction of this Court and may be served with process at 1018 Price Ave Columbia, South Carolina 29201 located in Richland County.
3. Paquita Mosley an individual who is subject to the jurisdiction of this Court and may be served with process at 235 Carroll Street Edgefield, South Carolina 29824.
4. Timothy Mosley an individual who is subject to the jurisdiction of this Court and may be served with process at 730 Youngblood Road Edgefield, South Carolina 29824.

5. Quinnie Mosley an individual who is subject to the jurisdiction of this Court and may be served with process at 704 Youngblood Road Edgefield, South Carolina 29824.
6. Walter Mosley an individual who is subject to the jurisdiction of this Court and may be served with process at 730 Youngblood Road Edgefield, South Carolina 29824.
7. Betty Mosley, is an individual who is subject to the jurisdiction of this Court and may be served with process at 1018 Price Ave Columbia, South Carolina 29201 located in Richland County.
8. Paquita Mosley, as representative of the Estate of Ellec Mosley an individual who is subject to the jurisdiction of this Court and may be served with process at 235 Carroll Street Edgefield, South Carolina 29824.

FACTUAL ALLEGATIONS

All prior allegations of the complaint are realleged and incorporated herein by reference.

9. Mr. Griffin is the natural born son of Ellec Mosley (hereinafter "the Decedent").
10. In late 2011, the Decedent, Ellec Mosley, was diagnosed with terminal cancer.
11. Upon information and belief, Paquita, Thomas Mosley ("Thomas"), Timothy Mosley (Timothy"), Quinnie Mosley ("Quinnie"), Walter Mosley ("Walter"), and Betty Mosley ("Betty") entered into a civil conspiracy to take all of Decedent's property before and after his death in an attempt to ensure that Plaintiff did not receive his proper share.
12. To this end, Thomas Mosley, a licensed attorney in South Carolina, drafted a deed from the Decedent to Paquita Mosley for sixteen (16) acres of Property located in Edgefield County.
13. On July 17, 2012, Thomas Mosley and Paquita Mosley met with the Decedent, wherein Paquita Mosley signed as a witness as did Betty Mosley. A true and accurate copy of the deed is attached hereto and made a part hereof as Exhibit "1."

14. Upon information and belief, Betty Mosley was not present and Thomas Mosley forged Ms. Mosley's signature on the deed as a witness.
15. Paquita Mosley informed the Decedent that she had found a life-saving treatment for him in Charleston, South Carolina.
16. However, this turned out to be a trick to get Decedent to go to the emergency room and then entering a nursing home, as Paquita informed Decedent that the Charleston, SC facility would not take him otherwise.
17. Believing Paquita Mosley, the Decedent was admitted to the emergency room on July 20, 2012.
18. All admission documents were signed by Timothy Mosley, including the Decedent's Do Not Resuscitate Forms. A true and accurate copy of the deed is attached hereto and made a part hereof as Exhibit "2."
19. At no time did Timothy Mosley have a Healthcare Power of Attorney for the Decedent.
20. On August 3, 2012, Paquita Mosley traveled from Washington D.C. and checks the Decedent out of his nursing home at 10:50pm, requiring the Decedent to cancel his cardiologist appointment that day.
21. Because the Decedent was in substantial pain from his illness, Paquita was given 4mg of Dilaudid, a powerful narcotic, to give the Decedent.
22. Paquita then administered the Dilaudid to the Decedent.
23. While Paquita had the Decedent, Paquita drove him to the Edgefield County Branch of Wells Fargo where three of five of Decedent's Certificates of Deposit ("CDs") were cashed in and then endorsed to Paquita Mosley, in a total amount of \$32,339.00.

24. The three CDs Paquita cashed and endorsed to herself were jointly held by the Decedent and Plaintiff.
25. There were two remaining CDs held by Decedent and Plaintiff, and others naming Decedent and Paquita jointly.
26. The events described in paragraphs 22 and 23 above were accomplished by Paquita directing the Decedent to sign his name, without entering the bank, then Paquita added an endorsement to herself on the back of the checks without Decedent's knowledge.
27. As part of the conspiracy, Thomas Mosley prepared a Power of Attorney in which Decedent "granted" Paquita Mosley and Timothy Mosley the position as Decedent's Attorney-in-Fact. A true and accurate copy of the deed is attached hereto and made a part hereof as Exhibit "3."
28. During Paquita and Decedent's August 3, 2012 outing from the nursing home, Paquita purportedly had Decedent sign said Power of Attorney, while Decedent was under the influence of the Diuladid and upon belief, Paquita's undue influence.
29. Paquita then took Decedent back to the nursing home and drove to Columbia, South Carolina where Thomas Mosley and Betty Mosley signed the Power of Attorney as "witnesses" of the Decedent's signature.
30. The nursing home records indicate that Decedent was only checked out from the nursing home for approximately one and a half hours and the nursing home is located in Edgefield, South Carolina on August 3, 2012.
31. The unlawful Power of Attorney did not grant Paquita Mosley or Timothy Mosley the power to make gifts.

32. The unlawful Power of Attorney, created by Thomas Mosley and illegally witnessed by Betty Mosley, named Paquita Mosley and Timothy Mosley (the decedent's nephew) as the Decedent's Attorney-in-Fact.
33. On August 21, 2012 Timothy Mosley used the unlawful Power of Attorney ("POA") to cash out the two remaining CDs jointly held in the Decedent's name and Plaintiff's name, each valued at over \$10,800.00.
34. Timothy Mosley then used the unlawful POA to withdraw \$8,787.82 from a checking account solely named to Decedent with a Payable On Death named to Plaintiff.
35. Timothy Mosley and Paquita Mosley also forged the Decedent's signature on multiple financial documents to move assets out of the Decedent's name as part of the conspiracy.
36. Around this time, Plaintiff spoke to Thomas Mosley who admitted that he had not seen the Decedent since July 17, 2012, thus admitting that he did not, in fact, actually witness the Decedent "signing" the POA.
37. On September 7, 2012, as Decedent's health continued to decline, Timothy Mosley then withdrew another \$13,000 from an account solely held by Decedent.
38. Timothy then placed that money in an account he had created with the POA and listed himself as the POA.
39. The \$13,000.00 was then transferred to an account naming both Paquita and Timothy as the POAs.
40. On December 2, 2012, Decedent died intestate.
41. Decedent's funeral took place on December 8, 2012 where an obituary and Paquita Mosley prepared the obituary naming Plaintiff as Decedent's son.

42. On December 11, 2012, Plaintiff went to Wells Fargo and first learned that the CDs held by himself and the Decedent had been recently cashed out.
43. Further, Plaintiff learned that Decedent's bank account listing Plaintiff as POD had been drained, leaving a balance of \$125.00.
44. Plaintiff also learned that Paquita claimed to have paid the funeral expenses personally and received reimbursement in the amount of \$8,211.55.
45. On December 12, 2012, Paquita gave Plaintiff a form to sign for Plaintiff to relinquish all of his rights to his father's estate.
46. Subsequently, Plaintiff learned that Quinnie Mosley received one of Decedent's vehicle, a 1984 Mercedes, from Timothy Mosley using the unlawful POA.
47. Plaintiff also learned that Paquita converted a 1994 Dodge Magnum from the Decedent, a vehicle which Paquita is now driving in Washington D.C.
48. Timothy took a 1994 Lexus from the Decedent's estate which is, as of the date of this filing, located at Timothy's residence.¹
49. Upon information and belief, Walter Mosley has possession of this 1994 Lexus.

**FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS
(CIVIL CONSPIRACY)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

50. In late 2011, after learning of Decedent's terminal prognosis, Thomas Mosley, Betty Mosley, Paquita Mosley, Timothy Mosley, and Quinnie Mosley entered into a civil conspiracy to drain all of Decedent's assets for their own benefit to keep Plaintiff from receiving half of Decedent's substantial estate.

¹ Plaintiff shall refer to all three vehicles listed in Numbers 50-52 as "the Vehicles."

51. The purpose of the conspiracy was to cause pecuniary harm to Plaintiff and divest him of the inheritance for which Plaintiff was entitled.
52. The special damages sustained by Plaintiff are pecuniary in nature and amount to the determined at trial.
53. Further, Plaintiff sustained loss of sixteen acres of real property in Edgefield County, Tax Map# 157-00-00-020 ("the Edgefield Property") and a vehicle ("Vehicle").
54. The conspirators had a joint assent of their minds to prosecute this unlawful enterprise, using forged documents, drugs, and lies to defraud Plaintiff.
55. As a direct and proximate result of the CDs and bank accounts being unlawfully drained, Plaintiff suffered a direct pecuniary loss.
56. As a direct and proximate result of the Edgefield Property being unlawfully deeded, and the Vehicles being unlawfully transferred from Decedent, those items would have been included as part of Decedent's Estate and split equally between Decedent's two heirs, Plaintiff and Paquita.
57. As a result of the civil conspiracy, each conspirator is jointly and severally liable to Plaintiff for a total amount to be determined at trial.
58. Further, this Court should claw the Edgefield Property and the vehicle or their reasonable fair market value back into the Estate of Ellec Mosley.

**FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS
(CONVERSION OF ASSETS)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

59. Plaintiff is the legal owner of certain funds unlawfully taken by Defendants, the Vehicles, and the Edgefield Property.

60. Defendants have wrongfully asserted dominion and control over Plaintiff's property which is inconsistent with Plaintiff's legal right to it.
61. Defendants refused Plaintiff's demand to return Plaintiff's property to him.
62. By virtue of the Defendants' acts, Plaintiff has been damaged in an amount to be proven at trial, including punitive damages, costs, and expenses of litigation.
63. Further, this Court should claw the Edgefield Property and the vehicle or their reasonable fair market value back into the Estate of Ellec Mosley.

**FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS
(CONSTRUCTIVE TRUST)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

64. Defendants, through their malfeasance, have obtained Plaintiff's property which does not rightfully belong to them.
65. Defendants, are not, in equity and good conscience, entitled to hold and enjoy the beneficial interest from Plaintiff's Property, or the funds derived or to be derived from any ownership or sale of Property, in light of their wrongful action.
66. This Court should find that Defendants hold Plaintiff's Property or any funds derived from Plaintiff's Property for the benefit of Plaintiff during the pendency of this litigation and that Plaintiff is entitled to an order establishing a constructive trust and an entry of judgment (a) requiring Defendants to return Plaintiff's Property to Plaintiff; and (b) requiring Defendants to return any funds derived from the ownership or sale of Plaintiff's Property.

**FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS
(PUNITIVE DAMAGES)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

67. As a direct result of Defendants wilful, wanton, and reckless conduct, Plaintiff has suffered significant damages.

**FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS
(INVALID EXECUTION OF A POWER OF ATTORNEY)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

68. As alleged above, Paquita checked Decedent out of his nursing home, used 4mg of Dialuded, and secured the signature of Decedent on August 3, 2012.

69. Decedent's state of mind in question as to whether he was mentally capable of signing the Power of Attorney and understanding its contents.

70. After securing Decedents' signature on the POA by unlawful means, Paquita drove to Columbia, South Carolina, where Thomas and Betty Mosley "witnessed" the POA without actually witnessed physically, Decedent sign the POA.

71. As a result, the POA should be nullified and any and all property transferred by its use should be awarded to Plaintiff or clawed back to the Estate of Ellec Mosley.

**FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS
(PRELIMINARY INJUNCTION/REQUEST STAY OF PROBATE ACTION)**

All prior allegations of the complaint are realleged and incorporated herein by reference.

72. Plaintiff has alleged above that Defendants entered into a conspiracy to commit multiple intentional torts, and even criminal activity, in an effort to drain Decedent's holdings before his death and after his death.

73. Defendants are continuing to drain Decedent's estate.

74. This Court has jurisdiction.

75. This motion seeks to enjoin Defendants from continuing to drain or transfer the assets unlawfully obtained from Decedent and Decedent's estate, that are Plaintiff's Property.

76. Plaintiff will suffer irreparable harm if Defendants are permitted to continue to drain Decedent's estate and transfer assets Defendants obtained unlawfully from Decedent.

77. There is no adequate remedy at law, as money and property is continuing to be taken by Defendants.

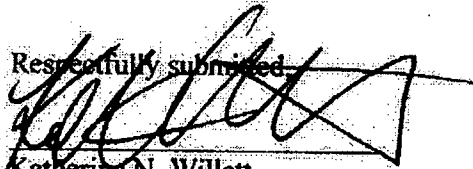
78. There is no harm to Defendants' interests if this motion for preliminary injunction is granted.

WHEREFORE, Plaintiff respectfully requests this Court:

- 1) That he have a trial by jury as to each and every appropriate issue;
- 2) A judgment against Defendants in an amount to be determined at trial;
- 3) An Order that the Vehicle and the Edgefield Property be clawed back to the Estate of Ellec Mosley, so that Plaintiff may receive his one-half share;
- 4) Prejudgment interest;
- 5) Court costs;
- 6) Attorney's fees;
- 7) Any and all other relief the Court deems just and proper.

This 12th day of February.

Respectfully submitted,


Katherine N. Willett
SC Bar No. 100324
Daniel Burroughs
SC Bar No. 100346

Burroughs Elijah, LLC
1200 Woodruff Road
A-3
Greenville, SC 29607

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)
)
RUFUS L. GRIFFIN)
)
vs.)
)
PAQUITA MOSELY)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

ORDER

2014-CP-19-0324

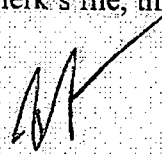
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CLERK OF COURT
CHARLES

This matter is before the Court pursuant to an appeal filed by Rufus Griffin alleging the Probate Judge erred in applying the requisite evidentiary standard used to prove paternity. Specifically, Judge Peeler required Griffin to prove his kinship to the decedent, Ellec Moseley, beyond a reasonable doubt rather than by clear and convincing evidence. This appeal was heard on October 6th, 2015. Appellant Griffin and Respondent Paquita Moseley appeared *pro se*.

This Court has jurisdiction to hear this appeal pursuant to S.C. Code Ann § 62-1-308 (Supp. 2014). In reviewing a case on appeal from a Probate Court, the circuit court may not disturb the probate court's findings of fact unless a review of the record discloses there is no evidence to support them; however, questions of law may be decided with no particular deference to the lower court. *Neely v. Thomasson*, 365 S.C. 345, 349-50, 618 S.E.2d 884, 886 (2005) (citing *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 327, 534 S.E.2d 672, 675 (2000); *Matter of Howard*, 315 S.C. 356, 361, 434 S.E.2d 254, 257 (1993)).

This Court finds, and the record supports such a finding, that Appellant Rufus Griffin need only prove his kinship to the decedent by clear and convincing proof pursuant to S.C. Code Ann. § 62-2-109(2)(ii) (Supp. 2014) (providing that "paternity is established . . . by clear and convincing proof") *Id.* After reviewing all applicable transcripts, the Notice of Appeal, the Return, and all documents submitted with the Clerk's file, this Court reverses the decision of the



Probate Judge. Specifically, the Probate Court's Order of Formal Testacy found that Rufus Griffin "failed to provide the court with evidence beyond a reasonable doubt that Ellec Mosley was his biological father." See Memorandum of Formal Hearing, In the Matter of Ellec Mosley 2013-ES-19-00001 (2013).

THEREFORE IT IS ORDERED that this case is hereby REVERSED and REMANDED.

AND IT IS SO ORDERED.



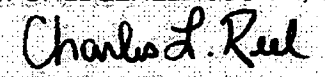
R. Knox McMahon, Presiding Judge
Eleventh Judicial Circuit

November 12th, 2015

Lexington, South Carolina

THE ABOVE IS A TRUE COPY OF THE ORIGINAL WHICH IS ON FILE IN THE OFFICE OF THE CLERK OF COURT OF EDGEFIELD COUNTY, SC

11-12-15
DATED


CHARLES L. REEL, CLERK OF COURT
OF GENERAL SESSIONS AND
COMMON PLEAS, E.C.S.C.

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

Rufus Lyndell Griffin Plaintiff,

v.

Paquita Mosley, et al. Defendants.

COMMON PLEAS
5TH JUDICIAL CIRCUIT

Docket No.: 2015-CP-40-7354

JURY TRIAL DEMANDED

ANSWER AND CROSSCLAIMS

FOR A FIRST DEFENSE TO THE COMPLAINT

Unless modified below, Defendant Paquita Mosley (Defendant), denies every allegation in the Complaint.

FOR A SECOND DEFENSE TO THE COMPLAINT

1. Defendant is without sufficient knowledge or information to form a response to paragraph 1.
2. Defendant is without sufficient knowledge or information to form a response to paragraph 2.
3. Defendant admits paragraph 3.
4. Defendant is without sufficient knowledge or information to form a response to paragraph 4.
5. Defendant is without sufficient knowledge or information to form a response to paragraph 5.
6. Defendant is without sufficient knowledge or information to form a response to paragraph 6.
7. Defendant is without sufficient knowledge or information to form a response to paragraph 7.
8. Defendant admits paragraph 8.
9. Defendant is without sufficient knowledge or information to form a response to paragraph 9.
10. Defendant admits paragraph 10.
11. Defendant denies paragraph 11.
12. Defendant is without sufficient knowledge or information to form a response to paragraph 12.

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response to paragraph 51.

52. Defendant denies is without sufficient knowledge or information to form a response to paragraph 52.

53. Defendant denies paragraph 53.

54. Defendant denies paragraph 54.

55. Defendant denies paragraph 55.

56. Defendant denies paragraph 56.

57. Defendant denies paragraph 57.

58. Defendant denies paragraph 58.

59. Defendant denies paragraph 59.

60. Defendant denies paragraph 60.

61. Defendant denies paragraph 61.

62. Defendant denies paragraph 62.

63. Defendant denies paragraph 63.

64. Defendant denies paragraph 64.

65. Defendant denies paragraph 65.

66. Defendant denies paragraph 66.

67. Defendant denies paragraph 67.

68. Defendant denies paragraph 68.

69. Defendant denies paragraph 69.

70. Defendant denies paragraph 70.

71. Defendant admits paragraph 71.

72. Defendant denies paragraph 72.

73. Defendant denies paragraph 73.

74. Defendant denies paragraph 74.

75. Defendant denies paragraph 75.

76. Defendant denies paragraph 76.

77. Defendant denies paragraph 77.



**FOR A THIRD DEFENSE TO THE COMPLAINT
(Lack of Subject Matter Jurisdiction)**

78. Defendant asserts that, pursuant to Rule 12(b)(1), SCRCP, Plaintiff's

Complaint may be subject to dismissal with costs paid to Defendant because this Court lacks subject matter jurisdiction.

**FOR A FOURTH DEFENSE TO THE COMPLAINT
(Lack of Personal Jurisdiction)**

79. Defendant asserts that, pursuant to Rule 12(b)(2), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant because this Court lacks personal jurisdiction over the parties.

**FOR A FIFTH DEFENSE TO THE COMPLAINT
(Improper Venue)**

80. Defendant asserts that, pursuant to Rule 12(b)(3), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant because this Court is an improper venue.

**FOR A SIXTH DEFENSE TO THE COMPLAINT
(Insufficiency of Process)**

81. Defendant asserts that, pursuant to Rule 12(b)(4), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant because of insufficiency of process.

**FOR A SEVENTH DEFENSE TO THE COMPLAINT
(Insufficiency of Service of Process)**

82. Defendant asserts that, pursuant to Rule 12(b)(5), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant because of insufficiency of service of process.

**FOR A EIGHTH DEFENSE TO THE COMPLAINT
(Insufficient Facts to Constitute a Cause of Action)**

83. Defendant asserts that, pursuant to Rule 12(b)(6), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant due to a failure to state facts sufficient to constitute a cause of action.

**FOR A NINTH DEFENSE TO THE COMPLAINT
(Failure to Join A Necessary Party)**

84. Defendant asserts that, pursuant to Rule 12(b)(7), SCRCP, Plaintiff's Complaint may be subject to dismissal with costs paid to Defendant because Plaintiff failed to join a necessary party.



**FOR A TENTH DEFENSE TO THE COMPLAINT
(Action Already Pending Between Same Parties for Same Claim)**

85. Defendant asserts that, pursuant to Rule 12(b)(8), SCRCP, Plaintiff's Complaint should be dismissed with costs paid to Defendant because there is another action pending between same parties for same claim.

BY WAY OF CROSS CLAIMS AGAINST DEFENDANT THOMAS MOSLEY

FACTS ALLEGED

86. Defendant Thomas Mosley is an attorney licensed to practice law in South Carolina.

87. Defendant Thomas Mosley had an attorney-client relationship with Ellec Mosley.

88. Defendant Thomas Mosley prepared legal documents for Ellec Mosley, to effectuate the intent of Ellec Mosley to transfer his assets to his daughter prior to his death. Defendant Thomas Mosley knew that Defendant herein was the intended beneficiary of the documents he prepared for Ellec Mosley.

**FOR A ELEVENTH DEFENSE TO THE COMPLAINT
(Indemnification)**

89. Previous allegations consistent with this cause of action are repeated.

90. Any losses that may have been sustained by Plaintiff were entirely the result of the negligence of Defendant Thomas Mosley.

91. Defendant Thomas Mosley's negligence requires him to indemnify Plaintiff for any alleged losses sustained by Plaintiff that arise directly or indirectly from Defendant Thomas Mosley's actions.

**FOR A TWELFTH DEFENSE TO THE COMPLAINT
(Professional Negligence)**

92. Previous allegations consistent with this cause of action are repeated.

93. Defendant Thomas Mosley had an attorney-client relationship with Ellec Mosley.

94. Defendant Thomas Mosley breached his professional and fiduciary duty to Ellec Mosley which in turn caused damages to the Estate of Ellec Mosley and his daughter, Defendant herein.

PRAYER

Defendant Paquita Mosley requests of this Court to:

- a. Dismiss Plaintiff's Complaint;
- b. Grant her judgment against Defendant Thomas Mosley for all damages that may be allowed by law, including but not limited to actual damages, liquidated damages, special damages and punitive damages, pre-judgment interest, post-judgment interest, and the costs of this action to include reasonable attorney's fees, and
- c. Such other relief as this Court shall deem just and proper.



Columbia, South Carolina

Rachael A. Dain, J.D. Bar#: 12768
 ATTORNEY DAIN, LLC
 Post Office Box 212654
 Columbia, SC 29221
 Voice: 803.256.6661
 Facsimile: 866.803.6642
Rachael@AttorneyDain.com

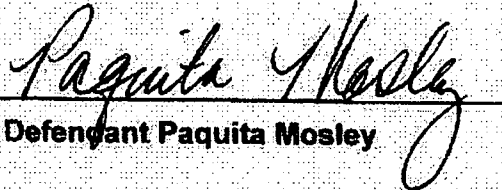
ATTORNEY FOR DEFENDANT PAQUITA MOSLEY

RICHLAND COUNTY
 FILED
 2016 FEB 12 PM 3:40
 JEANNE E. W. MCBRIDE
 C. C. P. & G. S.

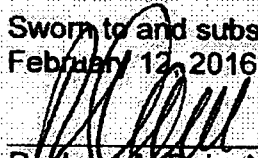
VERIFICATION

After first being duly sworn, I do testify as follows:

- 1. I am a defendant in this matter.
- 2. I have read the attached Answer with Crossclaims, understand the allegations therein, have personal knowledge of all alleged facts therein except for those identified as based upon information and belief, which I believe to be true.


 Defendant Paquita Mosley

Sworn to and subscribed before me on February 12, 2016.



Rachael A. Dain, Notary Public for South Carolina
My Commission expires on April 4, 2016.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Rufus Lyndell Griffin,)
)
 Plaintiffs,)
)
 v.)
)
 Thomas Mosely, Individual; Paquita)
 Mosely, Individual; Timothy Mosley,)
 Individual; Quinnie Mosley, Individual;)
 Betty Mosely, Individual; Paquita Mosely)
 as Personal Representative of the Estate of)
 Ellec Mosley,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

IN THE FIFTH JUDICIAL CIRCUIT

Case No.: 2015-CP-40-07354

ORDER GRANTING DEFENDANT'S MOTION TO CHANGE VENUE

RICHLAND COUNTY
 FILED
 2016 MAY 17 PM 2:49
 JEREMY L. ...
 C.C.P. ...

This matter came before the Court on April 6, 2016 on motion of Defendant Thomas Mosely's Motion to Change Venue. Specifically, Defendant Mosely moved pursuant to South Carolina Code § 15-7-10(1) and Rule 12(b)(3) of the South Carolina Rules of Civil Procedure to transfer venue of this action to the Court of Common Pleas for the Eleventh Judicial Circuit, Edgefield County, South Carolina.

Plaintiff filed the instant action in Richland County, South Carolina, seeking recovery of both real property and personal property located in Edgefield County, South Carolina. Under S.C. Code § 15-7-10(1), an action for the recovery of real property or of an estate or interest in real property must be tried in the County in which the property is situated. Here, all property is located in Edgefield County. Therefore, Plaintiff's action must be transferred to Edgefield County as a matter of law.

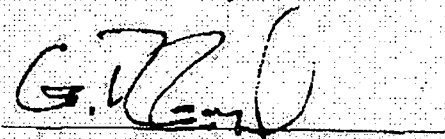
Additionally, South Carolina law provides that law suits brought against a fiduciary may be brought where such administration has been granted. S.C. Code § 15-7-40. Plaintiff is

currently involved in litigation in the Probate Court of Edgefield County, South Carolina, which concerns the real property and personal property of the Estate of Ellec Mosley.

Finally, judicial economy and judicial convenience support the transferring this action to Edgefield County, South Carolina. The court may exercise its discretion in granting a Motion to Change Venue based upon the convenience of witnesses and the ends of justice. *Whaley v. CSX Transport, Inc.*, 362 S.C. 456, 609 S.E.2d 286 (2005). One important factor in determining whether the ends of justice are promoted is the ability to have local jurors. *McKissick v. J.F. Cleckley & Co.*, 325 S.C. 327, 479 S.E.2d 67 (1996). Here, six of the parties are residents of Edgefield County, South Carolina, and the majority of the witnesses reside in Edgefield County, South Carolina. Therefore, the Court takes judicial notice that because the majority of the parties and witnesses reside in Edgefield County, South Carolina, the ends of justice would be served by having Edgefield County jurors.

IT IS THEREFORE ORDERED that venue in the instant matter is proper in Edgefield County, South Carolina, and Defendant Thomas Mosely's Motion to Change Venue from Richland County, South Carolina to Edgefield County, South Carolina is hereby **GRANTED**.

IT IS SO ORDERED.



G. Thomas Cooper, Jr., Judge
Fifth Judicial Circuit

Columbia, South Carolina

May 17, 2016

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2015CP4007354**

Rufus Lyndell Griffin

Thomas Mosley

PLAINTIFF(S)

Paquita Mosley
 DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award: Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code 2126 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 day of May, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Katherine Noel Willett

David Eugene Massey
 Rachael Ashley Dain

Randall DeWitt Williams
 Eydie J. Tillman

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette Willett

STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)
)
 RUFUS LYNDELL GRIFFIN,)
)
 Plaintiff,)
)
 vs.)
)
 THOMAS MOSLEY, Individual,)
 PAQUITA MOSLEY, Individual,)
 TIMOTHY MOSLEY, Individual)
 QUINNIE MOSLEY, Individual)
 WALTER MOSLEY, Individual)
 Paquita Mosley, as PR of the Estate)
 Of Ellec Mosley,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 CASE NO.: 2016-CP-19-0141

MOTION TO DISMISS

EDGEFIELD COUNTY
 CLERK OF COURT
 CHARLES L. REEL
 2016 OCT 27 PM 3:32

TO: KATHERINE N. WILLETT, ESQUIRE, ATTORNEY FOR PLAINTIFF:

PLEASE TAKE NOTICE that the Defendants, through their undersigned attorney, will move before the Judge, Court of Common Pleas for Edgefield County, Eleventh Judicial Circuit, on the tenth (10th) day after service hereof at 10:00 a.m. or as soon thereafter as counsel may be heard at the Edgefield County Courthouse, Edgefield, South Carolina, for an order, pursuant to Rules 12(b)(2) of the South Carolina Rules of Civil Procedure, dismissing this action against the Defendants, on the ground that the suit has not been properly commenced and the Court lacks jurisdiction over the persons of these Defendants in that the Summons and Complaint in this matter was filed with the Clerk of Court for Richland County on December 10, 2015. The allegations upon which the Plaintiff brings his complaint occurred in the months of July and August of 2012, and concern matters of a deceased person, one Ellec Mosley, who passed life on December 2, 2012.

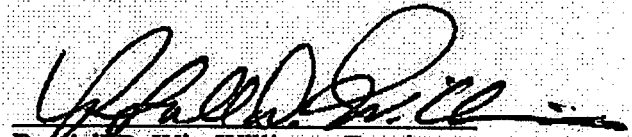
Further, this matter has been fully litigated and a final order issued by the Plaintiff in the Probate Court of Edgefield County, South Carolina, from which he appealed to the Court of Common Pleas of Edgefield County, South Carolina, and a final order issued, therein, when the substance of the allegations brought in this suit were fully litigated.

The Plaintiff seeks relief which is improper in this forum, and which is also barred by the applicable statute of limitations as pursuant to SC Code Ann. §15-3-20, et seq.

The undersigned attorney certifies, on information and belief, that consultation with opposing in an effort to attempt a good faith resolution of the matter contained in the within Motion would serve no useful purpose.

THE WILLIAMS LAW FIRM

BY:



Randall DeWitt Williams, Esquire
ATTORNEY FOR PLAINTIFF
201 Buncombe Street
Post Office Box 70
Edgefield, South Carolina 29824
(803) 637-4902; Fax (803) 637-9634

Edgefield, South Carolina

Dated this 22nd day of October, 2016

.1 State of South Carolina)
 2 County of Edgefield)
 3 Rufus Lyndell Griffin,)
 4 Plaintiff,)
 5 vs.)
 6 Thomas Mosley, et al.,)
 7 Defendants.)
 8 _____)
 9

In the Court
 Of Common Pleas
 Case No.: 2016-CP-19-00141

Transcript of Record

November 7, 2016
 Edgefield, South Carolina

BEFORE:

The Honorable Jocelyn Newman, Judge

APPEARANCES:

Katherine Noel Willett, Esquire
 Attorney for the Plaintiff

Randall DeWitt Williams, Esquire
 David Eugene Massey, Esquire
 Rachael Ashley Dain, Esquire
 Attorneys for the Defendants

ALSO PRESENT:

Rufus Lyndell Griffin

Steven E. LeBlanc, R.P.R., Circuit Court Reporter
 P.O. Box 184, Lexington, South Carolina 29071

1 unreasonable. When a person dies, usually you're
2 grieving their death. Now, within a reasonable time
3 after that you may begin to try to determine what assets
4 were made and things like that, but if, in fact, they had
5 gone on December 2nd on the date of death trying to
6 determine assets, you would be standing here calling them
7 insensitive quite frankly for, you know, won't even let
8 his body cool and you're already trying to figure out
9 what you can get. I don't think that's unreasonable. It
10 was eight days.

11 MR. WILLIAMS: Your Honor, I've been practicing law
12 for nearly 20 years and I will assure you that I've
13 learned that people make haste when it comes time to --

14 THE COURT: Absolutely. They certainly can. Some
15 people do, but I'm not gonna find that eight days is
16 unreasonable.

17 MR. WILLIAMS: Yes, ma'am.

18 THE COURT: Yes, ma'am. Ms. Dain.

19 MS. DAIN: Judge, I have a spine disability that
20 makes it very painful for me to constantly look down at
21 my notes. May I please sit while I address the Court?

22 THE COURT: Absolutely.

23 MS. DAIN: Thank you so much. Judge, I am joining
24 in on Mr. Williams' motion to dismiss and I just like to
25 clarify a few things listening to what was being

1 at some point and then later on Mr. Griffin, et cetera.
2 Mr. Griffin also alleges that he was the son of Ellec,
3 but I don't see that being tied to his claim of fraud or
4 misrepresentation or civil conspiracy as to these CD's
5 and deeds. As I mentioned earlier and asked about it, it
6 appears to me to be incidental to that.

7 Now, it may become a relevant factor if it is
8 determined, I don't know, that somehow everything was
9 fraudulent and the proceeds from the CD's are part of the
10 estate. I don't know. That may come later, but I think
11 the fraud and misrepresentation, civil conspiracy as to
12 these specific things are separate from the probate
13 action and separate from the claim of paternity. Saying
14 all that I am going to deny the motion to dismiss. As to
15 the motion to compel I'm not going to award attorney's
16 fees, I'll tell you that at the outset. I rarely do
17 that.

18 MS. WILLETT: I had to ask.

19 THE COURT: I know you had to ask. Everyone has to
20 ask, but it has to be some egregious, just something -
21 that's the whole process --

22 MS. WILLETT: I can come back.

23 THE COURT: Absolutely. Come back and make another
24 request if something else happens in the future. I am
25 going to order that --

1 objections before I can even decide whether I need to
2 file a motion to compel. I just haven't gotten anything.

3 THE COURT: Right. And that's where I was going. I
4 hate to sort of kick the can down the road, but as to
5 Quiny and Betty I'm gonna order that those two parties,
6 or Mr. Eleazer Carter on their behalf provide responses
7 to discovery request within 20 days. The same as to
8 Walter and Timothy, Mr. Williams, 20 days, and to the
9 extent that, and this is where I talk about kicking the
10 can down the road, to the extent that, Ms. Willett,
11 deeming those responses to be insufficient, there may be
12 another motion to compel, but until they do or don't
13 respond or raise whatever objections they have I'm not
14 gonna make any determination about the request as they
15 are.

16 Now, as to Thomas Mosley's responses, let me quickly
17 go through them. I don't know. Ms. Willett, do you
18 object to all of them?

19 MS. WILLETT: No. I haven't even had a chance to
20 really review those yet so if and when, I don't think
21 it's right for me to make that right now.

22 MR. MASSEY: Your Honor, our normal practice is once
23 we get it, we send a letter to opposing counsel stating
24 what we think they could have done better or what they
25 could have produced. If they do not get us something in



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 26, 2019

Rufus L. Griffin
313 Fifth Avenue
McCormick SC 29835

Re: Rufus Griffin v. Mosley
Appellate Case No. 2019-001428

Dear Counsel:

This is to advise that the title in the above matter has been changed to read as follows:

Rufus Lyndell Griffin, Appellant,

v.

Thomas Mosley, Quinnie Mosley, Walter Mosley, Timothy Mosley, and Paquita Mosley, Individually and as Personal Representative of the Estate of Ellec Mosley, Respondents.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

V. Claude Allen, Deputy
CLERK

cc: Rachael Ashley Dain, Esquire
Eleazer R. Carter, Esquire
Eydie J. Tillman, Esquire
Randall DeWitt Williams, Esquire
Palmer Freeman, Jr., Esquire
Thomas Mosley

1 State of South Carolina)
 2 County of Edgefield)
 3 Rufus Lyndell Griffin,)
 4 Plaintiff,)
 5 vs.)
 6 Thomas Mosley, et al.,)
 7 Defendants.)
 8 _____)

In the Court
 Of Common Pleas
 Case No.: 2016-CP-19-00141

Transcript of Record

March 18, 2019

Edgefield, South Carolina

BEFORE:

The Honorable Allison Rene Lee, Judge

APPEARANCES:

Rufus Lyndell Griffin, Pro se
 Plaintiff

Palmer Freeman, Esquire
 Attorney for the Defendants

ALSO PRESENT:

Rachael Ashley Dain, Esquire

Steven E. LeBlanc, R.P.R., Circuit Court Reporter
 P.O. Box 184, Lexington, South Carolina 29071

1 much time as you would think necessary to look it over so
2 that you can apprise yourself and be aware of what's in
3 it and that way you can fully make a decision.

4 THE COURT: I'll be happy to do that, but if you
5 have any arguments that you want to make at this
6 particular time, you need to go ahead and make those.

7 MR. GRIFFIN: Certainly I do. Well, first of all,
8 the plaintiff objects to defendant's assertion to
9 statement nine that states that this Court is without
10 subject matter jurisdiction. Plaintiff does agree -- And
11 that's on page 5 if you want to read along with me.
12 Plaintiff does agree that in matters of paternity and
13 heir rights the Probate Court has expressed and sole
14 jurisdiction.

15 However, in matters of paternity and heir rights as
16 they pertain to plaintiff are indeed already in the
17 appropriate jurisdiction of the Probate Court being
18 managed by the South Carolina Supreme Court after
19 disqualification and/or recusal of several judges.

20 However, the matters before the Circuit Court are
21 issues of conspiracy, possible criminal activity and
22 misappropriation of funds owned legally by plaintiff held
23 jointly with the decedent in a probate case which are not
24 and never were probate aspects. The plaintiff further
25 reminds defendants and this Court that the same Circuit

1 Court on November the 7th, 2016 under Honorable Judge
2 Jocelyn Newman previously has thoroughly heard
3 defendants' arguments regarding subject matter
4 jurisdiction which pertains to the probate case, non
5 probate assets, an issues behind the filing of the civil
6 complaint, and the Court ruled that plaintiff's complaint
7 had been properly appropriated in the proper Circuit
8 Court, therefore, for the defendant to argue this point
9 at this time is merely to mislead this Court and to mock
10 the last two years of the Court's engagement on the
11 matter and reintroduce the same arguments in hope that
12 the Court may have to cap the case.

13 Also, on December the 15th, 2016 which was a month
14 later they argued the same argument basically to the
15 Probate Court, that the Probate Court should take
16 jurisdiction and pull it out of the Circuit Court over to
17 the Probate Court. They didn't prevail.

18 THE COURT: I'm sorry. Was that Probate Court in
19 Edgefield County or was that in Richland County?

20 MR. GRIFFIN: It was in actually Lexington County at
21 that time. The case has been ordered out of the County
22 of Edgefield and that's why other counties have to take
23 it. It's only to be returned back to Edgefield County
24 after it's been decided.

25 THE COURT: And has any matter been scheduled before

1 Travis Moore, Judge of Probate from Greenwood County.

2 THE COURT: That was done in 2018; is that correct?

3 MR. GRIFFIN: That is correct, ma'am. February
4 15th, 2018.

5 THE COURT: Yes, sir.

6 MR. FREEMAN: We're just saying that this case
7 should be dismissed because paternity has to be
8 determined first especially since the first ruling was
9 against paternity even though the remand changed that, of
10 course. So we don't think this case should go forward.
11 It should be dismissed for lack of jurisdiction under
12 Rule 12(b)(1).

13 THE COURT: Dismissed or stayed?

14 MR. FREEMAN: Dismissed.

15 THE COURT: And does that not implicate the statute
16 of limitations issues?

17 MR. FREEMAN: It may. I don't know. But the long
18 delays involved in this case are not of our making.

19 THE COURT: And basically I would agree that if the
20 issue that was pending before the Probate Court has not
21 been resolved, that that would be the first place to go.
22 I am concerned about just outright dismissing the case
23 based upon some other issues that may arise. The
24 difference is this case was originally filed in Richland
25 County and then venue was transferred to Edgefield County

**STATE OF SOUTH CAROLINA
EDGEFIELD COUNTY**

**EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. REEL**

2019 DEC 16 AM 8:39 11TH JUDICIAL CIRCUIT

COMMON PLEAS

Rufus L. Griffin

Plaintiff

Docket No: 2016-CP-19-141

v

Thomas Mosley, et al

Defendants

**Plaintiff's Response
to
Defendant's
Motion to Dismiss,
Motion to Declare Case Complex and Assign a Special Judge,
Motion to Amend Pleadings, and
Motion to Compel Discovery and Request for Protection**

Plaintiff, Rufus L. Griffin, issues the following responses to Defendant's Amended Motions (cited above) which were submitted to the Court, accompanied by a Certificate of Service originally dated February 20, 2019, then corrected to reflect March 7, 2019 and postmarked to Plaintiff (via US Mail) also on March 7, 2019, and not received by Plaintiff until Saturday, March 9, 2019, less than 10 days prior to the scheduled hearing date of March 18, 2019. Given the deliberately compressed timeframe provided by the Defendant for Plaintiff to respond to the numerous accusations and misrepresentations, Plaintiff strives to respond as follows:

Response to 'Motion to Dismiss'

1. Regarding Defendant's "Motion to Dismiss" on the grounds that "*Plaintiff has not complied with discovery responses*" (noted in #4 of the Motion), Plaintiff responds as follows: Plaintiff promptly acted in writing on August 14, 2018, within 14 days of the court's last decision of July 31, 2018, and even prior to the official order compelling discovery dated September 29, 2019. Plaintiff cordially explained to Defendant's counsel, Rachael R. Dain, that he is representing himself, *pro se*, and does not have the luxury of an office setting. Pursuant to SCRCF Rule 34(1), it was Plaintiff's understanding that the Plaintiff is instructed only to '*produce and permit the requesting party or its representative to inspect, copy, test, or sample items in the responding party's possession, custody or control*'. Defendant's counsel was thereby invited and extended the hospitality to review the files at the place where the files are housed and to copy the documents at her leisure. Ms. Dain was also asked to respond in writing to coordinate production of that discovery. Ms. Dain, to the contrary, made no effort to respond at that time, nor in the 7 months since Plaintiff extended the offer, to either schedule a meeting to retrieve the documents she sought, or to offer any alternative method, or explain to Plaintiff, a *pro se* litigant, why his interpretation of Rule 34 is not valid or applicable. As Defendant's counsel chose on her own accord, and not in the interest of her own client or the expedition of the case, to simply not respond at all and to allow half a year to pass, just to have reason to file a motion to

dismiss Plaintiff's case, and did to barely 10 days prior to the scheduled March 18, 2019 hearing, it can therefore only reasonably be argued whether Defendant's lack of progress in the case should be attributed to Plaintiff's non-compliance, or more appropriately to Defendant's own inaction by failing to respond to Plaintiff's offer and her own refusal to properly communicate.

2. Plaintiff responds to Defendant's counsel's allegation of harassment (stated in #5 of her Motion), claiming that Plaintiff has '*made false allegations against Defendant's legal counsel arising from alleged transactions that never took place and which allegations were designed such that they cannot be verified or disproved.*' Plaintiff reminds Defendant that according to the Rules governing and reporting attorney conduct, Plaintiff acknowledges having filed a complaint before the South Carolina Commission on Lawyer Conduct after repeatedly asking counsel to cease from attempts to telephone him or speak with him outside of court, and to limit all communications to written form, as all previous conversations appeared to Plaintiff to have been an attempt by counsel to confound or entrap him, given Plaintiff's limited legal expertise in comparison with counsel.

Plaintiff further objects to Defendant and her counsel's terminology of 'harassment' and her stated need for 'protection' from Plaintiff as it relates to 'physical' harm, as these references are implicating Plaintiff as having engaged in criminal acts pursuant to SC Code of Laws, Art.17 § 16-3-1700. 'Harassment' is not a term which should be flagrantly thrown about loosely in

characterizing Plaintiff's legal recourse, when to do so implies to the court and the public that Plaintiff's legal recourse is somehow a crime. Action taken by Plaintiff has been and is in no way 'harassment' and to falsely infer it as such is a fabrication by counsel and solely meant to mislead the court. Plaintiff, if anything, perceived a breach of Defendant's counsel's professional conduct and properly reported the action to the Commission governing such conduct, and did so privately, without in anyway introducing the action before the court or to the public, and was within his legal right to take such action. It was instead opposing counsel who chose to twice introduce this action publicly and then feign victimization.

Defendant should also not manipulate the very outcome of her receipt of discovery by refusing to respond to Plaintiff's offer in any way, waiting 7 months for the next hearing, then suddenly using her own delay as reason to then blame Plaintiff for her failure to obtain that discovery, and utilizing that as grounds for a dismissal of Plaintiff's complaint.

Response to 'Motion to Declare Case Complex and Assign a Special Judge'

3. Plaintiff acknowledges Defendant's reference (in statement #8) to a probate case (2016-ES-32-262) in which Plaintiff alleges to be the biological child of Ellec Mosley.

4. Plaintiff objects to Defendant's assertion (in statement #9) that states that 'This Court is without subject matter jurisdiction'. Plaintiff does agree that in matters of paternity and heir rights, the Probate Court has express and sole jurisdiction. However, the matter of paternity and heir rights, as they pertain to Plaintiff, are indeed already in the appropriate jurisdiction of the Probate Court, being managed by the South Carolina Supreme Court after the disqualification and/or recusal of several judges. However, the matters before the Circuit Court, are issues of conspiracy, possible criminal activity and misappropriation of funds owned legally by Plaintiff, held jointly with the decedent of the probate case, which are not and never were probate assets. Plaintiff further reminds Defendant and this court, that this same Circuit Court, on November 7, 2016, under the Honorable Judge Jocelyn Newman, previously and thoroughly heard Defendant's arguments regarding subject matter jurisdiction as it pertains to the probate case, probate/non-probate assets, and issues behind the filing of the civil complaint, and the court ruled that Plaintiff's complaint had been filed appropriately in the proper (Circuit) Court. Therefore, for Defendant to argue this point at this time is merely to mislead the court and to mock the past 2 years of this Court's engagement on the matter and to reintroduce the same argument in hopes that the Court might have forgotten its stance.
5. Defendant (in statement #10) falsely states Plaintiff is proceeding pro se because *'his two lawyers sought to be relieved as counsel'* and uses this point

to further her assertion that it is Plaintiff's intention to delay his own case. Although Plaintiff has every right to proceed in self representation, it should be clarified that Plaintiff's first counsel had been his attorney for over a year before seeking withdrawal. This withdrawal was eventually granted by the court at the timeline supported by the court, not at the control of Plaintiff. While Plaintiff awaited action by the circuit court, the probate court did grant counsel's relief. Plaintiff then sought and hired new representation specifically to act on matters of the probate case, but that counsel overstepped his boundaries through involvement in the civil case prematurely, prior to the circuit court's action to relieve Plaintiff's other counsel of record, and without Plaintiff's consent, and subsequently was reasonably asked to withdraw from representation altogether.

Furthermore, Defendant continues to falsely assert (in statement #10) and purposefully mislead the court by stating that Plaintiff is instrumental in: *'not advancing the probate case, and by intentionally and successfully preventing the case from moving forward by filing grievances against the judge who issued a ruling against Plaintiff and forcing the judge to recuse himself before the order was signed.'*

Plaintiff contends that it was not a grievance filed by him that caused the recusal of the probate court judge, but rather, it was opposing counsel, Rachael Dain's own persistence to have that judge amend an order which he had apparently never issued that caused his sudden recusal. (Exhibit A).

Therefore, it was Ms. Dain's own actions that was the proverbial 'straw that broke the camel's back', leading to the most recent probate judge's recusal.

Response to 'Motion to Amend the Pleadings'

6. Defendant notes (in statement #13) that she is seeking to include *'counterclaims against Plaintiff for using this litigation to harass Defendant and to seek sanctions pursuant to the SC Frivolous Civil Proceedings Sanctions Act'*.

Plaintiff contends that filing a civil suit against an individual in which Plaintiff has sustained monetary and emotional injury, and has a good faith basis for recovering damages, and makes such a claim or argument the same as any reasonable attorney would believe warranted under the existing law, clearly separates Plaintiff's actions from the claim of Defendant, who regards the litigation as 'harassment', and does not substantiate Defendant's claim that Plaintiff's lawsuit is a 'frivolous' action pursuant to the SC Frivolous Civil Proceedings Sanctions Act.

Response to Defendant's Prayer

7. Plaintiff firmly contends that Defendant wrongly requests (in statement #16d) that the court should *'issue an order of protection against Plaintiff from financial, physical, and all other manners from Plaintiff's ongoing campaign of harassment'*. Plaintiff wholeheartedly believes that Defendant's counsel, in

her accusation before the court that Plaintiff is 'harassing' the Defendant specifically in a 'physical' manner, is a gross mischaracterization of Plaintiff and has been wielded by Defendant's counsel in an irresponsible and improper way, insinuating that Plaintiff has in some way engaged in violation of SC Code of Laws, Art.17 § 16-3-1700, and by implicating Plaintiff in this negative light is in essence a form of intimidation to slander Plaintiff's reputation, when there is no basis or justification for such a claim, simply to stymie Plaintiff's legal actions and to sway the court.

WHEREFORE, Plaintiff asks this Court to:

- A) Deny Defendant's request for dismissal of Plaintiff's Complaint, as Defendant has not shown sufficient or lawful cause for said dismissal.**
- B) Deny Defendant's request for a special judge in her effort to merge Plaintiff's probate case and civil case actions, as this request would be in direct conflict with the November 7, 2016's ruling of subject matter jurisdiction; overturning the circuit court's prior decision, which is not lawful and has no sufficient grounds of support.**
- C) Deny Defendant's request for sanctions against Plaintiff pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act, as Defendant has not provided adequate reasons to suggest that Plaintiff's properly filed Complaint is without basis or sufficient cause.**

D) Dismiss Defendant's request for discovery compliance and all sanctions requested against Plaintiff, as Defendant has clearly riddled her Motions before the court with inaccuracies and accusations meant solely to mislead the court and to slander Plaintiff, and has violated SC Rule 407 (Code of Professional Conduct), Rule 3.3 (Candor Toward the Tribunal)

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact.....

Plaintiff has clearly shown throughout his Response that Defendant has continuously and knowingly presented statements that were not factual, in a disturbing and desperate effort to promote her cause and to sway the court's favor. These acts further violate SC Code 16-17-10 which define: A person who shall:

(2) Willfully bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and.. (b) thereby seeks to defraud or mislead the court.

E). Deny Defendant's request for this court to 'issue an order of protection for Defendant and her legal counsel such that they are protected financially, physically, and in all other manners from Plaintiff's ongoing campaign of harassment', as Defendant has at no time proven harassment even exists or that she or her client have sustained anything more than legal actions that are ordinary and lawful within the state. For Defendant to imply that

'financial' protection is needed, is in direct conflict with the premise of Plaintiff's civil complaint, in which he is seeking restitution from financial harms sustained at the hands of the Defendants. Furthermore, for Defendant to imply that she has suffered 'harassment', and that 'physical' protection is needed, strongly suggests that she is seeking to charge Plaintiff with criminal violations of SC Code of Law 16-3-1700 which clearly defines 'harassment' as:

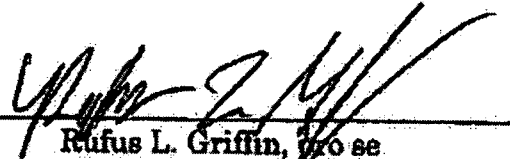
(A) "Harassment in the first degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person...(which includes specifically) 1) following the targeted person as he moves from location to location, 2) visual or physical contact that is initiated, ... repeated... 3) Surveillance of .. the targeted person, etc.

(B) "Harassment in the second degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress.

Defendant's promotion of her claim against Plaintiff of 'harassment' further violates SC Code 16-7-150: Slander and libel: "Any person who shall with malicious intent originate, utter, circulate or publish any false

statement or matter concerning another the effect of which shall tend to injure such person in his character or reputation..."

It is by these grounds and laws of the state that Plaintiff prays that the Court will Deny and Dismiss all Motions currently submitted and sought by Defendant, and will sanction Defendant's counsel for violation of SC Rule 407, 3.3 (a) (1) and other violations of which this court deems appropriate.



Rufus L. Griffin, pro se
313 Fifth Avenue
McCormick, SC 29835
Phone: (864) 852-2163
Email: writeme44@yahoo.com

Rufus L. Griffin, Plaintiff pro se
313 Fifth Avenue
McCormick, SC 29835

March 31, 2019

Attn: The Honorable Alison Lee
S.C. Circuit Court
P.O. Box 192
1701 Main St., Rm #324
Columbia, SC 29202-0192
aleej@sccourts.org

RE: Case No: 2016CP1900141 (Griffin v Mosley, et al)
A Matter of Grave Concern

Dear Judge Lee,

In reference to the last hearing held on March 18, 2019, I would like to bring to your attention the following concerns:

At the time of the hearing noted above, I presented my rebuttal to Defendant's counsel's Motions before the court in the form of a 'Plaintiff's Response'. I handed this document to Mr. Charles Reel (clerk of court), in open court, who in turn provided it immediately to you, your Honor. It clearly outlined not only responses to Defendant's reasoning for case dismissal and jurisdictional change, but also addressed the misleading statements Defendant's counsel presented to the court defaming Plaintiff's character; in essence accusing Plaintiff of 'ongoing onslaughts of harassment' and her needing an 'order to protect' herself and Defendant from 'physical harm'.

I am most troubled that the Court not only distanced itself from the claims made by Defendant's counsel, as there was no evidence presented to support such outrageous claims, but also that other inaccuracies stated by Ms. Dain, an officer of the court, would be left as acceptable before the court without reprimand; as if the damage to Plaintiff was not incurred if the court simply does not mention it. Even though no attention was given the claims, the Motion containing those allegations and implications are now a matter of public record. It is further troubling that the court's lack of attention gives the perception that attorneys are shielded in a manner a pro se litigant would not be.

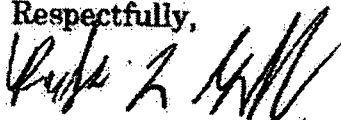
To add to the concern and issue I have at this point is that the same document, 'Plaintiff's Response', although presented in open court and read from during Plaintiff's rebuttal argument, was never scanned in and duly entered into the court record online equally as were Defendant's Motions. (Please see attached screen shot of the court's webpage, which shows all other documents received prior and since the March 18th hearing, with the exception of Plaintiff's Response). This situation would further show that although Defendant's claims in her Motions may have been false, they stand available on the internet as a matter of public record, and any response submitted by Defendant to refute those claims and clear his character have been omitted. It is as though I never made an appearance before the court.

In addition, I have not yet received a copy of the signed Order, which provides me with your Honor's signature that would begin the count of the (15) fifteen-days your Honor instructed Plaintiff to answer Defendant's interrogatories. Because Plaintiff is a pro se litigant, and not privileged as attorneys to receive service electronically, those documents must be sent to me via US Mail. In the past, the Clerk of Court has issued these types of documents via 'certified mail, with return receipt'. (copies of examples have been attached). If one has been mailed to me, surely the Clerk of Court should have record of that mailing via 'return receipt' or tracking.

Also, Plaintiff questions why he is being given 15 days to respond to Defendant's interrogatories, when Plaintiff was openly served, by Attorney Palmer Freeman, in court on March 18, 2019, and pursuant to SCRCF 33(a), a party should be given 30 days to respond: (*"The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories"*.)

Plaintiff thanks the Court in advance for its attention to these stated matters.

Respectfully,



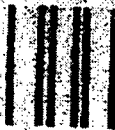
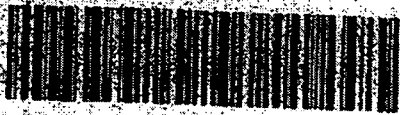
Rufus L. Griffin, pro se

c/c Rachael Dain, Esq.

Palmer Freeman, Esq.

Honorable Charles Reel (Edgefield County Clerk of Court)

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Rufus L. Griffin
313 Fifth Avenue
McCormick, SC 29835



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1. Article addressed to:

The Hon. Allison Lee
SC Capitol Court
P.O. Box 199
306 Main St. Rm. #324



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Colony, SC 29904-0192

2. Article Number (Postage Paid Service Label)
7018 2290 0000 6813 9530

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A. Signature of Recipient
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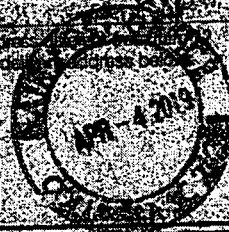
B. Recipient's Printed Name

C. Date of Delivery

MICHAEL

D. Is delivery address a restricted address?
If YES, enter date of restriction below.

Yes
 No



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4. Delivery instructions:

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- Call for instructions
- Restricted Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2012 PSN 7530-02-000-9000

From: **Modena Stevens** MStevens@edgefieldcounty.sc.gov
Subject: **2016CP1900141**
Date: **Dec 4, 2019 at 12:40:24 PM**
To: **writeme44@yahoo.com**

Good afternoon Mr. Griffin;

I just spoke with Judge Lee and she still has your document. She is sending the original back to us along with a note. Once we receive it I will file it and send you a copy. Sorry for any inconvenience that this may have caused.

Modena A Stevens
Deputy Clerk of Court
PO Box 34
Edgefield, SC 29824
Phone (803) 637-4082
Fax (803) 637-4117
Email: mstevens@edgefieldcounty.sc.gov

From: **Modena Stevens** MStevens@edgefieldcounty.sc.gov
Subject: **Missing Brief From March 18, 2019 Hearing**
Date: **Dec 4, 2019 at 9:16:41 AM**
To: **writeme44@yahoo.com**

Good Morning Mr. Griffin;

I have forwarded both emails to judge Lee and once I get a response I will get back with you.

Modena A Stevens
Deputy Clerk of Court
PO Box 34
Edgefield, SC 29824
Phone (803) 637-4082
Fax (803) 637-4117
Email: mstevens@edgefieldcounty.sc.gov

From: writeme44@yahoo.com [<mailto:writeme44@yahoo.com>]
Sent: Wednesday, December 04, 2019 8:16 AM
To: **Modena Stevens** <MStevens@edgefieldcounty.sc.gov>
Subject: **Re: Missing Brief From March 18, 2019 Hearing**

Dear Modena,

These are the Transcript pages from the March 18 hearing. Please see pages 7 and 8 starting on line 23. Page 16 starting at line 16.

Thank you,

Rufus Griffin



EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. REEL

2019 DEC 16 AM 8:39

State of South Carolina
The Circuit Court of the Fifth Judicial Circuit

ALISON RENEE LEE
JUDGE

1701 MAIN ST., ROOM 224
POST OFFICE BOX 182
COLUMBIA, SOUTH CAROLINA 29202-0182
TELEPHONE: (803) 576-1703
FAX: (803) 576-1708

December 4, 2019

Modena Stevens
129 Courthouse Square
PO Box 34
Edgefield, SC 29824

Re: Rufus L. Griffin v. Thomas Mosley, et. al. 2016-CP-19-00141

Dear Ms. Stevens:

Enclosed please find Plaintiff's Response to Defendant's Motion to Dismiss. This document was given to me during the March 18, 2019 hearing and was not filed. It was in my possession and considered in conjunction with all other filed materials related to the Motion to Dismiss. Please file this letter and the enclosed document.

Sincerely,

Alison Renee Lee

Enclosures



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1690
FAX: (803) 734-1839
www.sccourts.org

November 26, 2019

Rufus L. Griffin
313 Fifth Avenue
McCormick SC 29835

Re: Rufus Griffin v. Mosley
Appellate Case No. 2019-001428

Dear Counsel:

This is to advise that the title in the above matter has been changed to read as follows:

Rufus Lyndell Griffin, Appellant,

v.

Thomas Mosley, Quinnie Mosley, Walter Mosley, Timothy Mosley, and Paquita Mosley, Individually and as Personal Representative of the Estate of Ellec Mosley, Respondents.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

V. Claude Allen, Deputy
CLERK

cc: Rachael Ashley Dain, Esquire
Eleazer R. Carter, Esquire
Eydie J. Tillman, Esquire
Randall DeWitt Williams, Esquire
Palmer Freeman, Jr., Esquire
Thomas Mosley

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Alison Renee Lee, Chief Administrative Circuit Court Judge
Case No. 2016-CP-19-00141

Appellate Case No. 2019-001428

Rufus L. Griffin

Appellant

v.

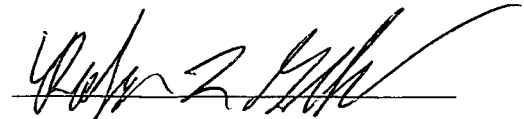
Thomas Mosley, Quinnie Mosley, Walter Mosley,
Timothy Mosley, and Paquita Mosley, Individually and
as Personal Representative of the Estate of Ellec Mosley

Respondents

CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

December 4, 2020



Rufus L. Griffin, pro se
313 Fifth Avenue
McCormick, South Carolina 29835
(864) 852-2163
Appellant pro se

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